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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-176-3009
Administrative Law Judge Division
February 4, 1999

RESOLUTION

RESOLUTION ALJ-176-3009. 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

ALJ/naz

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/naz

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.

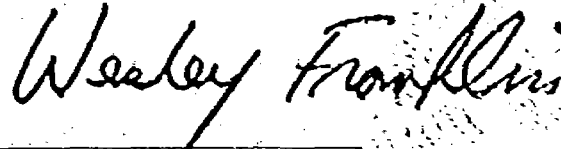
Conclusion

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/naz

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 February 4, 1999, the following Commissioners voting favorably thereon:



WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEPPER
Commissioners

ALJ/naz

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3009 (02/04/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-01-005 PACIFIC GAS AND ELECTRIC COMPANY for modification of Resolution E-3423 to bring ratemaking treatment for the Exxon agreement into conformance with Cal. PU Code Section 372(B)(3)	Ratesetting	Ratesetting	NO
A99-01-016 PACIFIC GAS AND ELECTRIC COMPANY for authority to establish post-transition period electric ratemaking mechanisms	Ratesetting	Ratesetting	YES
A99-01-017 UNION PACIFIC RAILROAD COMPANY for an order authorizing the construction of one at-grade crossing for East Long Beach Avenue between 50th and 51st Streets, and the abandonment of two existing at-grade crossings of Alameda Street between 50th Street and Slauson Boulevard in the City of Los Angeles	Ratesetting	Ratesetting	NO
A99-01-018 ANTONE SYLVESTER TUG SERVICE, INC. for a certificate of public convenience and necessity to operate as a common carrier of property by vessel between points in the Los Angeles, Long Beach, and Redondo Beach harbor areas on the one hand, and, on the other, points on Santa Catalina Island	Ratesetting	Ratesetting	YES
A99-01-019 SAN DIEGO GAS & ELECTRIC COMPANY for authority to implement post rate freeze ratemaking mechanism	Ratesetting	Ratesetting	YES
A99-01-021 SOUTHERN CALIFORNIA EDISON COMPANY for approval of optional rate schedules and other related issues	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3009 (02/04/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-01-022 COUNTY OF LOS ANGELES for the construction of the grade separation of Alameda Street under the Alameda corridor transportation authority main line approximate crossing BBM-496.68 in the County of Los Angeles	Ratesetting	Ratesetting	NO
A99-01-023 NETSOL TECHNOLOGIES, INC. for a certificate of public convenience and necessity to provide resold competitive local carrier service	Ratesetting	Ratesetting	NO
A99-01-024 GSA HOLDINGS LLC, IMC GLOBAL INC., SEARLES DOMESTIC WATER COMPANY for authority to merge Searles Domestic Water Company with Searles Domestic Water Company LLC and to transfer control of Searles Domestic Water Company to GSA Holdings, LLC	Ratesetting	Ratesetting	NO
A99-01-025 UTILITY REFORM NETWORK for rehearing of Resolution T-16260	*	*	*
A99-01-026 KHANIAN, NARJES, dba A ROYAL SHUTTLE for a certificate of public convenience and necessity to operate passenger stage service between Los Angeles, Carson, El Monte, North Hollywood, Burbank, West Covina, Montclair, Colton, San Bernardino and Long Beach, John Wayne, Ontario	Ratesetting	Ratesetting	NO
A99-01-027 ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY for an order authorizing the construction of a two track grade separation above Washington Boulevard; the construction of a five track grade separation above Washington Boulevard and the construction of a grade separation for Santa Fe Avenue above three tracks, a crossover, a turnout, and above an industrial spur in the City of Los Angeles, County	Ratesetting	Ratesetting	NO

*Application for Rehearing of Resolution assigned to Legal Division. Categorization /Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3009 (02/04/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-01-028 TEAM TELECOMMUNICATIONS, LLC for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-01-029 ONESTAR LONG DISTANCE, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of the Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-01-030 LEGACY TELECOMMUNICATIONS CORPORATION for registration as an interexchange carrier telephone corporation pursuant to the provisions of the Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-01-031 PNG TELECOMMUNICATIONS, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of the Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-01-032 COMPASS TELECOMMUNICATIONS, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of the Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-01-033 LOGIX COMMUNICATIONS CORPORATION for registration as an interexchange carrier telephone corporation pursuant to the provisions of the Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-01-034 SOUTHERN CALIFORNIA EDISON COMPANY to propose a method to determine and implement the end of the rate freeze; and propose ratemaking mechanisms which should be in place after the end of the rate freeze period	Ratesetting	Ratesetting	YES

ALJ/naz

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3009 (02/04/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-01-035 PACIFIC BELL for rehearing of resolution T-16254	*	*	*
A99-01-036 PACIFICORP, SCOTTISH POWER PLC for exemption from the merger approval requirements of California Public Utilities Code Section 854 (ADDRESS FOR SCOTTISH POWER PLC: 1 Atlantic Quay, Glasgow, Scotland, G2 8SP)	Ratesetting	Ratesetting	NO
A99-01-037 MOUNTAIN UTILITIES for authority, among other things, to more precisely define its revenue requirement and increase rates and charges for electric services	Ratesetting	Ratesetting	YES
A99-01-038 GMS COM INC. for a certificate of public convenience and necessity to operate as a switchless reseller of interexchange services	Ratesetting	Ratesetting	NO
A99-01-041 CENTURYTEL LONG DISTANCE, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
*Application for Rehearing of Resolution assigned to Legal Divison. Categorization /Need for Hearing will be addressed as necessary if the Commission subsequently grants rehearing.			