

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

Resolution ALJ-176-3000  
Administrative Law Judge Division  
September 17, 1998

**RESOLUTION**

**RESOLUTION ALJ-176-3000. 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.

AIJ/sid

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 September 17, 1998, the following Commissioners voting favorably thereon:

*Wesley Franklin*

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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. NEPPER  
Commissioners

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3000 (9/17/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-08-046 DEDICATED COMMUNICATIONS CORPORATION for registration as an interexchange carrier telephone corporation	Ratesetting NDIEC Registration Application	Ratesetting	NO
A98-09-001 XPRESS MANAGEMENT SYSTEMS LLC for authority to provide on-call door-to-door passenger stage service to the extent required to enter into concessionaire agreement with Los Angeles World Airport	Ratesetting	Ratesetting	NO
A98-09-002 GTE CALIFORNIA INCORPORATED for authority to issue and sell up to 600,000,000 of private placement note or debentures	Ratesetting	Ratesetting	NO
A98-09-003 PACIFIC GAS & ELECTRIC COMPANY for review and recovery of the costs and recovery of the costs and revenues in the transition cost balancing account	Ratesetting	Ratesetting	YES
A98-09-004 MEGSINET-CLEC, INC. for a certificate of public convenience and necessity to operate as a resale provider of local exchange service	Ratesetting	Ratesetting	NO
A98-09-006 PACIFIC GAS AND ELECTRIC COMPANY for an order to sell certain assets and to lease office space and related assets to PG&E Corporation	Ratesetting	Ratesetting	NO
A98-09-008 SOUTHERN CALIFORNIA EDISON COMPANY to review and recover transition cost balancing account entries and various generation-related memorandum account entries	Ratesetting	Ratesetting	YES

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3000 (9/17/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A98-09-009 SAN DIEGO GAS & ELECTRIC COMPANY for review and find reasonableness in the annual transition cost proceeding regarding the transition cost balancing account	Ratesetting	Ratesetting	YES
A98-09-010 MCDONOGH, MILTON, dba ANGEL ISLAND FERRY for authorization to increase passenger fares	Ratesetting	Ratesetting	NO
A98-09-012 APPLE VALLEY RANCHOS WATER COMPANY for authority to transfer its sewer division to the town of Apple Valley	Ratesetting	Ratesetting	NO
A98-09-013 CALIFORNIA WATER SERVICE COMPANY for a general rate increase to increase revenues by \$897,400 or 6.1%, in the year 1999, \$307,400 or 2.0%, in the year 2000, \$369,000 or 2.3%, in the year 2001, and \$377,000 or 2.3%, in the year 2002, in the East Los Angeles district. (N98-07-066)	Ratesetting	Ratesetting	YES
A98-09-014 CALIFORNIA WATER SERVICE COMPANY for a general rate increase to increase revenues by \$1,371,800 or 12.3%, in the year 1999, \$353,500 or 2.8%, in the year 2000, \$325,100 or 2.5%, in the year 2001, and \$334,800 or 2.5%, in the year 2002, in the Bear Gulch district. (N98-07-067)	Ratesetting	Ratesetting	YES
A98-09-015 CALIFORNIA WATER SERVICE COMPANY California Water Service Company, for a general rate increase to increase revenues by 1,389,500 or 10.1%, in the year 1999, and decrease revenues by \$51,500 or 0.3% in the year 2000, \$43,000 or 0.3% in the year 2001, and \$33,900 or 0.3% in the year 2002, in the Hermosa-Redondo District	Ratesetting	Ratesetting	YES

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3000 (9/17/98)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A98-09-016</b>  <b>CALIFORNIA WATER SERVICE COMPANY</b> California Water Service Company, for a general rate increase to increase revenues by \$842,600 or 10.8%, in the year 1999, \$277,800 or 3.2%, in the year 2000, \$135,700 or 1.5%, in the year 2001, and \$142,100 or 1.5%, in the year 2002, in the Visalia district	Ratesetting	Ratesetting	YES
<b>A98-09-017</b>  <b>PUBLIC COMMUNICATIONS SERVICES, INC.</b> for registration as an interexchange carrier telephone corporation	Ratesetting NDIEC Registration Application	Ratesetting	NO
<b>A98-09-018</b>  <b>WILSHIRE CONNECTION, LLC</b> for registration as an interexchange carrier telephone corporation	Ratesetting NDIEC Registration Application	Ratesetting	NO
<b>A98-09-019</b>  <b>PACIFIC BELL</b> , to amend its certificate of public convenience and necessity to resell competitive local exchange services within Roseville Telephone Company and Citizens Communications Company	Ratesetting	Ratesetting	NO
<b>A98-09-021</b>  <b>COUNTY OF KERN, STATE OF CALIFORNIA</b> to construct a public street across the railroad tracks of the San Joaquin Valley Railroad Company in County of Kern, State of California	Ratesetting	Ratesetting	NO