

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

Resolution ALJ-176-2994  
Administrative Law Judge Division  
June 4, 1998

**RESOLUTION**

**RESOLUTION ALJ-176-2994.** 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.

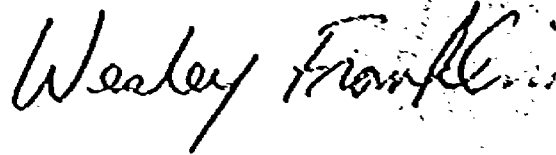
### **Conclusion**

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/tcg

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 June 4, 1998, the following Commissioners voting favorably thereon:



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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-176-2994 (6/4/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-05-023	Enserch Energy Services, Inc., for rehearing of Resolution G-3233	RATESETTING	**	**
A98-05-030	Blue Van Joint Venture, to operate as a passenger stage corporation to the extent required to enter into a concessionaire agreement with Los Angeles International Airport	RATESETTING	RATESETTING	NO
A98-05-032	FaciliCom International, L.L.C., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-05-033	Southern California Edison Company, for approval of contract amendments necessitated by industry restructuring between Southern California Edison Company and AES Placerita, Brea Power Partners, Kern River Cogeneration Company, Midway Sunset Cogeneration, OLS-Camarillo, OLS-Chino, Ontario Cogeneration, Sycamore Cogeneration, and Watts Cogeneration	RATESETTING	RATESETTING	YES
A98-05-034	Southern California Edison Company, for authority to lease available land to Everest Storage, LLC at three separate sites on transmission line rights	RATESETTING	RATESETTING	YES

\* NDIEC Registration Application

\*\* Application for Rehearing of Resolution assigned to Legal Division. Categorization/Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2994 (6/4/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
	of way			
A98-05-035	Diamond Link, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-05-036	Pacific Gas and Electric Company, for authority to permit Tele-Vue Systems, Inc. to use certain PG&E optical fibers, cables, poles and other facilities	RATESETTING	RATESETTING	NO
A98-05-037	Island Navigation Company, Inc., dba Catalina Island Water Transportation Co., for authority to increase rates of fare and for an ex parte interim order authorizing the same	RATESETTING	RATESETTING	YES
A98-05-038	Pacific Bell, for authority for pricing flexibility and to increase prices of certain operator services, to reduce the number of monthly directory assistance call allowances, and adjust prices for four centrex optional features	RATESETTING	RATESETTING	YES
A98-05-039	TelQuest Communications, Inc., dba Advantage Plus, for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO

\* NDIEC Registration Application

\*\* Application for Rehearing of Resolution assigned to Legal Division. Categorization/Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2994 (6/4/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-05-040	Southern California Edison Company, for order approving contract restructuring agreement between Southern California Edison Company, on the one hand, and City of National Bank as trustee for the Westwind Association, Frederick W. Noble and Wind Turbine Equipment Company, on the other hand	RATESETTING	RATESETTING	YES
A98-05-041	San Diego Gas & Electric Company, to report assessments of materials and supplies inventories and to establish principles necessary to appraise retained assets	RATESETTING	RATESETTING	YES
A98-05-044	Pacific Gas and Electric Company, for rehearing of Resolution E-3528 re: Stanislaus County's request for a Commission opinion on the effect of the proposed reorganization of Patterson Water District within Pacific Gas and Electric Company's service territory	QUASI-LEGISLATIVE	**	**
A98-05-046	Premio, Inc., for registration as an interexchange carrier telephone company.	*RATESETTING	RATESETTING	NO

\* NDIEC Registration Application

\*\* Application for Rehearing of Resolution assigned to Legal Division. Categorization/Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2994 (6/4/98)

NUMBER	SHORT TITLE	PROPOSED CATEGORY	PRELIMINARY DETERMINATION	HEARING EXPECTED
A98-05-047	RCN Telecom Services of California, Inc., for registration as an interexchange carrier telephone company	*RATESETTING	RATESETTING	NO
A98-05-048	Pacific Centrex Services, LLC, for registration as an interexchange carrier telephone company	*RATESETTING	RATESETTING	NO
A98-05-049	Sprint Payphone Services, Inc, for registration as an interexchange carrier telephone company	*RATESETTING	RATESETTING	NO
A98-05-050	Custom Teleconnect, Inc., for registration as an interexchange carrier telephone company	*RATESETTING	RATESETTING	NO
A98-05-051	Impulse Communication, Inc., for registration as an interexchange carrier telephone corporation	*RATESETTING	RATESETTING	NO
A98-06-001	Pacific Gas and Electric Company, for a permit to construct an electric substation, the Nortech Substation, and associated power lines, known as the North San Jose Capacity Project	RATESETTING	RATESETTING	YES

\* NDIEC Registration Application

\*\* Application for Rehearing of Resolution assigned to Legal Division. Categorization/Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.