

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3022
Administrative Law Judge Division
September 2, 1999

RESOLUTION

RESOLUTION ALJ 176-3022. 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/hkr

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 2, 1999, the following Commissioners voting favorably thereon:

Wesley Franklin

WESLEY M. FRANKLIN
Executive Director

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners

**PRELIMINARY DETERMINATION
SCHEDULES**

Resolution ALJ 176-3022 (09/02/1999)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-07-050 SPHINX SHUTTLE & LIMOUSINE SERVICE, LLC for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, Contra Costa and Marin Counties and San Francisco, Oakland and San Jose International Airports and to establish a zone of rate freedom	Ratesetting	Ratesetting	NO
A99-08-002 HJN TELECOM, INC. for a certificate of public convenience and necessity to operate as a reseller of local exchange telecommunications services	Ratesetting	Ratesetting	NO
A99-08-003 ALLIANCE NETWORK, INC. for a certificate of public convenience and necessity to operate as a reseller of local exchange telecommunications services within California	Ratesetting	Ratesetting	NO
A99-08-004 COMMON CONCERNS, INC. for authority to transfer control to Washoe Technology Corporation	Ratesetting	Ratesetting	NO
A99-08-005 CANNERY ROW MARKETPLACE, LLC for a certificate of public convenience and necessity to construct a water system in the City of Monterey, Monterey County and to establish rates for service	Ratesetting	Ratesetting	NO
A99-08-006 ADELPHIA TELECOMMUNICATIONS, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013; confidential information attached and filed under seal	Ratesetting NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3022 (09/02/1999)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-08-007 AKROUSH ENTERPRISES, LLC for authority to operate an on-call, door-to-door, passenger stage between points in Los Angeles and Ventura Counties, on the one hand, Los Angeles International Airport, Burbank Airport, Los Angeles Amtrak station, Los Angeles/Long Beach Harbors, Westchester and Downtown Los Angeles, on the other hand, pursuant to the provisions of Section 1031 at seq. of the Public Utilities Code	Ratesetting	Ratesetting	NO
A99-08-008 GRANT, CHRIS A. , GRANT, GARY L. , PACIFIC GAS AND ELECTRIC COMPANY for an order authorizing Pacific Gas and Electric Company to sell and convey to certain parcels of land in San Joaquin County pursuant to Public Utilities Code Section 851	Ratesetting	Ratesetting	NO
A99-08-009 BEVERLY HERITAGE HOTEL , EUREKA HOTEL COMPANY , PACIFIC GAS AND ELECTRIC COMPANY for approval of exemption from competition transition costs pursuant to Public Utilities Code Section 372(c)(1)	Ratesetting	Ratesetting	NO
A99-08-011 GLOBAL TIME, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-08-012 CHOCTAW COMMUNICATIONS, INC., dba SMOKE SIGNAL COMMUNICATIONS for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-08-013 AT&T CORP. , MEDIAONE GROUP, INC. , METEOR ACQUISITION INC. for approval required for the change in control of MediaOne Telecommunications of California, Inc. that will occur as a result of the merger of AT&T Corp. and MediaOne Group, Inc. (redacted)	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-08-014 ACCESSLINE LD SERVICES, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of PU Code 1013 and D97-06-017; financial documents attached and filed under seal	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-08-015 CORONADO LIVERY, INC., SAN DIEGO DIRECT TRANSPORTATION SERVICES to transfer control of its passenger stage certificate PSC-0914 to its subsidiary San Diego Direct Transportation Services LLC under Section 851, et seq., of the Public Utilities Code and to Establish a zone of rate freedom	Ratesetting	Ratesetting	NO
A99-08-016 IDEAS-FOR-BUSINESS for a certificate to provide competing local exchange services within the State of California	Ratesetting	Ratesetting	NO
A99-08-017 SACRAMENTO REGIONAL TRANSIT DISTRICT for an order authorizing District to construct, modify, maintain and operate a light rail passenger system and Union Pacific Railroad tracks across 17th Street, 18th Street, 19 th Street, S Street, T Street, V Street, W Street, X Street, Broadway, 2nd Avenue, 21 st Street, 26 th Avenue, Fruitridge Road, 47 th Avenue and Florin Road in the City of Sacramento	Ratesetting	Ratesetting	NO
A99-08-018 PACIFIC GAS AND ELECTRIC COMPANY to confirm the effectiveness of D49937 and the Turlock Irrigation District service area agreement or, in the alternative, to authorize termination of the Turlock Irrigation District service area agreement and removal of limitations in D43185 and D65186	Quasi- legislative	Ratesetting	YES
A99-08-019 NUSTAR TELEPHONE CO., INC. for a certificate of public convenience and necessity to offer local exchange, access and interexchange services	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-08-020 MIRACLE 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
A99-08-021 PACIFIC FIBER LINK, L.L.C. for modification of its certificate of public convenience and necessity to review proponent's environmental assessment for compliance with the California Environmental Quality Act	Ratesetting	Ratesetting	YES
A99-08-022 SOUTHERN CALIFORNIA EDISON COMPANY to consolidate authorized rates and revenue requirements; verify residual competition transition charge revenues; review the disposition of balancing and memorandum accounts; review generation cost jurisdictional cost allocation; review the reasonableness of the administration of the low emission vehicle program; review the administration of special contracts; and present a proposal for the inclusion of long run marginal costs in the power exchange energy credit.	Ratesetting	Ratesetting	YES
A99-08-023 PACIFIC GAS AND ELECTRIC COMPANY in the 1999 revenue adjustment proceeding	Ratesetting	Ratesetting	YES
A99-08-024 STATE OF CALIFORNIA DEPART/TRANSPORT. for an order authorizing the Department to close Imperial Avenue/State Route 15 interexchange in the Southwest portion of the City of San Diego in order that a new overhead structure over the San Diego and Arizona Railway Company line can be built in the City of San Diego	Ratesetting	Ratesetting	NO

