

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

Resolution ALJ-176-2997  
Administrative Law Judge Division  
July 23, 1998

**RESOLUTION**

**RESOLUTION ALJ-176-2997. 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/bwg

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 23, 1998, the following Commissioners voting favorably thereon:

*Wesley Franklin*

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-176-2997 (7/23/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-06-038 DigiTEC 2000, Inc., for registration as an interexchange carrier telephone corporation	*RS	RS	NO
A98-06-052 PDO Communications, Inc., for arbitration pursuant to Section 252 of the Federal Telecommunications Act of 1996 to establish an interconnection agreement with Pacific Bell	RS	RS	YES
A98-06-054 City of Los Angeles, to construct one public at-grade railroad crossing at Mason Avenue across the Los Angeles County Metropolitan Authority (LACMTA)/Amtrak/Union Pacific (UP) track and right of way	RS	RS	NO
A98-07-001 Cable & Wireless Global Card Services, Inc., for registration as an interexchange carrier telephone corporation	*RS	RS	NO

A = Adjudicatory  
 QL = Quasi-legislative  
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 Y = Yes  
 N = No  
 \* NDIEC Registration Application

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-07-002 The Dodson Group, Inc., for registration as an interexchange carrier telephone corporation	*RS	RS	NO
A98-07-003 Pacific Gas and Electric Company, for verification, consolidation, and approval of costs and revenues in the Transition Revenue Account	RS	RS	YES
A98-07-004 Balwinder S. Patrola, dba Royal Shuttle, for authority to expand its passenger stage operations to include additional points between Alameda County and Oakland International Airport	RS	RS	NO
A98-07-005 San Diego Gas and Electric Company and Southern California Gas Company, for approval of a gas transmission service tariff	RS	RS	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-07-006 San Diego Gas & Electric Company, for approval of consolidated changes in 1999 authorized revenue and revised rate components; the CTC rate component and associated headroom calculations, RGTCOMA balances; credit computations, disposition of various balancing/memorandum accounts; and electric revenue allocation and rate design changes	RS	RS	YES
A98-07-007 Pacific Gas and Electric Company, for a certificate of public convenience and necessity to construct the Northeast San Jose Transmission Reinforcement Project	RS	RS	YES
A98-07-009 Gourmet Express, Inc. dba Quintessential Telecom, 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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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-07-010 Department of Transportation, State of California, for an order authorizing the Department to construct the Salinas River Viaduct on the State Route 41, located in the City of Atascadero, County of San Luis Obispo	A	RS	NO
A98-07-011 PWT Acquisition Corp. and Pac-West Telecomm, Inc., request for approval of transfer of control and merger between Pac-West Telecomm, Inc. and PWT Acquisition Corp.	RS	RS	NO
A98-07-012 Clear World Communications Corporation, for registration as an interexchange carrier telephone corporation	*RS	RS	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-07-013 HJN Telecom, Inc., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities code section 1013	*RS	RS	NO
A98-07-014 Pacific Gas and Electric Company, Glenwood Inn, LLC, and Lunardi Market, for approval of exemption from competition transition costs pursuant to Public Utilities Code section 372 (c)(1)	RS	RS	NO
A98-07-015 U. S. Network Services, Inc., for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities code section 1013	*RS	RS	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-07-016 City of Stockton, to construct a one grade crossing of the Tidewater Southern Railroad Company at Aviation Drive, within the Airport Gateway Center in the City of Stockton	A	RS	NO
A98-07-017 Lorrie's Travel and Tours, Inc., to amend its certificate of public convenience and necessity PSC-1003 to operate as a passenger stage to include scheduled services from Downtown San Francisco to San Francisco International Airport and establish a zone of rate freedom for its scheduled service	RS	RS	YES
A98-07-018 Southern California Edison Company, for authority to lease available land to Industry Storage, LLC on transmission right of way	RS	RS	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-07-019 Southern California Edison Company, for authority to lease available land to Instant Storage on transmission line right of way	RS	RS	NO
A98-07-020 Pacific Bell, authority to categorize Centrex as a category III service	RS	RS	YES
A98-07-021 Teleglobe Inc. and Excel Communications, Inc., for approval of agreement and plan of merger	RS	RS	NO
A98-07-022 City of Modesto, to construct a one-grade crossing of the Union Pacific Railroad Company, Tidewater Line, at the proposed Pelandale Avenue crossing, City of Modesto	RS	RS	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-07-023 Central Wireless Partnership, for registration as an interexchange carrier telephone company	*RS	RS	NO
A98-07-024 Pacific Gas and Electric Company, for authority to permit the City and County of San Francisco to occupy portions of certain underground conduit	RS	RS	NO
A98-07-025 Janet C. Edwards, dba Kids Kaddy, for authority to operate as a passenger stage for transportation of passengers (primarily children) to their activities within the city limits of Rialto and the neighboring communities of Fontana, Bloomington or Colton	RS	RS	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-07-026 Southern California Edison Company, to consolidate authorized rates and revenue requirements; verify residual competition transition charge revenues; review and dispose of amounts in various balancing and memorandum accounts; verify regulatory balances transferred to the transition cost balancing account on 1/1/98; and propose rate recovery for Santa Catalina Island Diesel fuel costs	RS	RS	YES
A98-07-027 Twister Communications Network, Inc., for registration as an interexchange carrier telephone corporation	* RS	RS	NO
A98-07-028 TeleCenter, Inc., for registration as an interexchange carrier telephone corporation	* RS	RS	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A93-07-029 Pacific Bell, for authority to categorize Toll-Free (SXX) and Business MTS IntraLATA Toll services as Category III services	RS	RS	YES

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