

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

Resolution ALJ-176-2998  
Administrative Law Judge Division  
August 6, 1998

**RESOLUTION**

**RESOLUTION ALJ-176-2998.** 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/mrj

### **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 August 6, 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 176-2998 (8/6/98)

NUMBER Title	PROPOSED CATEGORY	PRELIMINARY CATEGORY	HEARING
A98-07-034 Guerdon L. Churchill, for a certificate of public convenience and necessity to construct a Public Utility Sewer System near Valley Springs in Calaveras County	RS	RS	YES
A98-07-035 Airporter, Inc., dba Santa Rosa Airporter, to amend its authority to operate as a passenger stage corporation between Caltrans' Park and Ride Stop, at Rowland Boulevard and U.S. Highway 101 and the San Francisco and Oakland International Airports	RS	RS	YES
A98-07-036 Southern California Edison Company, for a finding of reasonableness for the ratepayer expenditures for the ENVEST pilot program	RS	RS	YES
A98-07-041 LCR Telecommunications, LLC, 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 176-2998 (8/6/98)

NUMBER Title	PROPOSED CATEGORY	PRELIMINARY CATEGORY	HEARING
<b>A98-07-042</b>  North San Diego Transit Development Board, for an order to construct two new overhead structures over the existing tracks and right-of-way, to construct a temporary at grade crossing of Lomas Santa Fe Drive and construct two in station pedestrian crossings all in connection with the construction of the Lomas Santa Fe grade separated crossing in the City of Solan Beach, San Diego County	RS	RS	NO
<b>A98-07-043</b>  Rideshare Port Management, L.L.C., dba Prime Time Shuttle, to provide on-call door-to-door passenger stage service to the extent required to enter into a concessionaire agreement with Los Angeles International Airport	RS	RS	NO

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RS = Ratesetting

Y = Yes

N = No

\* NDIEC Registration Application

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-2998 (8/6/98)

NUMBER Title	PROPOSED CATEGORY	PRELIMINARY CATEGORY	HEARING
<p>A98-07-044</p> <p>Cybernet Communications, Inc., for a certificate of public convenience and necessity to resell local exchange telecommunications services</p>	RS	RS	NO
<p>A98-07-045</p> <p>Alliance Group Services, Inc., dba Alliance Communications, Inc., for registration as an interexchange telephone corporation pursuant to the provisions of Public Utilities Code Section 1013</p>	*RS	RS	NO
<p>A98-07-046</p> <p>Serenó Del Mar Water Company and Russian River Utility, for an order authorizing Sereno Del Mar Water Company to transfer and Russian River Utility to acquire the water system in Sonoma County</p>	RS	RS	NO

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 Y = Yes  
 N = No  
 \*NDIEC Registration

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Resolution ALJ 176-2998 (8/6/98)

NUMBER Title	PROPOSED CATEGORY	PRELIMINARY CATEGORY	HEARING
A98-07-047 Blue & Gold Fleet, L.P., for authorization to increase fare levels for the transportation of passengers in vessel common carriers service between Sausalito, on the one hand, and authorized points in San Francisco, on the other hand	RS	RS	YES
A98-07-048 MFS Globenet, Inc., for registration as an interexchange carrier telephone corporation	*RS	RS	NO
A98-07-049 Blue & Gold Fleet, L.P., for authorization to increase fare levels for the transportation of passengers in vessel common carriers service between Tiburon, on the one hand, and authorized points in San Francisco, on the other hand	RS	RS	YES

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 RS = Ratesetting  
 Y = Yes  
 N = No  
 \* NDIEC Registration



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Resolution ALJ 176-2998 (8/6/98)

NUMBER Title	PROPOSED CATEGORY	PRELIMINARY CATEGORY	HEARING
A98-07-050  Blue & Gold Fleet, L.P., for authorization to increase fare levels for the transportation of passengers in vessel common carriers service between Angel Island, on the one hand, and authorized points in San Francisco, on the other hand	RS	RS	YES
A98-07-051  ValNet Communications, L.L.C., for registration as an interexchange carrier telephone company	*RS	RS	NO
A98-07-052  Coyote Network Systems, Inc., and Interactive Network System, L.L.C., for authority to transfer the stock of Interactive Network System, L.L.C., to Coyote Network Systems, Inc.	RS	RS	NO

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NUMBER Title	PROPOSED CATEGORY	PRELIMINARY CATEGORY	HEARING
A98-07-053 Mamdouh F. Hassan, DBA Bay Transit Airporter, for authority to operate as a passenger stage corporation between points in San Francisco, Alameda and Contra Costa Counties and the San Francisco and Oakland International Airports; and to establish a Zone of Rate Freedom	RS	RS	NO
A98-07-054 ConnectAmerica, Inc., for registration as interexchange carrier telephone corporation pursuant to Public Utilities Code Section 1013	*RS	RS	NO
A98-07-055 WinStar Gateway Network, Inc., for authority to provide intraLATA toll services	RS	RS	NO
A98-07-056 TeleCenter, Inc., for authority to operate as a resale provider of local exchange services	RS	RS	NO

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NUMBER Title	PROPOSED CATEGORY	PRELIMINARY CATEGORY	HEARING
A98-07-057 Comtex Corporation, for registration as interexchange carrier telephone corporation pursuant to Public Utilities Code Section 1013	*RS	RS	NO
A98-07-058 Pacific Gas and Electric Company, for authority to recover its 1997 and 1998 non-nuclear generation capital additions in the competition transition charge	RS	RS	YES
A98-08-001 Airporter, Inc., dba Santa Rosa Airporter, for authority to amend and modify its passenger certificate by removing the "By Reservation Only" restriction for the cities of Novato, Marinwood, Terra Linda, San Rafael, Corte Madera, and Mill Valley	RS	RS	YES
A98-08-003 PaeTec Communications, Inc., for registration as an interexchange carrier telephone corporation	*RS	RS	NO

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