

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

Resolution ALJ-176-2993  
Administrative Law Judge Division  
May 21, 1998

**RESOLUTION**

**RESOLUTION ALJ-176-2993.** 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.

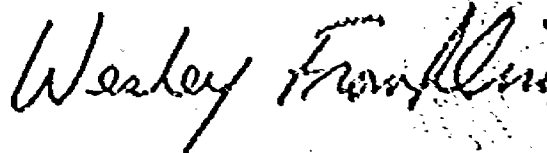
### **Conclusion**

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/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 21, 1998, the following Commissioners voting favorably thereon:



Wesley M. Franklin

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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

Resolution ALJ-176-2993 (5/21/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-04-063	Telecom Resources, Inc., for registration as an interexchange carrier telephone Corporation	* RATESETTING	RATESETTING	NO
A98-04-064	Business Technology Systems, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-04-065	George W. Goldthorpe, for exemption from the Moratorium on new water service connections in the Montara-Moss Beach District as set out in D86-05-078	RATESETTING	RATESETTING	YES
A98-04-066	Mini-Bus Systems, Inc., dba SuperShuttle San Gabriel for Carl Melvin to sell his shares and Fazi Bostajani to exercise his option to purchase said share of stock, pursuant to section 851 of PU code	RATESETTING	RATESETTING	NO
A98-05-001	Pacific Gas and Electric Company, to establish the eligibility and seek recovery of certain electric industry restructuring implementation costs as provided for in Public Utilities Code Section 376	RATESETTING	RATESETTING	YES

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2993 (5/21/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-05-006	San Diego Gas & Electric Company, for (1) a determination of eligibility for recovery under Public Utilities Code section 376 of certain cost categories and activities, (2) a finding of reasonableness of the costs incurred through 12/31/97, (3) approval of an audit methodology for verifying the eligibility of section 376 costs for recovery from 1998 through 2001, and (4) approval of a section 376 balancing account mechanism to recover eligible costs	RATESETTING	RATESETTING	YES
A98-05-007	Pacific Gas and Electric Company, for authority to adopt a revenue-sharing mechanism and other prerequisites for new non-tariffed products and services	RATESETTING	RATESETTING	YES
A98-05-008	California-American Water Company, for authority to establish a balancing account for costs related to mandatory conservation in Monterey Division	RATESETTING	RATESETTING	YES
A98-05-009	California-American Water Company, for an order authorizing it to increase its rates for water service in its Monterey Division	RATESETTING	RATESETTING	YES

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NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-05-010	California-American Water Company, for an order imposing a moratorium on all new or expanded water service connections in Monterey Division	RATESETTING	RATESETTING	YES
A98-05-011	California-American Water Company, for an order authorizing adoption of Rule No. 14.2 and tariff schedule Nos. MO-8A and MO-8B	RATESETTING	RATESETTING	YES
A98-05-013	Southern California Edison Company, for approval of demand-side management shareholder incentives for 1997 program year accomplishments and the second installment of shareholder incentives for the 1996 program year	RATESETTING	RATESETTING	YES
A98-05-014	Southern California Edison Company, to report on the valuation process for certain generation-related assets pursuant to D97-11-074	QUASI-LEGISLATIVE AND RATESETTING (BIFURCATED)	RATESETTING	YES
A98-05-015	Southern California Edison Company, to address restructuring implementation costs pursuant to Public Utilities Code section 376, in compliance with Ordering Paragraph 18 of D97-11-074	RATESETTING	RATESETTING	YES

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NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-05-016	National Telephone Company, Inc., for a certificate of public convenience and necessity to offer local exchange access telephone service	RATESETTING	RATESETTING	NO
A98-05-017	Red & White Ferries, Inc., for a certificate of public convenience and necessity to establish and operate scheduled and on-call vessel common carrier service between the Aircraft Carrier Hornet docked in Alameda on the one hand and San Francisco Ferry Building Pier 1/2 and Fisherman's Wharf Ferry Terminal Pier 43 1/2 on the other hand	RATESETTING	RATESETTING	NO
A98-05-018	Southern California Gas Company, for authority to increase its gas revenue requirements to reflect its accomplishments for demand-side management program years 1994, 1995, and 1996 in the 1997 annual earnings assessment proceeding	RATESETTING	RATESETTING	YES



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NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-05-019	San Diego Gas and Electric Company, for authority to increase its authorized return on common equity, to adjust its existing ratemaking capital structure, to adjust its authorized embedded costs of debt and preferred stock, to decrease its overall rate of return, and to revise its electric distribution and gas rates accordingly	QUASI-LEGISLATIVE	RATESETTING	YES
A98-05-020	American Farm Bureau, Inc., dba The Farm Bureau Connection, for registration as an interexchange carrier telephone corporation	* RATESETTING	RATESETTING	NO
A98-05-021	Pacific Gas and Electric Company, Pacific Gas and Electric Company, for authority to establish its authorized rates of return on common equity for electric distribution and gas distribution, and establish its unbundled rates of return for calendar year 1999 for electric distribution and gas distribution	RATESETTING	RATESETTING	YES
A98-05-022	Pacific Gas and Electric Company, to report assessments of inventory balances and to address appraisal of retained generation assets	RATESETTING	RATESETTING	YES

\* NDIEC Registration Application

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NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-05-024	Southern California Edison Company, or consideration of unbundled rate of return on common equity, capital structure, cost factors for embedded debt and preferred stock, and overall rate of return for utility operations	QUASI-LEGISLATIVE	RATESETTING	YES
A98-05-026	LDI Solutions, Inc., for a certificate of Public Convenience and Necessity to resell local exchange telecommunications services	RATESETTING	RATESETTING	NO
A98-05-027	San Gabriel Valley Water Company, for authorization to (1) obtain debt capital not to exceed \$30,000,000, and (2) obtain exemption from the competitive bidding rule	RATESETTING	RATESETTING	NO
A98-05-028	FreeCall, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-05-029	Ponderosa Water Company, Inc., to sell the water system in Tuolumne County to Tuolumne Utilities District	RATESETTING	RATESETTING	NO

\* NDIEC Registration Application