

**Tuesday, May 24, 2005**

The Board met at its offices at 450 N Street, Sacramento, at 9:55 a.m., with Mr. Chiang, Chair, Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

### **HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE CLAIM HEARING**

Ida Hunter-Lawton, 281312

2001, \$1.00 or more

2002, \$1.00 or more

For Claimant: Ida Hunter-Lawton, Taxpayer

For Franchise Tax Board: Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether respondent properly denied appellant's claim for property tax assistance.

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the appeal be submitted for decision, granting the claimant 30 days to file supporting documents.

### **CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS**

Carl J. Lenander, III and Charlotte A. Lenander (Wise), 268514

1998, \$3,068.11 Claim for Refund

For Claimant: Carl J. Lenander III, Taxpayer

Charlotte A. Lenander (Wise), Taxpayer

For Franchise Tax Board: Suzanne Small, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether California's method of taxing part-year residents is inconsistent with Public Law 104-95.

Whether California's method of taxing part-year residents is inconsistent with Revenue and Taxation Code section 17952.5.

Whether appellants have shown, for purposes of abatement of interest under former Revenue and Taxation Code section 19104, subdivision (c)(1)(A), an unreasonable error or delay by respondent's employees in performing a ministerial or managerial act.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 5.1)

Action: Mr. Parrish moved to sustain the action of the Franchise Tax Board as to issues 1 and 2, and abate the interest from August 27, 2001 to March 10, 2003. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Ms. Mandel voting no.

Upon motion of Ms. Mandel, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

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Joseph R. Banister, 262916

2001, \$4,044.00 Tax, \$1,011.00 Late Filing Penalty

For Appellant: Joseph R. Banister, Taxpayer

For Franchise Tax Board: Mark McEvilly, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated error in respondent's proposed assessment of tax.

Whether appellant has demonstrated reasonable cause for the abatement of the late filing penalty.

Whether the Board should impose a frivolous appeal penalty.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board submitted the appeal for decision.

### **SALES AND USE TAX APPEALS HEARING**

Modern Mold International, Inc., 46790, 151920

10-1-95 to 12-31-98, \$5,209,287.00 Claim for Refund

1-1-99 to 6-30-00, \$2,024,963.00 Claim for Refund

Internet Design Technologies, LLC, 104735, 202260

7-1-00 to 9-30-00, \$585,025.00 Claim for Refund

7-1-00 to 6-30-01, \$585,025.00 Claim for Refund

For Claimant: Harold Hoch, Taxpayer

Ernest J. Dronenburg, Jr., CPA

For Sales and Use Tax Department: Sharon Jarvis, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: No disqualifying contributions were disclosed.

Issue: Whether National's gifts of the promotional pens occurred in Mexico, or instead in California when Pluma delivered the pens in its own trucks to a USPO in San Diego for mailing to National's prospective customers.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the claim for refund be submitted for decision.

The Board recessed at 11:25 a.m. and reconvened at 1:35 p.m. with Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly present.

### **BOARD PHOTOGRAPH**

The annual Board photograph was taken of Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly.

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## **PUBLIC COMMENTS**

Speakers: Shari L. Freidenrich, City Treasurer, City of Huntington Beach  
 Keith White, Energy Consultant, Van Horn Consulting  
 David Elder, Consultant, City of Long Beach  
 Wade E. Norwood, Attorney, Rodi, Pollock, representing *AES Redondo Beach, LLC*, and *AES Alamitos, LLC*

## **PROPERTY TAX MATTER**

### **VALUATION OF STATE ASSESSED PROPERTIES AS OF JANUARY 1, 2005**

Stanley Siu, Chief, Valuation Division, Property and Special Taxes Department, made introductory remarks regarding the valuation of state assessed properties.

