

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

Resolution ALJ-176-2996  
Administrative Law Judge Division  
July 2, 1998

**RESOLUTION**

**RESOLUTION ALJ-176-2996. 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.

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.

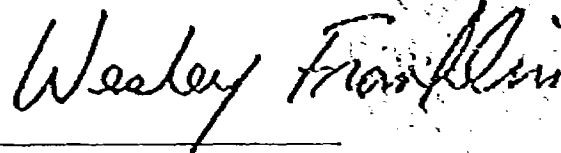
### **Conclusion**

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 July 2, 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-176-2996 (7/2/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-024 Boris Dinerman, to transfer and Igor Bronshteyn to acquire interest and all of Boris Dinerman's assets in Shapiro, Dinerman and Kaplun, Inc.	RS	RS	NO
A98-06-025 Z-Tel Communications, Inc., for registration as an interexchange carrier telephone corporation	*RS	RS	NO
A98-06-026 Pacific Fiber Link, L.L.C., for registration as an interexchange carrier telephone corporation	*RS	RS	NO
A98-06-030 American Telco, Inc., to transfer and for Dobson Wireline Company to acquire control of American Telco	RS	RS	NO
A98-06-031 Single Billing Services, Inc., 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-176-2996 (7/2/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-033 Southern California Gas Company, regarding year four under its experimental gas cost incentive mechanism and related gas supply matters	RS	RS	YES
A98-06-034 Metromedia Fiber Network Services, Inc., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107	* RS	RS	NO
A98-06-035 Eagle Telecom Inc., dba Ron Jaworski Communications, for registration as an interexchange carrier telephone corporation pursuant to the provisions of the Public Utilities Code Section 1013	* RS	RS	NO

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QL = Quasi-legislative

RS = Ratesetting

Y = Yes

N = No

\* NDIEC Registration Application

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2996 (7/2/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-039  Pacific Gas and Electric Company, for a permit to construct the Northern Geysers Area Reinforcement Project pursuant to General Order 131-D	RS	RS	YES
A98-06-040  City of Lake Forest, for authority to construct a pedestrian undercrossing at railroad milepost 187.57, of the Southern California Regional Rail Authority's range Subdivision main line, as an addition to the existing Ridge Route Drive vehicular undercrossing	RS	RS	NO
A98-06-041  Ponderosa Telephone Co., for an order authorizing it to issue notes in the amount not exceeding \$20,445,000 and to execute a related agreement and supplemental security instrument	RS	RS	NO

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Resolution ALJ-176-2996 (7/2/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-042 Los Angeles County Metropolitan Transportation Authority, for an order authorizing the construction of a pedestrian grade crossing between Flower Street and Grand Avenue across eastbound LRT track of the Los Angeles - Long Beach Blue Line, along Washington Boulevard in the City of Los Angeles	RS	RS	NO
A98-06-043 Japan Telecom America, Inc., for registration as an interexchange carrier telephone corporation	* RS	RS	NO
A98-06-044 Combined Billing Communications, Inc., for registration as an interexchange carrier telephone corporation	* RS	RS	NO
A98-06-045 San Diego Gas and Electric Company, for authority to revise line loss factors for energy payments to qualifying facility generators	RS	RS	YES

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 \* NDIEC Registration Application



## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2996 (7/2/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-016  Sierra Pacific Power Company, for authority to sell, assign or encumber transition property; to service rate reduction bonds; and to establish charges sufficient to recover fixed transition amounts	RS	RS	YES
A98-06-017  New Millennium Communications Corporation, for registration as an interexchange carrier telephone corporation	* RS	RS	NO
A98-06-018  San Diego Gas & Electric Company, San Diego Gas & Electric Company, for authority to recover ISO-PX implementation delay memorandum account costs and to establish the reasonableness of certain utility operations and expenses	RS	RS	YES

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 N = No  
 \* NDIEC Registration Application

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ-176-2996 (7/2/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-050 Pacific Bell, to modify certain affiliate transaction rules as contained in D92-07-072 and D86-01-026 to facilitate the post-merger consolidation of support services	RS	RS	YES
A98-06-051 Isam M. Alziq to transfer and A & M United Group, L.L.C. to acquire a certificate of public convenience and necessity and certain other assets pursuant to sections 851 et seq. of the California Public Utilities Code	RS	RS	NO

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