

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3025
Administrative Law Judge Division
October 21, 1999

RESOLUTION

RESOLUTION ALJ 176-3025. 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.

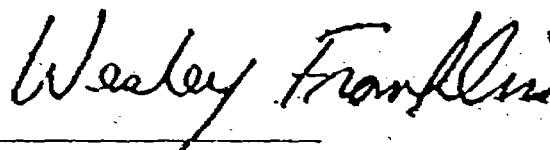
Conclusion

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/epg

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 October 21, 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 176-3025 (10/21/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-10-003 WCI CABLE, 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
A99-10-005 BUDDY SHUTTLE SERVICE, INC., dba BUDDY SHUTTLE SERVICE, INC. for authority to operate as a passenger stage operation between points in Alameda County, Santa Clara County, San Mateo County, Oakland International Airport, San Francisco Airport and San Jose International Airport	Ratesetting	Ratesetting	NO
A99-10-006 ANTELOPE VALLEY AIRPORT EXPRESS, INC. to establish a zone of rate freedom and individual fares for passenger stage service between points in authorized service areas and Los Angeles International Airport	Ratesetting	Ratesetting	NO
A99-10-007 STATE OF CALIF., DEPT. OF TRANSPORTATION for an order authorizing the Department to: construct a crossing of State Route 29 at separated grade over the Napa Valley Wine Train track, to construct a temporary detour track (Shoofly), and to reconstruct existing PUC crossing No. 87-71.80 in the City	Ratesetting	Ratesetting	NO
A99-10-008 LUKACS, MARIA, dba INDEPENDENT ROYAL EXPRESS SHUTTLE for authority to operate as a passenger service throughout Los Angeles County and the City of Burbank Airport. Also another service from West Covina and Los Angeles Airport	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3025 (10/21/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-10-009 SBC ADVANCED SOLUTIONS, 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
A99-10-010 GTB CALIFORNIA INCORPORATED for authority pursuant to Public Utilities Code Section 851 to lease space to third parties and affiliates, and to share certain assets with affiliates	Ratesetting	Ratesetting	NO
A99-10-011 VENTURA COUNTY TRANSPORTATION COMMISSION to restore its rail grade crossings at Main Street, Center Street and Orchard Street, all public streets in the Community of Piru, County of Ventura	Ratesetting	Ratesetting	NO
A99-10-012 DEL ORO WATER COMPANY, INC., MINERAL CITY WATER SYSTEM for authority to sell and Del Oro Water Co., Inc., to buy the Mineral City Water System in Tehama County	Ratesetting	Ratesetting	NO
A99-10-013 DAVID, ANGELITO N., dba BABES AIRPORTER to transfer his PSC-12008 certificate to Dennis A. Delosreyes and Richardo Vargas and to establish a zone of rate freedom	Ratesetting	Ratesetting	NO
A99-10-014 MEDIA TEL CORPORATION, dba FLORIDA MEDIA TEL 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 176-3025 (10/21/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-10-015 ONSITE ACCESS LOCAL, 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
A99-10-016 CHEVRON PIPELINE COMPANY, ELLWOOD PIPELINE, INC. for authority to sell interests in utility property, pursuant to the provisions of Section 851 of the Public Utilities Code	Ratesetting	Ratesetting	NO
A99-10-017 JACOBS CENTER/NONPROFIT INNOVATION, SAN DIEGO METROPOLITAN TRANSIT DEVELOP. to authorize construction of an underpass crossing on two light rail tracks at Market Creek Plaza Development in the City of San Diego	Ratesetting	Ratesetting	NO
A99-10-018 MASTER TEL COMMUNICATIONS CORP. 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
A99-10-020 ACCUTEL OF TEXAS, INC. for a certificate of public convenience and necessity to offer local exchange access and interexchange services	Ratesetting	Ratesetting	NO
A99-10-021 NEXTLINK LONG DISTANCE SERVICES, 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**

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A99-10-022 U.S. TELB PACIFIC CORP., U.S. TELB PACIFIC HOLDINGS CORP. for approval of acquisition	Ratesetting	Ratesetting	NO