### **Electric Generation Facilities**

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

1101	AES Redondo Beach, LLC	196,000,000
1103	Duke Energy Moss Landing, LLC	728,700,000
1104	Duke Energy Morro Bay LLC	63,100,000
1105	Duke Energy Oakland, LLC	10,700,000
1106	Cabrillo Power I LLC	205,200,000
1107	Cabrillo Power II LLC	12,200,000
1108	Mirant Potrero, LLC	43,100,000
1109	Mirant Delta, LLC	235,600,000
1110	El Segundo Power LLC	126,000,000
1112	La Paloma Generating Company, LLC	550,600,000
1113	Reliant Energy Coolwater, Inc.	19,800,000
1114	Reliant Energy Mandalay, Inc.	54,100,000
1115	Reliant Energy Ormond Beach, Inc.	168,900,000
1118	Duke Energy South Bay, LLC	64,400,000
1119	Mountainview Power Company, LLC	300,400,000
1122	GWF Energy, LLC-Hanford	71,700,000
1123	GWF ENERGY, LLC-Henrietta	73,300,000
1124	GWF Energy, LLC-Tracy	127,200,000
1126	Elk Hills Power, LLC	324,500,000
1127	High Desert Power Trust 2000-A	482,300,000
1128	Delta Energy Center, LLC	476,200,000
1129	Gilroy Energy Center, LLC	102,900,000
1131	Pastoria Energy Facility, LLC	312,000,000
1132	Calpine Construction Finance Company, LP	271,900,000

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1133	Metcalf Energy Center, LLC	353,000,000
1134	Otay Mesa Generating Company, LLC	29,500,000
1136	Blythe Energy, LLC	284,500,000
1137	Sunrise Power Company, LLC	366,800,000
1143	Los Esteros Critical Energy Facility, LLC	169,100,000
1145	Harbor Cogeneration Company	7,240,000
1146	AES Placerita, Inc.	10,700,000

**AES Huntington Beach LLC (1102)**

Action: Mr. Parrish moved that the market value to be used in the assessment of unitary property be \$129,000,000. The motion failed for lack of a second.

Mr. Parrish moved that the market value to be used in the assessment of unitary property be \$110,700,000. The motion failed for lack of a second.

Upon motion of Mr. Westly, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish voting no, the Board ordered that the market value to be used in the assessment of unitary property be \$99,700,000 as of January 1, 2005.

**AES Alamosa, LLC (1100)**

Action: Mr. Parrish moved that the market value to be used in the assessment of unitary property be increased by 15 percent of the staff recommended value. The motion failed for lack of a second.

Upon motion of Ms. Yee, seconded by Mr. Westly and duly carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, Mr. Parrish voting no, the Board ordered that the market value to be used in the assessment of unitary property be \$288,300,000 as of January 1, 2005.

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

1111	Long Beach Generation LLC	7,410,000
1116	Reliant Energy Etiwanda, Inc.	21,800,000
1117	Reliant Energy Ellwood, Inc.	3,250,000
1141	Indigo Generation LLC	81,800,000
1142	Larkspur Energy LLC	59,400,000
1147	Palomar Energy, LLC	199,300,000

**Energy Companies**

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

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101	Southern California Water Company	445,400,000
103	Anza Electric Cooperative, Inc.	13,800,000
106	PacifiCorp	158,100,000
135	Pacific Gas & Electric Company	15,202,300,000
141	San Diego Gas & Electric Company	3,069,300,000
148	Southern California Edison Company	10,034,100,000
149	Southern California Gas Company	2,741,100,000
152	Southwest Gas Corporation	158,400,000
153	Transwestern Pipeline Company	715,000
160	Valley Electric Association, Inc.	64,300
173	Surprise Valley Electrification Corp.	13,300,000
176	Plumas-Sierra Rural Electric Cooperative	34,200,000
180	North Baja Pipeline, LLC	87,800,000
184	Avista Corporation	8,650,000
185	Mountain Utilities	4,420,000
187	Mojave Pipeline Company	76,800,000
188	Kern River Gas Transmission Company	400,600,000
189	Standard Pacific Gas Line, Inc.	19,400,000
190	Tuscarora Gas Transmission Company	80,500,000
191	Arizona Public Service Company	2,850,000
192	Alpine Natural Gas Operating Company No. One LLC	2,140,000
193	Southwest Transmission Cooperative, Inc.	147,000
194	West Coast Gas Company, Inc.	1,200,000
195	Wild Goose Storage, Inc.	112,400,000
196	Questar Southern Trails Pipeline Company	28,700,000
197	El Paso Natural Gas Company	56,200,000
198	Lodi Gas Storage, LLC	106,500,000

