

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-176-2991
Administrative Law Judge Division
April 23, 1998

RESOLUTION

RESOLUTION ALJ-176-2991. 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.

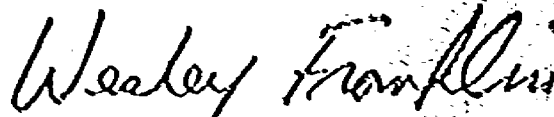
Conclusion

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/bwg

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 23, 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-176-2991 (4/23/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-04-006	NTC Acquisition, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-04-007	Pacific Gas and Electric Company and The Regents of the University of California, for an order under Section 851 of the California Public Utilities Code to sell and convey certain electric distribution facilities	RATESETTING	RATESETTING	NO
A98-04-008	Pacific Gas and Electric Company, for an order under Section 701 of the Public Utilities Code granting Pacific Gas and Electric Company permission to use natural gas-based financial instruments to manage market risks associated with California gas transmission's assets	RATESETTING	RATESETTING	NO
A98-04-011	Michael G. Magner, dba Valle Vista Traveler, for a certificate of public convenience and necessity to operate as a passenger stage corporation between Ojai in Ventura County on the one hand, and Los Angeles International Airport in Los Angeles County; and Burbank/Glendale/Pasadena Airport in Los Angeles County; and Santa Barbara Municipal Airport in Santa Barbara County	RATESETTING	RATESETTING	NO

* NDIEC Registration Application

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2991 (4/23/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-04-012	IntraTel Group, Ltd. And North American Telephone Network, L.L.C., for authority to transfer the stock of North American Telephone Network, L.L.C., an NDIEC corporation operating in California, to IntraTel Group, Ltd.	RATESETTING	RATESETTING	NO
A98-04-013	Network Telecommunications, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-04-014	Telecarrier Services, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-04-015	Unocal California Pipeline Company, for authority to remove its Line 700B oil pipeline in Los Angeles County from common carrier service	RATESETTING	RATESETTING	YES
A98-04-016	Pacific Gas and Electric Company, for authorization to sell the El Dorado Hydroelectric Project to El Dorado Irrigation District	RATESETTING	RATESETTING	YES
A98-04-017	Sierra LifeStar, Inc., for a certificate of public convenience and necessity to operate as a passenger stage corporation between Tulare/Kings County and Fresno County	RATESETTING	RATESETTING	NO

* NDIEC Registration Application

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2991 (4/23/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-04-018	Laura Lee Nelson, dba Metropolitan Express, authority to provide schedule service between the Los Angeles International Airport, on the one hand, and scheduled points in the Greater Los Angeles Area, on the other hand	RATESETTING	RATESETTING	NO
A98-04-020	NXLD Company, for registration as an interexchange carrier telephone corporation	* RATESETTING	RATESETTING	NO
A98-04-022	City of Los Angeles, for an order authorizing reconstruction of an existing at-grade crossing at a private road near John S. Gibson Boulevard, PUC No. BG-505.55-X, in the Wilmington District of the City of Los Angeles, County of Los Angeles	QUASI-LEGISLATIVE	RATESETTING	NO
A98-04-023	MTA Communications, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-04-024	Southern California Coach, for authority to establish a zone of rate freedom for its airport passenger fares between its authorized service areas in Orange, Riverside, Los Angeles, and San Bernardino Counties, to and from the John Wayne, Ontario, Los Angeles, and Long Beach Airports	RATESETTING	RATESETTING	NO

* NDIEC Registration Application

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2991 (4/23/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-04-025	MTA Communications, Inc., for a certificate of public convenience and necessity to offer local exchange, access, and interexchange services	RATESETTING	RATESETTING	NO
A98-04-026	American Phone Services, Corp, dba Georgia American Phone Services, for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-04-027	Comm-Net Services Corporation, dba CNSC, for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-04-028	Communication Network Services, L.L.C., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-04-029	Star Network Corporation, for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-04-030	Preferred Transportation, Inc. and Tamarack Transportation, Inc., to transfer and SuperShuttle International, Inc. to acquire Preferred Transportation, Inc. and Tamarack Transportation, Inc.	RATESETTING	RATESETTING	NO

* NDIEC Registration Application