

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Resolution ALJ 176-3026  
Administrative Law Judge Division  
November 4, 1999

**RESOLUTION**

**RESOLUTION ALJ 176-3026. 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.)**

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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/epg

### **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.

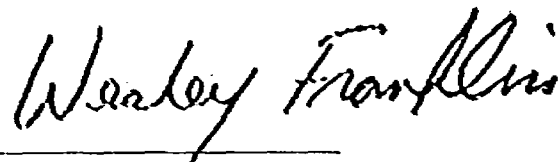
### **Conclusion**

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 November 4, 1999, the following Commissioners voting favorably thereon:



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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 176-3026 (11/04/99)

<b>NUMBER TITLE</b>	<b>PROPOSED CATEGORY</b>	<b>PRELIM CATEGORY</b>	<b>HEARING</b>
<b>A99-10-019</b> BROAD STREAM CORPORATION, COMMCO PARTNERS, L.L.C., COMMCO, L.L.C., HORIZON TECHNOLOGIES, L.L.C. for approval of transfer of control	Ratesetting	Ratesetting	NO
<b>A99-10-023</b> SOUTHERN CALIFORNIA EDISON COMPANY for authority to sell its interests in the Mohave Generation Station	Ratesetting	Ratesetting	YES
<b>A99-10-026</b> VOICE VISION INTERNATIONAL, INC. for a certificate of public convenience and necessity to operate as a reseller of local exchange telecommunications services within California	Ratesetting	Ratesetting	NO
<b>A99-10-027</b> ARROWHEAD MANOR WATER COMPANY for general rate increase	Ratesetting	Ratesetting	YES
<b>A99-10-028</b> CITY OF VISALIA for a railroad crossing over the San Joaquin Valley Railroad Company's railroad at the intersection of Oak Avenue and Bridge Street Section 29, Township 18 South, Range 25 East, M.D.B. & M	Ratesetting	Ratesetting	NO
<b>A99-10-029</b> BLACK POINT PARTNERSHIP, L.P., CITY OF NOVATO for an order authorizing an at-grade crossing of the tracks of the Northwestern Pacific Railroad Authority in the City of Novato, County of Marin	Ratesetting	Ratesetting	NO

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3026 (11/04/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A99-10-030</b> RAI, KULWINDER K., RAI, RANJITS. for authority to operate as a passenger stage corporation between points in San Francisco, Alameda, Contra Costa and Santa Clara Counties and the San Francisco, Oakland and San Jose International Airports and to establish a zone of rate freedom	Ratesetting	Ratesetting	NO
<b>A99-10-031</b> RANDHAWA, RAJINDER SINGH, dba GREEN BAY AIRPORT SHUTTLE SERVICE for authority to operate as a passenger stage corporation between points in San Francisco, Santa Clara, Alameda, and San Mateo Counties and the San Francisco, Oakland, and San Jose International Airports and to establish a zone of rate freedom	Ratesetting	Ratesetting	NO
<b>A99-10-034</b> ENHANCED COMMUNICATIONS GROUP, L.L.C. for registration as an interexchange carrier telephone corporation pursuant to the provisions of Public Utilities Code Section 1013	Ratesetting NDIEC Registration Application	Ratesetting	NO
<b>A99-10-035</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY for an order authorizing construction of at-grade crossings of Cicso Way and Morgridge Way by the Light Rail Transit line of the Tasman Corridor Project in the City of San Jose, County of Santa Clara	Quasi-	Ratesetting	NO
<b>A99-10-036</b> SOUTHERN CALIFORNIA GAS COMPANY for authority to sell certain intellectual property known as energy marketplace	Ratesetting	Ratesetting	YES

## PRELIMINARY DETERMINATION SCHEDULES

Resolution ALJ 176-3026 (11/04/99)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A99-11-001</b> UKI 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
<b>A99-11-002</b> CHOCTAW COMMUNICATIONS, INC., dba SMOKE SIGNAL COMMUNICATIONS, CHOCTAW COMMUNICATIONS, L.C. for authority to transfer the certificate of Choctaw Communications, L.C., an IER and CLR operating in California, to Choctaw Communications, Inc., dba Smoke Signal Communications	Ratesetting	Ratesetting	NO
<b>A99-11-005</b> ONSITE ACCESS LOCAL, LLC for a certificate of public convenience and necessity to provide resold local exchange service	Ratesetting	Ratesetting	NO