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

146	Sierra Pacific Power Company	180,400,000
156	Trans-Elect NTD Path 15, LLC	152,500,000

### Intercounty Pipeline Companies

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

400	Standard Gas Company	276,000
402	CALNEV Pipe Line LLC	73,000,000
407	Valero Refining Company - California	1,020,000

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409	West Coast Pipe Lines	146,300,000
410	Homestake Mining Company of California	348,000
412	Kings County Canal Company	651,000
429	Chevron U.S.A., Inc.	29,400,000
432	Equilon Enterprises LLC	151,900,000
435	Natomas Central Mutual Water Company	131,000
461	SFPP, L.P.	373,800,000
462	ARCO Midcon LLC	1,150,000
464	Ventura Pipeline System	4,900,000
465	Plains Pipeline, L.P.	41,500,000
467	ConocoPhillips Company	795,000
468	Shell California Pipeline Company L.P.	34,100,000
469	San Ardo Pipeline Company	12,300,000
475	Searles Valley Minerals Operations Inc.	1,350,000
476	Chevron USA, Inc.	4,890,000
477	Union Island Pipeline Company	9,860,000
478	California Gas Gathering, Inc.	99,100
479	Chevron Pipeline Company	26,300,000
483	Mobil Pacific Pipeline Company	1,820,000
486	Pacific Pipeline System, LLC	202,600,000
488	Pacific Terminals LLC	39,000,000

**UNOCAP (480)**

Action: Mr. Parrish moved to abate the penalty. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang, Ms. Yee and Mr. Westly voting no.

Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property be \$45,100,000 as of January 1, 2005.

Action: Upon motion of Mr. Westly, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

406	Calpine Pittsburg, Inc.	10,400,000
428	CPN Pipeline Company	19,500,000
484	Calpine Pipeline Corporation	4,700,000

**Railroad Companies**

Action: Upon motion of Mr. Westly, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

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800	Alameda Belt Line	297,000
801	Amador Central Railroad	190,000
802	Central Oregon & Pacific Railroad	5,440,000
804	BNSF Railway Company	594,700,000
808	West Isle Line, Inc.	168,000
810	California Northern Railroad	11,300,000
812	Ventura County Railroad	2,860,000
813	Pacific Harbor Lines	6,240,000
815	Mendocino Railway	1,600,000
817	Tulare Valley Railroad	282,000
818	Central California Traction Company	5,590,000
834	Lake County Railroad	550,000
839	Oakland Terminal Railway Company	127,000
843	Union Pacific Railroad Company	982,100,000
850	Modesto & Empire Traction Company	21,400,000
857	Richmond Pacific Railroad Corporation	767,000
865	San Diego & Imperial Valley Railroad Co. Inc.	4,530,000
869	Santa Maria Valley Railroad Company	1,700,000
882	Trona Railway Co.	12,100,000
883	McCloud Railway Company	1,970,000
889	Yreka Western Railroad Co.	487,000
892	Almanor Railroad Company	398,000
894	Napa Valley Wine Train, Inc.	20,800,000
896	Santa Cruz Big Trees & Pacific Railway Co.	1,970,000
897	San Joaquin Valley Railroad Company	7,680,000
898	Sierra Northern Railway	1,150,000
899	Arizona & California Railroad	7,370,000

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

819	Carrizo Gorge Railway, Inc.	120,000
878	Stockton Terminal and Eastern Railroad	7,470,000

### Radio Telephone and Paging Companies

Action: Upon motion of Mr. Westly, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

3005	Mobilephone of Humboldt, Inc.	148,000
3039	Fresno Mobile Radio, Inc.	592,000
3052	Vincent Communications, Inc.	36,200

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3362	Madera Radio Dispatch, Inc.	441,000
3369	Cal-Autofone	301,000
3374	Radio Electronics Products Corp.	117,000
3430	Metrocall, Inc.	5,310,000
3432	Point BTA 79 LLC	40,300
3433	Point BTA 371 LLC	38,400

