

*Recent Cases from the Court of Appeal Construing Section 1759*

(In Reverse Chronological Order)

**16. *Anchor Lighting v. Southern California Edison***

142 Cal. App. 4th 541, 2006 Cal. App. LEXIS 1316 (2006)

The Court of Appeal (Second District, Division 1) affirmed the dismissal of Anchor Lighting’s complaint alleging various causes of action all related to Edison’s 10% rate reduction tariff for residential and small commercial customers. (PU Code Section 330(w). Anchor believed Section 330(w) required that it be eligible for the 10% rate reduction but Edison’s tariff did not so provide. The Commission (1) approved Edison’s tariff and (2) rejected Anchor’s claim that it should nonetheless be eligible. Anchor’s application for rehearing was denied and it did not seek review of the Commission decision in the state appellate courts. The Court of Appeal affirmed the trial court’s dismissal of Anchor’s civil action. The Court deferred to the Commission’s construction of Section 330(w) seemingly as both (1) a matter of traditional Greyhound deference as well as (2) adherence to Section 1759. The Court held that was required to do so even if the Commission’s construction was “palpably erroneous in point of law” because Commission decisions bind all courts in the state unless annulled pursuant to the writ of review authorized by Section 1756. Next, applying the tests in *Covalt*, the Court had no difficulty finding that (1) the Commission was charged with implementing electric restructuring, (2) it had acted to do so and (3) a court order reaching a contrary conclusion to that of the Commission on the question of eligibility for the 10% rate reduction would “unquestionably interfere with the CPUC’s orders and , indeed, the entire financing scheme [related to the funding of the rate reduction.]” (In later portions of the Court’s decision, it addresses the other obvious defense to the complaint, that it represents a collateral attack on a Commission order in violation of Section 1709.)