

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3014
Administrative Law Judge Division
April 22, 1999

RESOLUTION

RESOLUTION ALJ 176-3014. 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/mrj

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 April 22, 1999, the following Commissioners voting favorably thereon:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

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

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3014 (04/22/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-03-054 ALISAL WATER CORPORATION, dba ALCO WATER SERVICE for a determination pursuant to Section 851 of the Public Utilities Code if utility funds obtained in settlement of a lawsuit lawfully may be applied to satisfy a third party judgment lien, for review of judgment, and related matters	Adjudicatory	Ratesetting	YES
A99-03-058 PACIFICO TRANSPORTATION, LLC for authority to operate as a passenger stage throughout San Diego County, City of San Ysidro and Orange County, City of Huntington Park	Ratesetting	Ratesetting	NO
A99-03-059 FEREIDOUNI, MAHNAZ, FRAYDOUNI, NASSAR for authority to jointly control Advanced Airporter, Inc.	Ratesetting	Ratesetting	NO
A99-03-060 ATMA, 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
A99-03-061 CALIFORNIA WATER SERVICE for an order authorizing it to increase rates charged for water service in each of its operating districts to recover increased operating expenditures at its general office	Ratesetting	Ratesetting	YES
A99-03-062 SOUTHERN CALIFORNIA EDISON COMPANY for an order under Section 701 of the Public Utilities Code granting Southern California Edison Company authorization to establish a pilot program for reselling bilateral forward purchases into the PX and ISO	Ratesetting	Ratesetting	YES
A99-03-063 SOUTHERN CALIFORNIA EDISON COMPANY for a finding of reasonableness for the ratepayer expenditures for the ENVEST pilot program	Ratesetting	Ratesetting	YES

PRELIMINARY DETERMINATION SCHEDULES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-03-064 SOUTHERN CALIFORNIA WATER COMPANY for an order authorizing it to include the remaining \$1,600,000 of the cost of Sonoma Treatment Plant in the utility plant in service for the Clearlake District	Ratesetting	Ratesetting	YES
A99-03-065 SOUTHERN CALIFORNIA WATER COMPANY for an order authorizing a general rate increase in its Wrightwood Customer Service area to increase gross revenues by \$5.98 or 13.06% in the year 2000; \$7.04 or 13.59% in the year 2001; and \$6.84 or 11.63% in the year 2002	Ratesetting	Ratesetting	YES
A99-03-066 SOUTHERN CALIFORNIA WATER COMPANY for an order authorizing a general rate increase in its Calipatria-Niland Customer Service Area to increase its revenues by \$73.33 or 110.81% in the year 2000; \$93.81 or 67.25% in the year 2001; and \$88.96 or 38.13% in the year 2002	Ratesetting	Ratesetting	YES
A99-03-067 SOUTHERN CALIFORNIA WATER COMPANY for an order authorizing a general rate increase in its Claremont Customer Service Area to increase revenues by \$11.57 or 15.87% in the year 2000; \$2.83 or 3.34% in the year 2001; \$2.83 or 3.34% in the year 2002	Ratesetting	Ratesetting	YES
A99-03-068 SOUTHERN CALIFORNIA WATER COMPANY for an order authorizing a general rate increase in its Barstow Customer Service Area to increase its revenues by \$7.7 or 19.10% in the year 2000; \$5.48 or 11.39% in the year 2001; and \$5.63 or 10.51% in the year 2002	Ratesetting	Ratesetting	YES
A99-03-071 PACIFICORP for the issuance of a limited exemption from the affiliate transaction rules	Quasi-legislative	Quasi-legislative	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-04-001 ELSAYED, EHAB, dba WEST COAST SHUTTLE & LIMO for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, Solano and Contra Costa Counties and the San Francisco, Oakland and San Jose International Airports and to establish a zone of rate freedom	Ratesetting	Ratesetting	YES
A99-04-002 PACIFIC GAS AND ELECTRIC COMPANY for an order under Section 851 of the California Public Utilities Code to sell and convey to the City of Gilroy a streetlight system	Ratesetting	Ratesetting	NO
A99-04-003 CALIFORNIA-AMERICAN WATER COMPANY for an order authorizing it to increase its rates for water service in its Monterey Division to increase revenues by \$2,594,600 in the year 2000; \$1,039,400 in the year 2001; and \$893,300 in the year 2002 (N99-03-029)	Ratesetting	Ratesetting	YES
A99-04-005 NEW GLOBAL TELECOM, 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
A99-04-006 ERBIA NETWORK, 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
A99-04-007 ROMY BUS COMPANY, LLC to operate a pre-arranged (on-call) city-to-city passenger stage service between the ports of entry at Calexico and San Ysidro, on the one hand, and cities of Indio, Los Angeles, Bakersfield, Fresno, Salinas, Watsonville, and Sacramento/Woodland, on the other hand, under Section 1031, et seq; of the California Public Utilities Code	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-04-008 ACCESS COMMUNICATIONS, INC., dba ACCESS LONG DISTANCE for a certificate of public convenience and necessity to offer local exchange telecommunications services	Ratesetting	Ratesetting	NO
A99-04-009 PACIFIC GAS AND ELECTRIC COMPANY for expedited and ex parte approval of termination of Standard Offer No.2 Power Purchase Agreement between Pacific Gas and Electric Company and San Joaquin Cogen Limited, R.P. (public version)	Ratesetting	Ratesetting	YES
A99-04-010 WESTERN GAS RESOURCES - CALIFORNIA, INC. for a certificate of public convenience and necessity to provide public utility gas transmission and distribution services through the use of certain existing facilities and to construct additional interconnection facilities	Ratesetting	Ratesetting	YES
A99-04-011 VARTEC TELECOM, INC for a certificate of public convenience and necessity to offer local exchange and access services	Ratesetting	Ratesetting	NO
A99-04-012 BITRO TELECOMMUNICATIONS, 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
A99-04-013 UNION PACIFIC RAILROAD COMPANY for authority to install and maintain stationary horn warning systems at two public crossings over applicant's main line, Lathrop Road and Roth Road, County of San Joaquin, on a trial basis for purpose of evaluating the effectiveness of such systems	Ratesetting	Ratesetting	NO

ALJ/mrj

PRELIMINARY DETERMINATION SCHEDULES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-04-014 PRESTIGE INVESTMENTS, INC., ZENEX LONG DISTANCE INC. for approval of a stock purchase agreement and related transactions	Ratesetting	Ratesetting	NO
A99-04-015 U.S. TELESTAR COMMUNICATIONS GROUP for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-04-017 CITIZENS TELECOM. COMPANY/CA, INC. annual depreciation	Ratesetting	Ratesetting	NO