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

3342	High Sierra Mobilfone	250,000
3427	Access Paging Company, Inc.	63,700

#### Interexchange Telephone Companies

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

2014	Sprint Communications Co., L.P.	334,600,000
2038	Verizon Airfone Inc.	997,000
2043	Pac-West Telecomm, Inc.	29,100,000
2054	Spacenet, Inc.	12,900
2063	Extelcom, Inc.	1,190,000
2099	Smart City Networks LP	800,000
2207	Global Crossing Telecommunications, Inc.	26,800,000
2274	MCIWorldCom Network Services, Inc.	371,800,000
2275	SES Americom, Inc.	42,400
2329	Intellicall Operator Services, Inc.	72,900
2366	Value-Added Communications, Inc.	378,000
2368	Globe Wireless, LLC	1,460,000
2372	MCI Metro Access Transmission Services, LLC	147,000,000
2376	Working Assets Funding Service, Inc.	538,000
2416	NOS Communications, Inc.	2,330,000
2430	Electric Lightwave, Inc.	33,600,000
2437	Dialink Corporation	25,800
2443	National Comtel Network, Inc.	39,300
2462	ICG Communications, Inc.	13,000,000
2463	Qwest Communications Corporation	141,000,000
2475	VarTec Telecom, Inc.	2,840,000
7503	Verizon Select Services, Inc.	5,440,000
7512	Frontier Communications of America, Inc.	3,910,000
7517	Vycera Communications, Inc.	955,000

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7522	Time Warner Telecom of California, L.P.	225,300,000
7536	Global Crossing North American Networks, Inc.	16,900,000
7538	Tremcom International, Inc.	150,000
7544	Telswitch, Inc.	33,500
7553	Comcast Phone of California, LLC	61,700,000
7560	XO Communications Services, Inc.	83,100,000
7571	Network Enhanced Technologies, Inc.	978,000
7577	Qwest Interprise America, Inc.	1,810,000
7581	ABS-CBN Telecom North America, Inc.	325,000
7588	PNG Telecommunications, Inc.	17,300
7621	SES Americom California, Inc.	5,200,000
7625	TCAST Communications, Inc.	1,400,000
7630	Broadwing Communications, LLC	6,720,000
7636	Network Telephone Services, Inc.	3,810,000
7638	Integrated Telemanagement Services, Inc.	27,900
7640	Cox California Telecom, LLC	125,200,000
7642	Time Warner Cable, Inc.	97,100
7677	Talk America, Inc.	596,000
7686	Primus Telecommunications, Inc.	705,000
7690	California Catalog & Technology, Inc.	41,100
7705	Sierra Telephone Long Distance	72,000
7706	Covad Communications Company	61,300,000
7707	SureWest Long Distance	24,500
7715	Teligent Services, Inc.	7,500
7723	Opentel Communications, Inc.	183,000
7724	Mpower Communications Corporation	58,500,000
7727	Sprint Services, Inc.	4,220,000
7729	New Global Telecom, Inc.	1,220,000
7732	NTT America, Inc.	8,920,000
7735	Pacific Centrex Services, Inc.	97,500
7740	TRI-M Communications, Inc.	3,100,000
7747	TGEC Communications, Co., LLC	169,000
7754	World Network Communications, Inc.	1,400
7755	Real Navigation Systems Corporation	2,400
7756	Centergistic Solutions, Inc.	135,000
7759	Focal Communications Corp. of California	23,100,000
7760	Teleglobe America, Inc.	4,190,000
7761	Level 3 Communications, LLC	329,600,000
7762	Telco Network Services, Inc.	3,070,000
7764	Diamond Link, Inc.	640,000
7766	KDDI America, Inc.	6,580,000
7769	Airnex Communications, Inc.	276,000
7775	RCN Telecom Services of California, Inc.	30,900,000
7776	SmartStop Inc.	56,700
7777	Micro General Services Corp.	122,000

