

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

Resolution ALJ-176-2989  
Administrative Law Judge Division  
March 26, 1998

**RESOLUTION**

**RESOLUTION ALJ-176-2989.** 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 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.

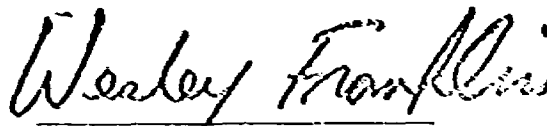
### **Conclusion**

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/mrj

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 26, 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

ALJ/BAR/BJ\* PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-2989 (3/26/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-02-052	Buyers United International, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-03-015	Coral Communications, Inc., dba: Florida Coral Communications, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-03-017	Kevin Otha Chambers, dba Chambers Airport Express, for a certificate of public convenience and necessity, for authority to operate as a passenger service throughout Alameda and Contra Costa Counties	RATESETTING	RATESETTING	NO
A98-03-018	Nettronix, Inc. dba Utah Nettronix, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-03-019	Pacific Bell, for authority to transfer and/or lease assets used for research and development to Technology Resources, Inc.	RATESETTING	RATESETTING	NO
A98-03-020	Dominguez Water Company, Russian River Management Company, d.b.a. Rancho Del Paradiso Water Company, and Phillip, Janet, Jesse and Gaye Guidotti, for an ex parte order authorizing the acquisition of substantially all of the utility assets of Rancho Del Paradiso Water Company by Dominguez Water Company	RATESETTING	RATESETTING	NO
A98-03-021	Dominguez Water Company, Russian River Management Company, d.b.a. Armstrong Valley Water Company, and Phillip, Janet, Jesse and Gaye Guidotti, for an ex parte order authorizing the acquisition of substantially all of the utility assets of Armstrong Valley Water Company by Dominguez Water Company	RATESETTING	RATESETTING	NO

\* NDIEC Registration Application

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-2989 (3/26/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-03-022	Town of Truckee, for authority to construct a crossing at separated grades connecting Donner Pass Road and West River Street and track of the Union Pacific Railroad Company, sometimes referred to as the "Western Under Crossing"	RATESETTING	RATESETTING	NO
A98-03-024	Apple Valley Ranchos Water Company, for authority to increase rates by \$1,295,453 or 15.1% in 1999; \$279,216 or 2.8% in 2000; by \$280,577 or 2.7 % in 2001	RATESETTING	RATESETTING	YES
A98-03-025	Southern California Gas Company, to establish Core Purchased Gas Account Imbalance Band	RATESETTING	RATESETTING	NO
A98-03-026	Cynthia Sanders dba The Link Shuttle Service, for authority to operate as a passenger stage between certain portions of San Diego on one hand and certain portions of San Diego and San Diego Airport	RATESETTING	RATESETTING	NO
A98-03-027	Freedom Communications Corp., dba Freedom Telecom, for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-03-028	Star Direct Telecom, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-03-029	Southern California Water Company, for authority to increase rates by \$661,700 or 34.51% in 1999; by \$249,000 or 9.71% in 2000; and by \$258,800 or 9.19% in 2001 in Desert District	RATESETTING	RATESETTING	YES

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-2989 (3/26/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-03-030	Southern California Water Company, for authority to increase rates by \$1,292,300 or 11.34% in 1999; \$279,700 or 2.20% in 2000, and \$313,300 or 2.41% in 2001 in San Dimas District	RATESETTING	RATESETTING	YES
A98-03-031	Southern California Water Company, for authority to increase rates by \$1,193,900 or 25.84% in 1999; \$160,800 or 2.78% in 2000, and \$190,600 or 3.22% in 2001 in San Gabriel Valley District	RATESETTING	RATESETTING	YES
A98-03-032	Southern California Water Company, for authority to increase rates by \$3,286,200 or 17.48% in 1999; \$1,120,200 or 5.06% in 2000, and \$1,193,400 or 5.13% in 2001 Orange District	RATESETTING	RATESETTING	YES
A98-03-033	Southern California Water Company, for authority to increase rates for water service in its Ojai Customer Service Area and increase rates for the General Office Allocation in all of its customer service areas in this application including: Arden-Cordova, Bay Point, Clearlake, Los Osos, Santa Maria, Simi Valley, Claremont, Barstow, Calipatria, Wrightwood, and Bear Valley Electric	RATESETTING	RATESETTING	YES
A98-03-034	Southern California Water Company, for authority to increase rates by \$13,141,800 or 22.86% in 1999; \$3,262,300 or 4.64% in 2000, and \$3,455,200 or 4.70% in 2001 in Metropolitan District	RATESETTING	RATESETTING	YES
A98-03-035	PCSTC, Inc., dba Pacific Coast Sight Seeing Tours, for certificate of public convenience and necessity to operate as a passenger stage corporation for scheduled and on-call service over the most direct routes: between Los Angeles International Airport and John Wayne Airport on the one hand, and places in the communities in Orange County on the other hand; and between John Wayne Airport in Orange County on the one hand, and places in the communities in Orange County on the other hand	RATESETTING	RATESETTING	NO

\* NDIEC Registration Application