

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-176-2992
Administrative Law Judge Division
May 7, 1998

RESOLUTION

RESOLUTION ALJ-176-2992. 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.

ALJ/jva

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/jva

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 May 7, 1998, the following Commissioners voting favorably thereon:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President
P. GREGORY CONLON
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

Commissioner Jessie J. Knight, Jr., being necessarily absent, did not participate.

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2992 (5/7/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-04-031	CRI Network Services, Inc., for registration as an interexchange carrier telephone corporation	* RATESETTING	RATESETTING	NO
A98-04-032	Wholesale Airtime, Inc. for a certificate of public convenience and necessity to resell local exchange telecommunications services	RATESETTING	RATESETTING	NO
A98-04-034	California Western Railroad, Inc., and California Western Land Associates	RATESETTING	RATESETTING	NO
A98-04-035	Mystic Alliance Group, Inc., for a certificate of public convenience and necessity to provide resold intralATA and interLATA telecommunications services to the extent authorized in I87-11-033	RATESETTING	RATESETTING	NO
A98-04-036	Park 'N View, 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
A98-04-038	USA Shuttle Services Inc., for authority to operate a passenger stage corporation with expanded points within Santa Clara, San Mateo, Alameda and San Joaquin Counties between San Jose International Airport, San Francisco Airport International Airport, and Oakland Airport	RATESETTING	RATESETTING	NO
A98-04-039	National Communications Association, Inc., and Universal Communications Group, Inc., for the former to transfer to the later their certificate of public convenience and necessity	RATESETTING	RATESETTING	NO
A98-04-040	LA Cellular Long Distance, LLC, for registration as an interexchange carrier telephone corporation	* RATESETTING	RATESETTING	NO
A98-04-041	San Diego Gas and Electric Company, for authority to sell Station B at Kettner and Broadway in downtown San Diego to Monaghan Company LLC	RATESETTING	RATESETTING	YES
A98-04-043	Jones Telecommunications of California, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO

* NDIEC Registration Application

PRELIMINARY DETERMINATION SCHEDULES

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NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-04-044	Communications Brokers & Consultants, Inc., to expand its current certificate of public convenience to include authorization to provide competitive local exchange services on a resale basis	RATESETTING	RATESETTING	NO
A98-04-045	Pacific Centrex Services, L.L.C., for registration as an interexchange carrier telephone corporation pursuant to Public Utilities Code Section 1013 and D97-06-107	*RATESETTING	RATESETTING	NO
A98-04-047	Alameda Corridor Transportation Authority (ACTA), for an order authorizing the construction of the Alameda Corridor's Redondo Junction Grade Separation Project	RATESETTING	RATESETTING	NO
A98-04-048	Pacific Bell, for authority to categorize residence inside wire repair as a category III service	RATESETTING	RATESETTING	YES
A98-04-049	Convergent Communications, Inc., for transfer and convergent Communications Services, Inc., for acquisition of a certificate of public convenience and necessity and for approval of a pro forma change of control under Section 854 of the Public Utilities Code	RATESETTING	RATESETTING	NO

* NDIEC Registration Application

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Resolution ALJ-176-2992 (5/7/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-04-050	Southern California Edison Company, for order approving agreements restructuring the negotiated parallel generation agreement between Southern California Edison Company and Sunlaw Cogeneration Partners I	RATESETTING	RATESETTING	YES
A98-04-051	Catalina Channel Express, Inc., for authority to establish a zone of rate freedom for its vessel common carrier service between authorized Southern California mainland points and authorized points on Santa Catalina Island	RATESETTING	RATESETTING	NO
A98-04-052	Accelerated Connections, Inc., for approval of a pro forma change of control and transfer of a certificate of public convenience and necessity	RATESETTING	RATESETTING	NO
A98-04-053	Kevin Fonseca and Sharon Fonseca, dba Friendship Transportation Service, for authority as a passenger stage corporation to perform scheduled service between Temecula and Centre City of San Diego	RATESETTING	RATESETTING	NO
A98-04-054	DMJ Communications, Inc., for registration as an interexchange carrier telephone corporation	* RATESETTING	RATESETTING	NO

* NDIEC Registration Application

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NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-04-055	Trans Coast Communication, Inc., for registration as an interexchange carrier telephone corporation	* RATESETTING	RATESETTING	NO
A98-04-058	OmniCall, Inc., for registration as an interexchange carrier telephone corporation	* RATESETTING	RATESETTING	NO
A98-04-059	OmniCall, Inc., for a certificate of public convenience and necessity to offer local exchange telephone services	RATESETTING	RATESETTING	NO
A98-04-060	City of Roseville, to remove the Berry Street crossing of the Union Pacific Railroad Company tracks and construct a new improved crossing in the City of Roseville, County of Placer	RATESETTING	RATESETTING	NO
A98-04-061	Supershuttle of San Francisco, Inc. and Affiliates, for an exemption from Section 851-854 of the California Public Utilities Code	RATESETTING	RATESETTING	YES
A98-04-062	PEAK Communications, Inc., for registration as an interexchange carrier telephone corporation	* RATESETTING	RATESETTING	NO

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2992 (5/7/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-05-001	Pacific Gas and Electric Company, for approval of demand-side management shareholder incentives for 1997 program year accomplishments, and second claim for incentives for 1996 program year accomplishments	RATESETTING	RATESETTING	YES
A98-05-002	Intellicall Operator Services, Inc., for a certificate of public convenience and necessity to provide local exchange service on a resale basis as a competitive local carrier	RATESETTING	RATESETTING	NO
A98-05-003	Southwest Gas Corporation, to maintain its authorized rate of return adopted in D94-12-022 and to integrate further review of applicant's rate of return into its next general rate case filing	RATESETTING	RATESETTING	YES
A98-05-005	San Diego Gas & Electric Company, to increase its gas and electric revenue requirements to reflect its accomplishments for demand-side management program years 1996 and 1997 in the 1998 annual earnings assessment proceeding	RATESETTING	RATESETTING	YES