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7778	NTI of California, LLC	361,000
7779	360networks (USA) inc.	7,770,000
7781	Korea Telecom America, Inc.	984,000
7782	Ton Services, Inc.	79,200
7785	McLeodUSA Telecommunications Services, Inc.	88,400
7790	NTC Network, LLC	21,100
7791	O1 Communications, Inc.	2,840,000
7798	United States Advanced Network, Inc.	798,000
7799	Wilshire Connection, LLC	1,510,000
7800	New Edge Network, Inc.	3,540,000
7811	Public Communications Services, Inc.	1,590,000
7813	Delaware Advanced TelCom, Inc.	1,390,000
7814	PaeTec Communications, Inc.	8,620,000
7815	GTC Telecom Corp.	269,000
7819	WilTel Communications, LLC	158,400,000
7823	U.S. Telestar Communications Group	2,500
7824	Kertel Communications, Inc.	525,000
7834	Pannon Telecom, Inc.	197,000
7837	AboveNet Communications, Inc.	33,900,000
7843	Telemanagement Services, Inc.	9,400
7845	San Carlos Telecom, Inc.	223,000
7846	The Telephone Connection Local Services, LLC	7,000
7850	Sempra Fiber Links	70,000
7852	Telstra Incorporated	2,000
7859	EAS Communication, Inc.	230,000
7861	Looking Glass Networks, Inc.	17,700,000
7866	Telmex USA, LLC	1,290,000
7867	The Telephone Connection IXC Services, LLC	14,900
7868	Fones 4 All Corporation	74,800
7870	Communications Express, Inc.	19,100
7871	GTE.NET LLC	759,000
7872	Infotech Telecommunications & Network, Inc.	28,000
7874	Competitive Communications, Inc.	315,000
7876	Total Call International, Inc.	1,220,000
7880	Quick-Tel, Inc.	4,500
7885	SBC ASI/SBC ASI P&L L.P.	601,400,000
7892	OnFiber Communications, Inc.	20,500,000
7894	Ponderosa Cablevision	846,000
7898	United States Telesis, Inc.	1,900
7899	RGT Utilities of California, Inc.	71,200
7904	MercedNet, Inc.	2,490,000
7905	KMC Millennium, LLC	8,150,000
7907	Telscape Communications, Inc.	8,190,000
7910	Champion Broadband California, LLC	6,660,000
7911	WTI Systems & Services, Inc.	97,800

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7912	Americom Government Services, Inc.	771,000
7913	VCOM Solutions, Inc.	70,400
7914	McLeodUSA Network Services, Inc.	883,000
7916	Peak Communications, Inc.	4,100
7919	Verizon Avenue Corp.	2,030,000
7924	BAK Communications, LLC	1,760,000
7927	Dial Thru International Corporation	376,000
7933	Acceris Communications Solutions	3,700,000
7934	Telecom House Inc.	160,000
7938	McBlue Telecom, Inc.	68,900
7939	Samsung Networks America, Inc.	18,200
7943	Veracom Networks, Inc.	1,300
7944	Volonet Technologies, Inc.	797,000
7945	ZTG, Inc.	26,000
7946	Netifice Communications, Inc.	2,630,000
7947	IDT America, Corp.	233,000
7948	Telenor Satellite Services, Inc.	10,200,000
7949	Anew Telecommunications Corporation	44,200
7950	ATMC, Inc.	10,400
7951	SWB Communications Services, Inc.	25,500,000
7953	Openpop.com, Inc.	253,000
7955	Enhanced Communications Network, Inc.	196,000
7956	Telespan Communications, LLC	146,000
7957	C.F. Communications, LLC	551,000
7959	Airespring, Inc.	59,100
7961	SureWest Televideo	102,300,000
7962	KMC Funding Corporation	14,400,000
7963	KMC Telecom XI, LLC	417,000
7969	Intelsat Global Service Corporation	19,800,000
7972	Yipes Enterprise Services, Inc.	6,420,000
7973	Alliance Payphone, Inc.	86,800
7976	Local Fiber, LLC	1,360,000
7978	Legent Communications Corporation	49,500
7981	Leading Edge Broadband Services, LLC	1,230,000
7983	LCR Services, Inc.	3,800
7984	360networks (USA 2) L.P.	67,000
7985	UCN, INC.	318,000
7986	Inc21.com Corporation	25,200
7987	KMC Telecom Solutions, LLC	395,000
7988	Global Tel*Link Corporation	1,800,000
7989	Option One Telecom, Inc.	44,400
7990	CMTel (USA) LLC	3,030,000
7991	Telemex International	438,000
7992	NobelTel, LLC	2,040,000
7993	Clearworld Communications Corporation	308,000

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7994	Utility Telephone, Inc.	296,000
7995	IP Networks, Inc.	10,000,000
7996	RuralWest-Western Rural Broadband, Inc.	2,990,000
7997	Edison Carrier Solutions	57,800,000
7998	Norcast Communications Corporation	362,000
7999	Hands On Sign Language Services, Inc.	13,000
8000	G2 Solutions, LLC	6,500

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

2310	AT&T Communications, Inc.	973,000,000
2391	Arrival Communications, Inc.	4,140,000
7580	Evercom Systems, Inc.	144,000
7632	Business Discount Plan, Inc	51,400
7645	Communications Brokers & Consultants	8,700
7699	Legacy Long Distance International	322,000
7703	Transcommunications, Inc.	72,600
7713	DSI/Inn-Tel, Inc.	9,400
7757	U.S. TelePacific Corp.	46,300,000
7758	BT Americas Inc.	9,960,000
7772	QuantumShift Communications, Inc.	197,000
7792	Point to Point, Inc.	283,000
7831	Dacom America, Inc.	1,360,000
7832	Seren Innovations, Inc.	87,900,000
7855	Enhanced Global Convergence Services, Inc.	1,940,000
7862	Bigzoo.com Corporation	1,140,000
7875	AllCom USA	25,200
7887	AccessLine Communications Corp	392,000
7917	APEX Telecom, Inc.	101,000
7925	UCHUB Group, Inc.	5,200
7926	DSLnet Communications, LLC	134,000
7932	Metro Access Exchange, LLC	25,000
7952	Advanced Tel, Inc.	25,500
7960	CallTower, Inc.	1,270,000
7964	Aries Network, Inc.	70,100
7965	VizAbility Communications, Inc.	6,500
7980	Teledata Solutions, Inc.	65,000
7982	NextG Networks Of California	193,000
8001	Custom Switching Technologies, Inc.	188,000
8002	Neutral Tandem - California, LLC	806,000
8003	Creative Interconnect Communications, LLC	227,000
8004	Greenfield Communications, Inc.	20,800

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8005	Cable and Wireless Americas Operations, Inc.	7,260,000
8006	Lucky Communications, Inc.	182,000
8007	Asia Talk Telecom, Inc.	322,000
8008	Volo Communications of California, Inc.	8,400
8009	France Telecom Corporate Solutions, LLC	18,400
8010	A+ Wireless	52,400
8011	Deltel, Inc.	98,100
8012	RB Communications, Inc.	170,000
8013	Worldwide Telecommunications, Inc.	1,900
8014	Fonica LLC	3,500
8015	China Telecom (USA) Corporation	75,400
8016	Call Center Management, Inc.	1,700
8017	Locus Telecommunications, Inc.	698,000
8018	Telewest, Inc.	6,000
8019	Global Touch Telecom, Inc.	33,600
8020	GVN Services	85,200
8021	EWI Holdings, Inc.	260,000
8022	ACI Communications Holdings, Inc.	666,000
8023	One Phone, Inc.	46,500
8024	TC Telephone, LLC	113,000
8025	FreedomStarr Communications, Inc.	12,400
8026	Nationwide Telecom Inc.	17,200
8027	Blue Casa Communications, Inc.	114,000
8028	Mercury Telecom, Inc.	478,000
8029	IPC Network Services, Inc.	99,300
8030	Andiamo Telecom, LLC	54,600
8031	Backbone Communications, Inc.	101,000
8032	BCE Nexxia Corporation	927,000

