

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3011
Administrative Law Judge Division
March 4, 1999

RESOLUTION

RESOLUTION ALJ-176-3011. 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 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.

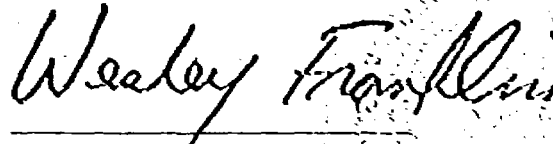
Conclusion

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/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 March 4, 1999, the following Commissioners voting favorably thereon:



WESLEY M. FRANKLIN
Executive Director

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

**PRELIMINARY DETERMINATION
SCHEDULES**

Resolution ALJ 176-3011 (03/04/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-01-043 GLYPHICS COMMUNICATIONS, 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
A99-02-015 CHRISTIAN TELECOM NETWORK, 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
A99-02-016 LEGENDS COMMUNICATIONS, 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
A99-02-017 STATE COMMUNICATIONS, INC. for registration as a interexchange carrier telephone corporation pursuant to the provisions of the Public Utilities Commission Section 1013 and D97-06-107. (Financial info filed under seal.)	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-02-018 AMERICAN A-1 SHUTTLE SERVICE, INC., RANDHAWA, RAJINDER SINGH, dba AMERICAN EXPRESS SHUTTLE to transfer and American A-1 Shuttle Service, Inc. to acquire, a certificate of public convenience and necessity and all other assets pursuant to Section 851 of the California Public Utilities Code	Ratesetting	Ratesetting	NO
A99-02-019 RANDHAWA, RAJINDER SINGH, dba AMERICAN EXPRESS SHUTTLE for the authority to operate as a passenger stage corporation between points in Alameda County, Santa Clara County, San Mateo County, San Joaquin County and Contra Costa County and Oakland International Airport, San Francisco International Airport and Sacramento International Airport.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3011 (03/04/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-02-023 AHMED, EL FATIH ELYAS, dba HORIZON AIRPORTER, AHMED, IZZELDIN ELYAS, dba HORIZON AIRPORTER, SAEED, MOHAMMED, dba HORIZON AIRPORTER, ZEINELABDIN, KAMAL HAMID, dba HORIZON AIRPORTER for a certificate of public convenience and necessity to operate as a passenger stage corporation between points in Alameda, Contra Costa and San Francisco Counties on the one hand and Oakland International Airport on the other hand	Ratesetting	Ratesetting	NO
A99-02-024 EQUILON CALIFORNIA PIPELINE COMPANY LLC, SHELL CALIFORNIA PIPELINE COMPANY, TEXACO CALIFORNIA PIPELINE COMPANY LLC, TEXACO CALIFORNIA PIPELINES INC. for authority to merge with the surviving entity being Equilon California Pipeline Company LLC	Ratesetting	Ratesetting	NO
A99-02-025 GCC LICENSE CORPORATION for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-02-026 GTC TELECOM for registration as an interexchange carrier telephone corporation pursuant to the provisions of California Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-02-027 PACIFIC GAS AND ELECTRIC COMPANY for rehearing of Resolution E-3582 concerning internet billing	*	*	*

*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 176-3011 (03/04/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-02-029 SAN DIEGO GAS & ELECTRIC COMPANY informing the Commission of the probable timing of the end of its electric rate freeze; for authorization to change electric rates through implementation of interim ratemaking mechanisms concurrent with termination of the electric rate freeze, and for authorization to change electric rates by adding new, and revising or terminating existing, rate and revenue mechanisms and rate designs	Ratesetting	Ratesetting	YES
A99-02-031 CITY OF MONTEREY, CITY OF MORGAN HILL, CITY OF WATSONVILLE, PACIFIC GAS AND ELECTRIC COMPANY for an order under Section 851 of the California Public Utilities Code Section 851 to sell and convey streetlight systems	Ratesetting	Ratesetting	NO
A99-02-032 ONEOK, SOUTHWEST GAS CORPORATION for authorization to implement the agreement and plan of merger dated December 14, 1998	Ratesetting	Ratesetting	YES
A99-02-033 CITY OF SANTEE, SAN DIEGO METRO. TRANSIT DEVELOP. BOARD for an order authorizing construction of two at-grade crossings and one at-grade pedestrian crossing on one light rail vehicle track at Santee Trolley Square Center Development in the City of Santee, San Diego County	Ratesetting	Ratesetting	NO