

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Resolution ALJ-176-2986  
Administrative Law Judge Division  
February 4, 1998

**RESOLUTION**

**RESOLUTION ALJ-176-2986. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)**

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The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(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 of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day this preliminary categorization appears in the Daily Calendar following the Commission business meeting.

**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 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. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘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.” (Rules 5(b), 5(c), and 5(d).)

### **Mixed or Unclear Category Proceedings**

For a proceeding that may fall into more than one category, the 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 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 D.97-06-071, 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 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day this preliminary categorization appears in the Daily Calendar following the Commission business meeting.


### **Conclusion**

The Commission has reviewed the initial pleading of the 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 Article 2.5 of its 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.

ALJ/BAR/tcg \*

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 February 4, 1998, the following Commissioners voting favorably thereon:



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WESLEY M. FRANKLIN  
Executive Director

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

# PRELIMINARY DETERMINATION SCHEDULES

ALJ Resolution - ALJ 176-2986 (2/4/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED	COMR	ALJ
A98-01-012	Southern California Gas Company, for a limited exemption to the Commission's Affiliate Transaction Rules	Quasi-legislative	Quasi-legislative	Applicant Says "Maybe"	KNIGHT	ECONOME
A98-01-013	U.S Payphone, Inc., for registration as an interexchange carrier telephone corporation	*Ratesetting	Ratesetting	NO	N/A	EXAMINER LEUTZA
A98-01-014	San Diego Gas & Electric Company, for authority to implement a distribution performance-based ratemaking mechanism	Ratesetting	Ratesetting	YES	NEEPER	MINKIN
A98-01-015	Southern California Gas Company, for authority to sell its storage field in Montebello, California	Ratesetting	Ratesetting	Applicant Says No	CONLON	CAREAGA
A98-01-016	Calls for Less, Inc., dba CFL, for registration as an interexchange carrier telephone corporation	*Ratesetting	Ratesetting	NO	N/A	EXAMINER LEUTZA

ALJ/BAR/tcg \*

\* NDIEC Registration Application

# PRELIMINARY DETERMINATION SCHEDULES

ALJ Resolution - ALJ 176-2986 (2/4/98)

ALJ / BAR / teg

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED	COMR	ALJ
A98-01-017	Telstar International, Inc., for registration as an interexchange carrier telephone corporation	*Ratesetting	Ratesetting	NO	N/A	EXAMINER LEUTZA
A98-01-018	Tele-Global Communications, Inc., for registration as an interexchange carrier telephone corporation	*Ratesetting	Ratesetting	NO	N/A	EXAMINER LEUTZA
A98-01-019	Searles Domestic Water Company, Harris Chemical Group, Inc., and IMC Global, Inc. for authority to transfer control of Searles Domestic Water Company to IMC Global, Inc.	Ratesetting	Ratesetting	Applicant Says No	DUQUE	WEISS
A98-01-020	Dino Bozzetto, dba Los Guilicos Water Works; and Glen Ellen Water Co., LLC; for authority to transfer Los Guilicos Water Works from Dino Bozzetto to Glen Ellen Water Co., LLC	Ratesetting	Ratesetting	Applicant Says No	DUQUE	WEISS

\* NDIEC Registration Application

# PRELIMINARY DETERMINATION SCHEDULES

ALJ Resolution - ALJ 176-2986 (2/1/98)

ALJ/BAR/tcg

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED	COMR	ALJ
A98-01-021	Omniwerx, for a certificate of public convenience and necessity to operate as a reseller of local exchange, interexchange and wireless telecommunications	Ratesetting	Ratesetting	NO	KNIGHT	O'DONNELL
A98-01-022	Omniwerx, for registration as an interexchange carrier telephone company	*Ratesetting	Ratesetting	NO	N/A	EXAMINER LEUTZA
A98-01-023	Choctaw Communications, L.C., for a certificate of public convenience and necessity to offer resold local exchange and interexchange services	Ratesetting	Ratesetting	NO	KNIGHT	O'DONNELL

\* NDIEC Registration Application

# PRELIMINARY DETERMINATION SCHEDULES

ALJ Resolution - ALJ 176-2986 (2/1/98)

ALJ/BAR/teg

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED	COMR	ALJ
A98-01-024	County of Los Angeles, for an order authorizing the county to construct a bike path across the railroad tracks of the Southern California Regional Rail Authority along the Thompson Creek Channel at crossings 2-107.1-D and BBO-512.84-D located in the City of Pomona, County of LA	Ratesetting	Ratesetting	NO	N/A	EXAMINER KOSS
A98-01-026	Nova Telecom, Inc., for registration as an interexchange carrier telephone corporation	*Ratesetting	Ratesetting	NO	N/A	EXAMINER LEUTZA
A98-01-027	Star Telecom Network, Inc., for registration as an interexchange carrier telephone corporation	*Ratesetting	Ratesetting	NO	N/A	EXAMINER LEUTZA
A98-01-028	Infotech Telecommunications and Network, Inc., for registration as an interexchange carrier telephone corporation	*Ratesetting	Ratesetting	NO	N/A	EXAMINER LEUTZA

\* NDIEC Registration Application



# PRELIMINARY DETERMINATION SCHEDULES

ALJ Resolution - ALJ 176-2986 (2/4/98)

ALJ/BAR/tcg

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED	COMR	ALJ
A98-02-001	AT&T Corp. (AT&T), Teleport Communications Group Inc. (TGC) and TA Merger Corp., for authority to transfer control of TCG's three California utility subsidiaries, TCG San Francisco, TCG Los Angeles, and TCG San Diego to AT&T	Ratesetting	Ratesetting	Applicant Says No	NEEPER	MCKENZIE
A98-02-002	PacifiCorp, for a limited exemption from affiliate transaction rules	Quasi-legislative	Quasi-legislative	Applicant Says No	BILAS	ECONOME
A98-02-003	Pacific Bell, for a third triennial review of the regulatory framework adopted in DS9-10-031	Quasi-legislative	Quasi-legislative	YES	KNIGHT	MATTSON