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SCHEDULES**

Resolution ALJ 176-3022 (09/02/1999)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-08-025 AQUASOURCE UTILITY, INC., GRAND VIEW GARDENS WATER COMPANY, INC., MCCOMB, THETA for authority to transfer to Aquasource Utility, Inc. ownership of certain assets of Grand View Gardens Water Company, Inc. and to withdraw from the water utility business	Ratesetting	Ratesetting	NO
A99-08-026 SAN DIEGO GAS & ELECTRIC COMPANY for approval of a PX credit and related computations	Ratesetting	Ratesetting	YES
A99-08-027 AQUASOURCE UTILITY, INC., DARYL MORRISON TRUST, HILLCREST WATER COMPANY, MORRISON, DARYL B. for an order authorizing Daryl Morrison to sell and transfer to AquaSource Utility, Inc., 100% of the ownership of the common stock of Hillcrest Water Co., Inc.; authorizing Daryl Morrison to withdraw from the water utility business of Hillcrest Water Co., Inc.	Ratesetting	Ratesetting	NO
A99-08-028 AMAN SHUTTLE INC. OF SAN JOSE, dba AMAN SHUTTLE AIRPORT SERVICE, INC. for authority to operate as a passenger stage corporation between points in Santa Clara, San Jose, San Francisco, Oakland and nearby counties and the San Francisco, San Jose, and Oakland International Airports.	Ratesetting	Ratesetting	NO
A99-08-029 SUNRISE SHUTTLE INC. OF SAN JOSE, dba SUNRISE SHUTTLE INC. for authority to operate as a passenger stage corporation between points in Santa Clara, San Jose, San Francisco, Oakland and nearby counties and the San Francisco, San Jose and Oakland International Airports	Ratesetting	Ratesetting	NO
A99-08-030 SOUTHERN CALIFORNIA EDISON COMPANY for authority to take certain actions necessary to transfer certain generation-related employees and assets to a nonutility operation and maintenance affiliate	Ratesetting	Ratesetting	YES

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Resolution ALJ 176-3022 (09/02/1999)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-08-031 SOUTHWEST GAS CORPORATION for issuance of limited exemptions from the Affiliate Transaction Rules adopted in D97-12-088	Ratesetting	Ratesetting	NO
A99-08-032 PACIFIC GAS AND ELECTRIC COMPANY and the Cities of Antioch and Salinas, for an order under Section 851 of the California Public Utilities Code to sell and convey streetlight systems	Ratesetting	Ratesetting	NO
A99-08-033 PRISM CALIFORNIA OPERATIONS, 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
A99-08-034 PACIFIC GAS AND ELECTRIC COMPANY for an order under Section 853 of the Public Utilities Code for an exemption from the requirements of Public Utilities Code Section 851, or, alternatively, for an order under Section 851 approving six sales transactions for certain utility properties	Ratesetting	Ratesetting	NO
A99-08-035 GOLD TEL CORPORATION for a certificate of public convenience and necessity to offer local exchange services	Ratesetting	Ratesetting	NO
A99-08-036 PACIFICORP for authorization to sell electric distribution and related facilities and to transfer all authorizations and obligations to serve to purchaser Nor-Cal electric authority	Ratesetting	Ratesetting	YES

**PRELIMINARY DETERMINATION
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Resolution ALJ 176-3022 (09/02/1999)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-08-037 FCSTC, INC., dba PACIFIC COAST SIGHTSEEING TOURS/CHARTERS for a modification of its passenger stage certificate to add a shuttle-type service between Disneyland (within the City of Anaheim) on the one hand, and on the other hand, a service territory made up of points in the Cities of Anaheim, Garden Grove, and Orange, within two-mile zone from the current perimeter of Disneyland	Ratesetting	Ratesetting	NO
A99-08-038 AYALA-AROCHE, JOSE LUIS, dba EL CORRE CAMINOS for authority to establish a zone of rate freedom for passenger stage service	Ratesetting	Ratesetting	NO
A99-08-039 PARACOM, 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
A99-08-040 HARBOR BAY MARITIME, INC. for authorization to modify certain fare levels for passengers on vessel common carrier service on San Francisco Bay between the Harbor Bay Ferry Terminal in Alameda and authorized points in San Francisco	Ratesetting	Ratesetting	YES
A99-08-041 CENTRECOM, INCORPORATED for registration as an interexchange carrier telephone corporation pursuant to Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-08-043 ROSEVILLE TELEPHONE COMPANY to review extended area service compensation and establish replacement revenue funding	Ratesetting	Ratesetting	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-08-044 ADVANCED COMMUNICATIONS GROUP, INC. , IONEX TELECOMMUNICATIONS, LLC , TELECOM RESOURCES, INC. for approval of transfer of control	Ratesetting	Ratesetting	NO
A99-08-045 C12, INC. for authority to operate as a telecommunications carrier providing intralATA resale, local exchange services, private line services, and foreign exchange service	Ratesetting	Ratesetting	NO
A99-08-046 AT&T COMMUNICATIONS OF CALIFORNIA, INC. , CALIFORNIA CABLE TELEVISION ASSOCIATION , ICG TELECOM GROUP, INC. , TIMB WARNER TELECOM OF CALIFORNIA, L.P. for rehearing of Commission Resolution T-16302	*	*	*

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