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

Rulemaking for purposes of revising General  
Order 96-A regarding informal filings at the  
Commission.

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PUBLIC UTILITIES COMMISSION  
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RULEMAKING 98-07-038

**ORDER INSTITUTING RULEMAKING,  
SETTING WORKSHOP, AND SOLICITING COMMENTS**

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## ORDER INSTITUTING RULEMAKING

### 1. Introduction

Change in the regulated industries, especially the opening of many utility services to competing providers of those services, requires a rethinking of the way the Commission handles informal filings, such as utility reports that call for no Commission action ("information-only" filings) and utility requests that call for Commission action but do not entail a formal proceeding ("advice letters"). We want to create efficient, clear, and comprehensive procedures for handling informal filings. This rethinking is part of the modernization we outlined in our Vision 2000 report. It also complements our development of new rules to govern formal proceedings, as contemplated both in Vision 2000 and in Senate Bill (SB) 960 (Leonard, ch. 96-0856.)

At this time, General Order (GO) 96-A contains some of the rules for informal filings. Many other rules are found in particular decisions and resolutions, so one aspect of our task is to compile all the relevant rules in one place. We have recognized, moreover, that modern, effective utility regulation must respond to differences in the various regulated industries and the degree of competition within sectors of those industries.<sup>1</sup> This recognition has influenced our recent reorganization of Commission staff, and it should guide us now as we rethink our handling of informal filings.

However, we do not need an entirely different set of procedures for each regulated industry. Instead, our work on the successor to the current GO 96 distinguishes between "General Rules" and "Industry Rules." In the former

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<sup>1</sup> As a result of these differences, we have previously authorized deviations from GO 96-A or developed special rules for advice letter filings by various utilities, including nondominant telecommunications carriers and several individual petroleum pipelines.

category are rules that logically should apply to all informal filings. These rules should address, among other things:

- Basic concepts, including how to distinguish relief that the filer may appropriately seek through an advice letter from relief that the Commission must consider in a formal proceeding;
- The scope of Commission staff's delegated authority for informal filings;
- Filing, serving, and responding to an advice letter; and
- Appealing the disposition of an advice letter.

At the same time, our Energy, Water, and Telecommunications Divisions have developed proposed rules that would apply specifically to informal filings by companies within the respective industries. These "Industry Rules" would function within the framework of the General Rules.

We anticipate that the Industry Rules would change current practices more or less, depending on the degree and nature of changes within the respective industries. For example, the changes to advice letter practice for water utilities probably will not be as extensive as those for energy utilities. Our fundamental goal, however, is the same for each industry. That goal is to define the process for reports and advice letters so that everyone interested in that process knows what it is and how to participate.

Because we are compiling many rules not mentioned in GO 96-A and developing industry-specific rules where appropriate, the proposed new version of GO 96 would be longer than its predecessor but easier to use. The new version would spell out the process for appeals, notice procedures, timelines, ways to check on the status of pending advice letters, and many other matters that currently are unclear or are ascertainable only with difficulty.

The new version would also be easier to keep current because it will include a process to separately update and revise the Industry Rules as needed. Where the updating is ministerial in nature (e.g., providing a new address or telephone number, adding or changing terms in an Industry Rule to conform to terms used in a statute or Commission order), the Executive Director is authorized to issue the updated Industry Rules. However, updating or other revisions that are not ministerial in nature must be submitted for the Commission's consideration and approval. The vehicle for such changes may be either a Commission resolution or a Commission decision in a formal proceeding, but regardless of the form of order, the changes would be preceded by workshops or other appropriate means whereby regulated companies and other stakeholders interested in the particular Industry Rules would have an opportunity to comment on the proposed changes.

We name as respondents in this rulemaking all of the gas, electric, telecommunications, water, sewer system, pipeline, and heat utilities that we regulate. We solicit comment from the respondents and all other stakeholders on the basic concepts described above and on the attached drafts of General and Industry Rules. Sections 2 to 5 of today's rulemaking order contain more detailed summaries of these drafts and describe the issues. Section 6 contains our preliminary determinations for this rulemaking, in accordance with the new SB 960 procedures. Finally, Section 7 has detailed instructions regarding the comments and the service list for this proceeding, and Section 8 sets an informational workshop to facilitate understanding of the proposed rules prior to the due date for comments.

## **2. General Rules**

The full text of the proposed General Rules is set forth in Appendix A to today's rulemaking order.

Under "Scope" (General Rule 1), we describe the matters to be covered by Proposed GO 96-B, the concept of General Rules and Industry Rules, and principles for construing all of the rules and for amending the Industry Rules. We ask for comment on whether the description, as amplified also in the list of "Definitions" (General Rule 3) and the "Use of Advice Letters" (General Rule 5), is clear and complete.

Under "Code of Ethics" (General Rule 2), we make clear that advice letters and information-only filings are subject to the same ethical standards that apply in formal proceedings before the Commission. We do not anticipate any need to develop ethical rules or sanctions specific to informal matters, but we invite parties to comment on whether they perceive such a need.

The "Definitions" (General Rule 3) are intended to cover all general concepts; the Industry Rules may define additional terms, but must use the terms in General Rule 3 consistent with the definitions in General Rule 3. Parties are invited to comment on the completeness and clarity of the definitions.

