

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-176-2988
Administrative Law Judge Division
March 12, 1998

RESOLUTION

RESOLUTION ALJ-176-2988. 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.)

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 the assignments associated with this preliminary categorization document appear 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 the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

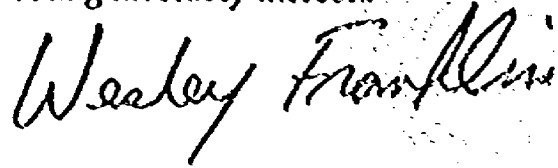
Conclusion

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, and the need for a hearing is noted.

ALJ/BAR/sid

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 March 12, 1998, the following Commissioners voting favorably thereon:



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

Resolution ALJ 176-2988 (3/12/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-01-033	AVIRNEX Communications Group, for registration as an interexchange carrier telephone company	*RATESETTING	RATESETTING	NO
A98-02-023	Residential Energy Service Companies' United Effort, application for rehearing of Resolution E-3515	QUASI-LEGISLATIVE	RATESETTING	NO
A98-02-024	Southwest Gas Corporation, for the issuance of a limited exemption from the affiliate transaction rules	QUASI-LEGISLATIVE	RATESETTING	NO
A98-02-027	LCI International Telecom Corp., to transfer its assets and operating authority to LCI International Co, Inc.	RATESETTING	RATESETTING	NO
A98-02-028	Dominguez Water Corporation, Lucerne Water Company, and Robert and Nadine Strauss, for an order authorizing the acquisition of substantially all of the utility assets of Lucerne Water Company by Dominguez Water Corporation	RATESETTING	RATESETTING	NO
A98-02-029	Max-Tel Communications, for a certificate of public convenience and necessity to offer resale of local exchange telecommunications services	QUASI-LEGISLATIVE	RATESETTING	NO
A98-02-030	MVX Communications, LLC, for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-02-031	Prime Communications International, for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-02-032	Network Operator Services, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO

PRELIMINARY DETERMINATION SCHEDULES

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NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-02-033	Teleshare Communications, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-02-034	Riverside County Transportation Commission, for authority to construct a pedestrian overpass at railroad milepost 27.11, of the BNSF Railroad Company's San Bernardino subdivision main line, as an addition to the existing Metrolink station in the City of Corona	RATESETTING	RATESETTING	NO
A98-02-035	Network One Inc. dba Unity Communications, for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-02-037	Pacific Gas and Electric Company, Kramer Junction Company, and LUZ Solar Partnerships III through VII, for an order approving the reserved portion of the settlement agreement	RATESETTING	RATESETTING	NO
A98-02-038	United States Telecommunications, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-02-039	Pacific Gas and Electric Company, for rehearing of Resolution E-3516	QUASI-LEGISLATIVE	RATESETTING	YES
A98-02-040	United States Telecommunications, Inc., for a certificate of public convenience and necessity to offer resold local telecommunications services	RATESETTING	RATSETTING	NO
A98-02-041	Satellink Paging, LLC, for registration as an interexchange carrier telephone company	*RATESETTING	RATESETTING	NO

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NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-02-042	Southern California Edison Company, for authority to lease available land on the Santiago Estrella 66 kV right of way to SSD, LLC	RATESETTING	RATESETTING	NO
A98-02-046	Simple Phone, for a certificate of public convenience and necessity to operate as a reseller of local exchange telecommunications services	RATESETTING	RATESETTING	NO
A98-02-050	The City of Lodi, for authorization to establish a city road across the railroad tracks of the Central California Traction Company	RATESETTING	RATESETTING	NO
A98-02-051	Sacramento Regional Transit District to construct, modify and maintain College Greens Pedestrian Crossing, Tiber Pedestrian Crossing, Mather Field Pedestrian Crossing PUC No. AH- 101.40D, Mather Field Pedestrian Crossing PUC No. AH- 101-45D and Butterfield Pedestrian Crossing	RATESETTING	RATESETTING	NO
A98-03-001	Pacific Gas and Electric Company and the City of Campbell, to sell and convey from the former to the latter a streetlight system	RATESETTING	RATSETTING	NO
A98-03-002	Quintelco, Inc., for authority to provide competitive local exchange services as a non- facilities based carrier and reseller	RATESETTING	RATESETTING	NO

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NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-03-003	Pacific Gas and Electric Company, Petition for Modification of Resolution E3515	RATESETTING	RATESETTING	YES
A98-03-004	One Tel Inc., dba One.Tel and/or One.Tel Communications, for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-03-006	One Step Connect, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-03-010	Riverside County Transportation, for authority to construct a pedestrian overpass at railroad milepost 18.37 of the BNSF Railroad Company's San Bernardino subdivision	RATESETTING	RATESETTING	NO
A98-03-011	LCI International Telecom Corp. and LCI International Management Services, Inc., for approval of a pro forma change of control and merger	RATESETTING	RATESETTING	NO