

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-176-3012
Administrative Law Judge Division
March 18, 1999

RESOLUTION

RESOLUTION ALJ-176-3012. 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.

**ALJ/avs
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.

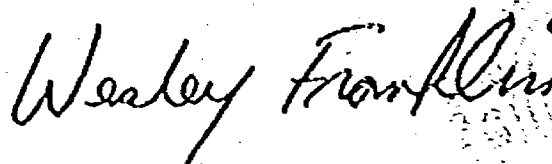
Conclusion

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/avs

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 18, 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 176-3012 (03/18/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<p>A99-02-034</p> <p>STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION for an order authorizing the Contra Costa Transportation Authority to: reconstruct the Fairview-Goleta Overhead, located in the City of Goleta, County of Santa Barbara</p>	Ratesetting	Ratesetting	NO
<p>A99-03-001</p> <p>CATALINA EXPLORER CO., INC. to amend its certificate of public convenience and necessity and to extend its operating authority to include the transportation of persons and baggage by vessel between Dana Point, Newport Harbor, Long Beach, and Redondo Beach, on the one hand and all points and places on Santa Catalina Island on the other hand</p>	Ratesetting	Ratesetting	NO
<p>A99-03-002</p> <p>PACIFIC GAS AND ELECTRIC COMPANY for the reappointment of DeWitt F. Bowman to serve on the Committee of its nuclear decommissioning trust funds</p>	Ratesetting	Ratesetting	NO
<p>A99-03-003</p> <p>CITY OF RICHMOND for an order granting a variance to General Order No. 135 to further limit the time permitted for blocking the public streets with crossings at Richmond Avenue and Marina Bay Parkway in the City of Richmond, Contra Costa County</p>	Quasi-legislative	Ratesetting	YES
<p>A99-03-006</p> <p>CALIFORNIA AIRPORTER, INC., HASSAN, MAMDOUTH F., dba CALIFORNIA AIRPORTER to transfer his certificate of public convenience and necessity PSC-11528 to California Airporter, Inc. and to establish a zone of rate freedom</p>	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3012 (03/18/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-03-007 CITY OF SOUTH SAN FRANCISCO for an order authorizing construction of a new grade separated crossing known as the Oyster Point Flyover, over the tracks of the Peninsula Corridor Joint Powers Board at Mile Post 8.70 in the City of South San Francisco	Ratesetting	Ratesetting	NO
A99-03-008 CITY OF EL PASO DE ROBLES for an order authorizing modifications to an existing grade separated crossing of Twenty Fourth Street (Paso Robles Overhead) at the Union Pacific Railroad main railway line at Mile Post 215.09 in the City of El Paso de Robles	Ratesetting	Ratesetting	NO
A99-03-009 KOREA TELECOM AMERICA, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Section 1013 of the Public Utilities Code	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-03-010 GATES 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
A99-03-011 DMJ COMMUNICATIONS, INC. for a certificate of public convenience and necessity to operate as a switchless local exchange provider	Ratesetting	Ratesetting	NO
A99-03-012 SIERRA PACIFIC POWER COMPANY for an order authorizing it to sell certain generating plants and related assets located in the state of Nevada pursuant to Section 851 of the Public Utilities Code	Ratesetting	Ratesetting	NO
A99-03-013 PACIFIC GAS AND ELECTRIC COMPANY submitting electric revenue cycle services cost and rate proposals in compliance with decision D98-09-070	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3012 (03/18/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-03-014 PACIFIC GAS AND ELECTRIC COMPANY to revise its electric marginal costs, revenue allocation, and rates at the end of the rate freeze	Ratesetting	Ratesetting	YES
A99-03-015 AMERICAN INTERNATIONAL TELEPHONE, INC., INTERROUTE TELECOMMUNICATIONS, INC. to transfer and Interoute Telecommunications, Inc. to acquire control of authorized carrier	Ratesetting	Ratesetting	NO
A99-03-017 AZAR, SHIBLI, dba SILICON VALLEY AIRPORTER for certificate of public convenience and necessity to operate as a passenger stage carrier between Alameda County and the Oakland, San Francisco and San Jose International Airports	Ratesetting	Ratesetting	NO
A99-03-019 SAN DIEGO GAS & ELECTRIC COMPANY for Commission consideration of post-transition proposals for long-run marginal cost pricing and geographic de-averaging of revenue cycle services	Ratesetting	Ratesetting	YES
A99-03-020 SOUTHERN CALIFORNIA EDISON COMPANY for approval of further guidelines for evaluation and reporting requirements on the distribution performance based ratemaking mechanism; distribution PBR interim report attached	Ratesetting	Ratesetting	YES
A99-03-021 ATLANTIC TELEPHONE COMPANY, 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

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3012 (03/18/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-03-022 IMPACT TELECOMMUNICATIONS, 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
A99-03-023 PARK WATER COMPANY for authority to issue evidence of indebtedness (first mortgage bonds) up to \$10,000,000	Ratesetting	Ratesetting	NO
A99-03-024 SOUTHERN CALIFORNIA EDISON COMPANY relating to long-run marginal costs for unbundled metering and billing services	Quasi- legislative	Ratesetting	YES
A99-03-025 ROSEVILLE TELEPHONE COMPANY to review its New Regulatory Framework	Ratesetting	Ratesetting	YES
A99-03-026 TELECOM LICENSING, INC. for a certificate of public convenience and necessity to provide competitive local exchange services on a resale basis as a competitive local carrier	Ratesetting	Ratesetting	NO
A99-03-027 CITIZENS TELECOM. COMPANY OF CALIFORNIA for review of its New Regulatory Framework	Ratesetting	Ratesetting	YES
A99-03-028 PACIFIC GAS AND ELECTRIC COMPANY for rehearing of Resolution E-3580, denying PG&E's request to establish a reallocated residual administrative and general memorandum account for the period between July 1, 1998 and December 31, 1998	*	*	*

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