

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-172
Administrative Law Judge Division
April 9, 1997

RESOLUTION

RESOLUTION ALJ-172. Ratification of preliminary determinations of category for proceedings that have been identified for processing under the Senate Bill 960 Experimental Rules and Procedures, adopted in Resolution ALJ-170. The preliminary determinations are pursuant to Experimental Rules 2.d and 4.a.

Each proceeding listed on the attached schedule has been identified by the initiating party as a candidate for processing under the Commission's experimental rules and procedures to gain experience, where practicable, with management of Commission proceedings under the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856). The experimental rules and procedures were adopted by the Commission in Resolution ALJ-170. Experimental Rule 2.d provides that any complainant and any utility applicant may identify a proceeding as a candidate for inclusion in the experiment, and may concurrently propose a category. Experimental Rules 2.d and 4.a require the Commission to preliminarily determine a candidate proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Experimental Rule 4.a states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability (to an included proceeding) of the other reforms that SB 960 requires.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the experimental rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Experimental Rules 1.c, 1.d, and 1.e.)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the experimental rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The experimental rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in Resolution ALJ-170, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party’s proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner’s Ruling pursuant to Rule 2.d or 2.e. This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 4.b. Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 4.c, and


must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Conclusion

The Commission has reviewed the initial pleading of the complainants and utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of the experimental rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, the need for a hearing is noted, and an Assigned Commissioner and Administrative Law Judge are designated as shown on the attached schedule.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on April 9, 1997, the following Commissioners voting favorably thereon:


WESLEY M. FRANKLIN
Executive Director

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED	COMR	ALJ
A97-02-005	PG&E - For Authority to Change Core Procurement Rates on a Monthly Basis	RATESETTING	RATESETTING	YES	BILAS	CAREAGA
A97-03-002	PG&E - BCAP 1998	RATESETTING	RATESETTING	YES	BILAS	ECONOME
A97-03-004	PACIFIC BELL-Rate Reductions	RATESETTING	RATESETTING	YES	KNIGHT	WALWYN
A97-03-045	SOCAL GAS & SCE - For Approval of Demand-Side Management Pilot Bidding Contract	QUASI-LEGISLATIVE	RATESETTING	YES	NEEPER	GOTTSTEIN
A97-03-052	CALIFORNIA-AMERICAN WTR CO. - For a CPCN to Permit Applicant to Complete the Planning and Engineering, to Finance, Construct and to Operate the Carmel River Dam and Reservoir Project	RATESETTING	RATESETTING	YES	DUQUE	KOTZ
A97-04-001	PG&E - For Commission Order Finding that the Recorded Electric and Gas Costs Reflected in the ECAC Mechanism, During 1/1/96 Through 12/31/96 Were Reasonable	RATESETTING	RATESETTING	YES	CONLON	WEIL

ALJ/BAR/jac *