

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3023
Administrative Law Judge Division
September 16, 1999

RESOLUTION

RESOLUTION ALJ 176-3023. 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.

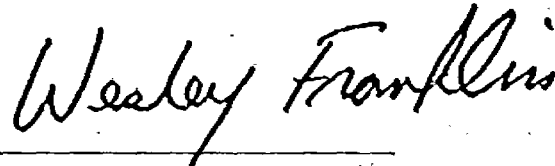
Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), 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.

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 16, 1999, the following Commissioners voting favorably thereon:



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 176-3023 (09/16/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-08-048 MONARCH COMMUNICATIONS, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107 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
A99-08-049 ATCALL, INC. for approval, nunc pro tunc, of a corporate reorganization and transference of stock * for approval, nunc pro tunc, of a corporate reorganization and transference of stock *	Ratesetting	Ratesetting	NO
A99-08-050 WICKLAND PIPELINES LLC for authorization to increase membership contributions and for approval of rates and conditions of service for authorization to increase membership contributions and for approval of rates and conditions of service	Ratesetting	Ratesetting	YES
A99-08-051 SIERRA CLUB application for rehearing of resolution W-4154 application for rehearing of resolution W-4154	*	*	*
A99-08-052 CCC MERGER CORPORATION, STORMTEL, INC. F/K/A Z-TEL, INC. for authority to transfer control to CCC Merger Corporation for authority to transfer control to CCC Merger Corporation	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 176-3023 (09/16/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<p>A99-08-053 ADELPHIA BUSINESS SOLUTIONS OPER., INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013</p>	<p>Ratesetting NDIEC Registration Application</p>	<p>Ratesetting</p>	<p>NO</p>
<p>A99-08-054 PACIFIC CORP for an order approving the sale of its interest in: (1) the Centralia Steam Electric Generating Plant, (2) the Ratebased Portion of the Centralia Coal Mine and (3) related facilities and for an EWG Determination for an order approving the sale of its interest in: (1) the Centralia Steam Electric Generating Plant, (2) the Ratebased Portion of the Centralia Coal Mine and (3) related facilities and for an EWG Determination</p>	<p>Ratesetting</p>	<p>Ratesetting</p>	<p>YES</p>
<p>A99-09-002 BLACK TIE AIRPORT EXPRESS to establish a zone of rate freedom for its authorized service areas in Contra Costa County to and from the Oakland and San Francisco Airports to establish a zone of rate freedom for its authorized service areas in Contra Costa County to and from the Oakland and San Francisco Airports</p>	<p>Ratesetting</p>	<p>Ratesetting</p>	<p>NO</p>
<p>A99-09-003 PF.NET, LLC for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107 for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107</p>	<p>Ratesetting NDIEC Registration Application</p>	<p>Ratesetting</p>	<p>NO</p>

PRELIMINARY DETERMINATION SCHEDULES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-09-004 TELEMAGEMENT SERVICES, INC,dba TELENET SERVICES, INC. for a certificate of public convenience and necessity to offer competitive local exchange and interexchange services on a resale basis for a certificate of public convenience and necessity to offer competitive local exchange and interexchange services on a resale basis	Ratesetting	Ratesetting	NO
A99-09-005 COMCARD INTERNATIONAL, LTD. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-09-006 PACIFIC GAS & ELECTRIC COMPANY in the 1999 annual transition cost proceeding in the 1999 annual transition cost proceeding	Ratesetting	Ratesetting	YES
A99-09-007 SINGLE BILLING SERVICES, INC., dba ASIAN AMERICAN ASSOCIATION for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107 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
A99-09-008 CNG COMMUNICATIONS, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 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

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<p>A99-09-009</p> <p>ABDUL RAHIM POPUL, dba BAY TRANSIT SHUTTLE for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, and Contra Costa Counties and the San Francisco and Oakland International Airports and to establish a zone of rate freedom for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, and Contra Costa Counties and the San Francisco and Oakland International Airports and to establish a zone of rate freedom</p>	Ratesetting	Ratesetting	NO
<p>A99-09-010</p> <p>CCI COMET COM INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013</p>	Ratesetting NDIEC Registration Application	Ratesetting	NO
<p>A99-09-011</p> <p>SAN DIEGO GAS & ELECTRIC COMPANY in the second annual transition cost proceeding regarding the transition cost balancing account in the second annual transition cost proceeding regarding the transition cost balancing account</p>	Ratesetting	Ratesetting	YES
<p>A99-09-012</p> <p>SMITH, DAVID, dba SAN FRANCISCO YELLOW SHUTTLE for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, and San Mateo Counties and the San Francisco, Oakland and San Jose International Airports and to establish a zone of rate freedom for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, and San Mateo Counties and the San Francisco, Oakland and San Jose International Airports and to establish a zone of rate freedom</p>	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-09-013 SOUTHERN CALIFORNIA EDISON COMPANY to review and recover transition cost balancing Account entries from July 1, 1998 through June 1, 1999 and various generation-related memorandum account entries to review and recover transition cost balancing Account entries from July 1, 1998 through June 1, 1999 and various generation-related memorandum account entries	Ratesetting	Ratesetting	YES
A99-09-014 MVX COMMUNICATIONS, LLC for authority to transfer control to MVX.Com Communications, Inc. for authority to transfer control to MVX.Com Communications, Inc.	Ratesetting	Ratesetting	NO
A99-09-015 TELEMANAGEMENT SERVICES, INC., dba TELENET SERVICES, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107 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
A99-09-016 SAN DIEGO GAS & ELECTRIC COMPANY for a permit to construct the Valley Center Substation for a permit to construct the Valley Center Substation	Ratesetting	Ratesetting	YES
A99-09-018 CITY OF OCEANSIDE for construction of a bicycle/pedestrian undercrossing below two existing freight/commuter tracks in the city of oceanside for construction of a bicycle/pedestrian undercrossing below two existing freight/commuter tracks in the city of oceanside	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3023 (09/16/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<p>A99-09-019 NET COMMUNICATIONS CORPORATION for registration as a interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107 for registration as a interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 and D97-06-107</p>	<p>Ratesetting NDIEC Registration Application</p>	<p>Ratesetting</p>	<p>NO</p>
<p>A99-09-020 THREE TEN COMMUNICATIONS, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013</p>	<p>Ratesetting NDIEC Registration Application</p>	<p>Ratesetting</p>	<p>NO</p>
<p>A99-09-021 MOHINDER JOHAL, dba BAY AREA LIMO & SHUTTLE for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, Contra Costa, Santa Clara and San Mateo Counties and the San Francisco, Oakland and San Jose International Airports and to establish a Zone of Rate Freedom for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, Contra Costa, Santa Clara and San Mateo Counties and the San Francisco, Oakland and San Jose International Airports and to establish a Zone of Rate Freedom</p>	<p>Ratesetting</p>	<p>Ratesetting</p>	<p>NO</p>
<p>A99-09-022 ZOOM-I-NET COMMUNICATIONS, INC. registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013</p>	<p>Ratesetting NDIEC Registration Application</p>	<p>Ratesetting</p>	<p>NO</p>

PRELIMINARY DETERMINATION SCHEDULES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-09-025 DISTANTELCOM, LLC for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
A99-09-026 P.D.S., INC., dba PHONE DEBIT SYSTEMS, INC. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013 for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO