COUNTY OF LOS ANGELES

OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TDD
(213) 633-0901
TELEPHONE
(213) 974-1904
TELECOPIER
(213) 687-7300

LLOYD W. PELLMAN
County Counsel

October 25, 2002

TO: SUPERVISOR ZEV YAROSLAVSKY, Chairman
SUPERVISOR GLORIA MOLINA
SUPERVISOR YVONNE BRATHWAITE BURKE
SUPERVISOR DON KNABE
SUPERVISOR MICHAEL D. ANTONOVICH

FROM: LLOYD W. PELLMAN
County Counsel

RE: **Lawsuit Related to the Pitchess Cogeneration Facility Contract Between the County and Southern California Edison – Southern California Edison Company v. Public Utilities Commission of the State of California**

This is to provide your Board with an update regarding the lawsuit related to a decision by the California Public Utilities Commission ("CPUC") to change the payment formula in all contracts between Southern California Edison ("SCE") and operators of gas-fired cogeneration facilities, known as "Qfs." The County's Pitchess cogeneration facility is a Qf, and the CPUC's decision impacts the County's contract to sell SCE electricity generated at the Pitchess cogeneration facility. The County has been an active participant in the lawsuit challenging the CPUC's decision.

On September 4, 2002, the Court of Appeal, Second Appellate District, issued an opinion upholding the CPUC's decision to modify the formula used to determine the amount that SCE pays Qfs under their agreements with SCE. The modification to the formula will have a negative financial impact on Qfs. However, the County is protected from the immediate adverse impact of the decision. Under the terms of a July 3, 2001, agreement between SCE and the County, for a five-year period, the amount of SCE's payments to the County for the electricity generated at the Pitchess cogeneration facility is based on a formula in place before the CPUC's decision.

As your Board was advised in a memorandum from the Director of the Internal Services Department dated October 1, 2002, the County joined with the California Cogeneration Council ("CCC"), an association whose members own cogeneration facilities throughout California, in seeking rehearing of the Court of Appeal's decision. On September 30, 2002, the Court of Appeal denied the petition for rehearing. Last week, the County joined with CCC in filing a petition for review in the California Supreme Court. We expect the Supreme Court to act on that petition by December 16, 2002.

We will continue to report to your Board on any further developments. If you have any questions concerning this matter, please contact either me, John Krattli at 974-1838, or Lillian Salinger at 974-7973.

LWP:LDS:jn

c: David E. Janssen
Chief Administrative Officer

Violet Varona-Lukens, Executive Officer
Board of Supervisors

Joan Ouderkirk, Director
Internal Services Department