

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-176-2995
Administrative Law Judge Division
June 18, 1998

RESOLUTION

RESOLUTION ALJ-176-2995. 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.

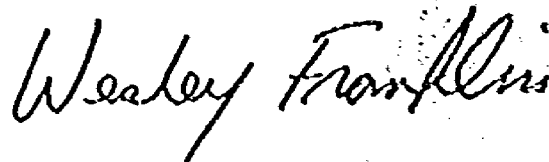
Conclusion

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/mj

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 18, 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-176-2995 (6/18/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-05-053 Southern California Edison Company, for review of the reasonableness of its operations and all fuel and power purchase costs during the period from 4/1/97 through 12/31/97	QL	RS	YES
A98-06-002 Qadeer A. Farrukh, dba Fairfield Airporter, for a certificate of public convenience and necessity to operate as a passenger stage corporation between points in Solano County, on the one hand and Oakland International Airport, Sacramento International Airport and San Francisco International Airport on the other hand	RS	RS	NO
A96-06-004 Telcorp, Ltd., dba New York Telcorp, for registration as an interexchange carrier telephone corporation	* RS	RS	NO

A = Adjudicatory
 QL = Quasi-legislative
 RS = Ratesetting
 Y = Yes
 N = No

* NDIEC Registration Application

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2995 (6/18/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-005 Southern California Water Company, for authority to assess a reservation fee for fire protection for persons occupying or owning property within the service territory of the Desert District.	RS	RS	YES
A98-06-006 Communications Billing, Inc., for registration as an interexchange carrier telephone corporation category.	* RS	RS	NO
A98-06-007 Primecall, Inc., for registration as an interexchange carrier telephone corporation category.	* RS	RS	NO

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PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2995 (6/18/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-009 PCSTC, Inc., dba for an extension of its passenger stage certificate to include Huntington Beach in its Route "D" authorized "loop-type shuttle service" between the Five-City origin territory and points in Orange County.	RS	RS	YES
A98-06-010 Balboa Island Ferry, for authority under section 454 of the PU Code to publish tariff provisions resulting in increases	RS	RS	YES
A98-06-011 Sorsoli Family Survival Trust and Sorsoli Family Residential Trust, owner of the Sorsoli Water Co., Inc., to sell, and Indian Valley Community Services District to buy, the shares of the Sorsoli Family Residual Trust and the Sorsoli Family Survivors Trust, and to operate the water system in Crescent Mills, Plumas County	RS	RS	NO

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Resolution ALJ-176-2995 (6/18/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-012 City of Sacramento, for an order authorizing the construction of a bike path crossing at separated grades of the Union Pacific Railroad at Mile Post 90.34, Martinez Subdivision, in the City of Sacramento	RS	RS	NO
A98-06-013 Gen X, LLC, for registration as an interexchange carrier telephone company	* RS	RS	NO
A98-06-014 Globelink doing business in California as Touchlink, registration as an interexchange carrier telephone corporation	* RS	RS	NO

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PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2995 (6/18/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-015 San Diego Gas and Electric Company, for an order finding Section 851 authority is not required for SDG&E to sell certain retired distribution property, exempts SDG&E from the requirements of Section 851 with respect to the disposition of such property, or in the alternative, authorizes SDG&E's sale and disposition of the subject property is in the public interest	RS	RS	YES
A98-06-017 Premiere TeleMedia, Inc., for registration as an interexchange carrier	* RS	RS	NO
A98-06-018 Pacific Gas and Electric Company, to sell and convey and Roseburg Resources Company to acquire certain parcels of land in Shasta County pursuant to Public Utilities Code Section 851	RS	RS	NO

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PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2995 (6/18/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-019 Pacific Gas and Electric Company, to sell and convey and George Majors to acquire a certain parcel of land in El Dorado and Amador Counties pursuant to Public Utilities Code Section 851	RS	RS	NO
A98-06-020 Uni-Tel Communications Group, Inc. dba Global Uni-Tel Communications, for registration as an interexchange carrier telephone corporation	* RS	RS	NO
A98-06-021 San Jose Water Company, to issue and sell debentures not exceeding the aggregate amount of \$60,000,000, and to execute and deliver loan agreements	RS	RS	NO
A98-06-023 Pacific Gas and Electric Company, to sell and convey a streetlight system	RS	RS	NO

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