### Wireless Telephone Companies

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

2512	Verizon Wireless (VAW) LLC	150,200,000
2513	Sacramento Valley Limited Partnership	186,400,000
2532	Los Angeles SMSA Ltd. Partnership	730,400,000
2552	Fresno MSA L.P.	69,200,000
2559	GTE Mobilnet of California, Ltd. Partnership	328,700,000
2602	Digital Communications Network, Inc.	203,000
2605	Nova Cellular West, Inc.	49,500
2606	Cingular Wireless, LLC	2,444,500,000
2627	GTE Mobilnet of Santa Barbara L.P.	35,600,000
2649	Action Cellular Rent-A-Phone, Inc.	238,000

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2659	Cal-One Cellular L. P.	8,970,000
2665	WWC License LLC	6,430,000
2667	Cellco Partnership	94,800,000
2668	California RSA No. 3 Limited Partnership	7,060,000
2669	California RSA #4 Partnership	11,900,000
2671	California Rural Service Area #1, Inc.	27,600,000
2681	Everything Wireless, L.L.C.	138,000
2683	Pay-Less Cellular	1,910,000
2687	SLO Cellular, Inc.	10,200,000
2715	Worldwide Cellular, Inc.	11,500
2720	Sprint Telephony PCS, L.P.	744,900,000
2722	Sprint Spectrum L.P.	406,900,000
2733	MetroPCS California/Florida, Inc.	165,900,000
2737	Nextel of California, Inc.	571,500,000
2745	West Coast P.C.S.	50,100,000
2746	Alpine PCS, Inc.	2,090,000
2748	Pacific Bell Wireless, LLC	1,261,300,000
2750	Verisign, Inc.	59,800
2751	Ubiquitel Operating Company, Inc.	53,100,000
2753	Edge Wireless, LLC	16,100,000
2754	Metro One Telecommunications, Inc.	1,720,000
2758	Image Paging & Cellular	111,000
2760	Fisher Wireless Services, Inc.	1,860,000
2761	OmniPoint Communications Inc.	92,300,000
2762	Cricket Communications, Inc.	34,700,000
2763	Irridigital, LLC	1,000
2764	NTCH-CA, Inc.	1,020,000
2767	Virgin Mobile USA, LLC	15,700,000

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

2658	Intouch America, Inc.	65,300
2680	ComTelesis, LLC	601,000
2732	Nextwave Telecom, Inc.	163,000
2770	Aircell, Inc.	217,000

#### Local Exchange Telephone Companies

Action: Upon motion of Mr. Westly, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property of the following listed companies as of January 1, 2005 be as follows:

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201	Verizon California, Inc.	3,378,000,000
202	CenturyTel of Eastern Oregon, Inc.	97,800
205	Ponderosa Telephone Co., The	28,000,000
209	Pinnacles Telephone Co.	1,490,000
210	Calaveras Telephone Company	9,750,000
228	Ducor Telephone Company	9,100,000
229	Global Valley Networks, Inc.	15,200,000
235	Foresthill Telephone Co.	4,620,000
239	Hornitos Telephone Company	796,000
240	Happy Valley Telephone Company	803,000
246	Kerman Telephone Co.	11,300,000
270	Citizens Telecommunications Company of Golden State, Inc.	7,630,000
284	Citizens Telecommunications Company of California, Inc.	151,500,000
286	Sierra Telephone Company, Inc.	43,300,000
294	SureWest Telephone	174,200,000
301	The Siskiyou Telephone Company	20,600,000
311	Citizens Telecommunications Company of Tuolumne, Inc.	5,910,000
320	Verizon West Coast Inc.	13,300,000
327	Volcano Telephone Company	23,800,000
328	Cal-Ore Telephone Co.	8,120,000
330	Winterhaven Telephone Company	2,130,000

**Pacific Bell Telephone Company (279)**

Action: Upon motion of Ms. Yee, seconded by Mr. Westly and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Mr. Westly voting yes, the Board ordered that the market value to be used in the assessment of unitary property be \$7,697,300,000 as of January 1, 2005.

Ms. Mandel entered the Boardroom on behalf of Mr. Westly in accordance with Government Code section 7.9.

**FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD MAY 24, 2005**

Carl J. Lenander, III and Charlotte A. Lenander (Wise), 268514

Final Action: Ms. Yee moved to sustain the action of the Franchise Tax Board. Ms. Mandel made a substitute motion to abate the interest from April 7, 2002 to December 31, 2002, otherwise sustain the action of the Franchise Tax Board. The substitute motion was seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes.

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Joseph R. Banister, 262916

Final Action: Ms. Mandel moved to sustain the action of the Franchise Tax Board and impose a \$1,000.00 frivolous appeal penalty. The motion was seconded by Ms. Yee. Ms. Yee made a substitute motion to sustain the action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty. The substitute motion was seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes.

**FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD MAY 24, 2005**

Modern Mold International, Inc., 46790, 151920

Internet Design Technologies, LLC, 104735, 202260

Final Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the petitioner's supporting documents, the Department's response and provide its recommendation to the Board.

**SALES AND USE TAX APPEALS HEARINGS**

George Robert Woltring and Carol Lynn Woltring, 215707

7-26-01, \$37,600.00 Tax, \$00.00 Failure to File Penalty

For Petitioner: Dennis S. Kaneshiro, CPA

For Sales and Use Tax Department: Randy Ferris, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioners purchased the vessel for personal use and did in fact use it, and are therefore liable for the use tax on the purchase.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be submitted for decision.

Telmax Communications Corporation, 250368

1-1-99 to 12-31-02, \$14,083.82 Tax

For Petitioner: Nai-Yu Pai, CPA

For Sales and Use Tax Department: Kevin Hanks, Hearing Representative

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the audited amount of ex-tax purchases from out-of-state vendors is excessive.

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the measure of tax be reduced by 10 percent, otherwise redetermine as recommended by the Appeals Division.

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Janet Elsner (aka, Janet Pearle), 205069

3-1-82 to 9-30-88, \$65,691.06 Tax, \$30,713.75 Fraud Penalty, \$12,285.47 Finality Penalty

For Claimant:

Janet Elsner (Pearle), Taxpayer

Nicholas Stameroff, CPA

For Sales and Use Tax Department:

Sharon Jarvis, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the evidence shows that the audited amount of total sales is excessive.

Whether the evidence shows that the 25 percent fraud penalty is warranted for the entire audit period such that the determination for periods prior to January 1, 1986 was timely.

Action: Mr. Parrish moved to grant the claim for refund. The motion failed for lack of a second.

Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the claim be submitted for decision.

## **PUBLIC HEARINGS**

### **Proposed Amendments to Regulation 1698, Records**

Sharon Jarvis, Tax Counsel, Tax and Fee Programs Division, Legal Department, made introductory remarks regarding the proposed amendments to Regulation 1698, *Records*, which will require taxpayers participating in the Tax Amnesty Program to retain records for at least ten years. The regulation language is also updated to the current correct usage of capitalized words (Exhibit 5.2).

Speakers: Abe Golomb, President, Sales Tax Reduction Specialists

Mr. Parrish requested the Sales and Use Tax Department investigate whether field auditors were routinely extending ordinary three-year audit periods to four and one-half years if the period being examined fell within the amnesty legislation time period.

Action: The Board deferred consideration of this matter.

### **FINAL ACTION ON SALES AND USE TAX APPEALS HEARINGS HELD MAY 24, 2005**

George Robert Woltring and Carol Lynn Woltring, 215707

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Chiang, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

Janet Elsner (aka, Janet Pearle), 205069

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and duly carried, Mr. Chiang, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Parrish voting no, the Board ordered that the claim for refund be denied.

**Tuesday, May 24, 2005**

The Board adjourned at 4:10 p.m.

*The foregoing minutes are adopted by the Board on August 31, 2005.*

Note: The following cases were removed from the calendar prior to the meeting: *Nortel Networks, Inc., 140851, 150425; M C Y III Corporation, 218314; International Investment Properties, Inc., 144677; and, Fireside-Corkwood, Inc., 252969.*