Under "Notice, Access, and Filing Procedures Generally" (General Rule 4), we state important policies for the broader use of electronic communications media, especially the Internet. We anticipate issuing another Order Instituting Rulemaking (OIR) shortly to better adapt our Rules of Practice and Procedure (specifically, Rule 2.3) for electronic service in formal proceedings. We ask for comment on whether the proposed General Rules for informal filings make reasonable provision for utilizing the Internet, recognizing that access to the Internet is still not universal. Under the General Rule 4 heading, we also discuss customer notice and advice letter service, format, and filing requirements. Our goal here is to give clear direction to advice letter filers and to make the informal process more accessible to all stakeholders.

"Use of Advice Letters" (General Rule 5) is intended to delimit generally the boundary between advice letters and formal proceedings. We invite comment on the clarity and appropriateness of the boundary we describe, and also on the remedies provided ("Withdrawal; Rejection Without Prejudice"). Also, General Rule 5.1, consistent with current rules on advice letters (see Section VI of GO 96-A), requires that utilities seek rate increases through formal application except for "minor" increases; we invite comment on whether and how to define "minor" for this purpose.<sup>2</sup>

"Information-only Filings" (General Rule 6) are accorded different handling from advice letters because the former do not seek any form of Commission approval. We invite comment on the clarity and appropriateness of the concept.

The "Process for Handling Advice Letters" (General Rule 7) is our attempt to compile and clarify the decisions and resolutions that have shaped advice letter practice at the Commission over the years. Our goals are fairness for all stakeholders and a clear statement of the scope of authority delegated to the Industry Divisions in the handling of advice letters. We invite comment on all aspects of the proposed General Rules in this regard, and also on how well they mesh with the respective Industry Rules, which elaborate on particular types of advice letters.

"Tariffs" (General Rule 8) mostly embodies existing requirements. These requirements cover filing, maintaining, and giving access to tariffs, the obligation to serve under tariffs, the format of tariff sheets, and the structure and content of tariff books. There is also a new procedure, the "Notice to Correct Tariff"

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<sup>2</sup> Some utilities have specific authority, under statute or Commission order, to seek rate increases by means of advice letter. General Rule 5.1 expressly recognizes such authority.

(General Rule 8.3), which concerns the situation where a tariff already has been approved and has gone into effect when Commission staff or a third party discovers an apparent illegality in the tariff. The proposed procedure is intended to put the affected utility on notice of the apparent illegality, while reserving judgment to the Commission if the utility disagrees with the notice or otherwise does not take prompt corrective action. We invite comment on the clarity and appropriateness of the procedure.

At least since the original GO 96 (approved in 1942), the Commission has required that utility tariff schedules include rates to utility employees where a utility serves its employees at rates differing from those applicable to others. See Section XI of GO 96-A. However, this requirement is redundant in that a utility must serve all its customers (including its employees) under its filed tariffs except where serving pursuant to a contract or other deviation. We propose to delete the provision separately addressing utility employees, with the understanding that if a utility has a separate customer classification for its employees, that classification would have to be stated in its tariffs pursuant to General Rule 8.2.<sup>3</sup>

"Confidential Treatment" (General Rule 9) concerns the situation where proprietary or otherwise confidential information must be considered in reviewing an advice letter. We anticipate that such information often will already be subject to a protective order issued in a formal proceeding; in other instances, there may be a nondisclosure agreement (either already existing or entered into for purposes of advice letter review) between the affected parties. The proposed procedure allows a disputed request for confidential treatment, if

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<sup>3</sup> Although GO 96-B will not have a separate rule on service to utility employees, utilities would still have to provide support in general rate case proceedings to demonstrate the reasonableness of any employee discounts. See Decision 84-01-040.



it cannot otherwise be resolved, to be referred to the Administrative Law Judge (ALJ) Division. We invite comment on the clarity and appropriateness of the procedure.

"Customer Request for Deviation" (General Rule 10) authorizes the respective Industry Rules to provide an informal procedure whereby a customer may request a deviation from that utility's tariffs. The Energy Division proposes such a procedure, and we invite comment on whether such a procedure may be useful in other industries.

We also invite comment on the generic issue of whether there is a need to develop rules to allow non-utilities to file advice letters (or make a similar filing). If so, what rules should be developed?

### 3. Industry Rules for Energy

The full text of the proposed Industry Rules for Energy is set forth in Appendix B to today's rulemaking order.

The Energy Division recommends changes to clarify and improve the informal process for advice letters and information-only filings; the changes will also provide staff and the general public with greater access to, and understanding of, utility tariffs. The proposed major changes are: first, tiers for review of advice letters (Tiers 1-4) and information-only filings (Tier 5); and second, a new tariff numbering system for electric, natural gas, and heat utilities (which is similar to the system used by some telecommunications utilities). The proposed changes are discussed below, along with specific questions for the parties' comment (*in italics*). The following table, "Energy Industry Rules - Summary of Tier Structure," provides an overview of the five tiers and their respective characteristics. Suggestions and concerns about all proposed changes are encouraged.

## ENERGY INDUSTRY RULES -- SUMMARY OF TIER STRUCTURE GENERAL ORDER 96-B

TIER CHARACTERISTICS	ADVICE LETTER TIERS				INFORMATION - ONLY FILING
	TIER 1	TIER 2	TIER 3	TIER 4	TIER 5
<b>COVERAGE</b>	Electric, Gas, & Heat Utilities	Electric, Gas, Heat Utilities, & requests for approval of tariffs by Petroleum Pipeline Utilities that have not previously been in public utility service.	Petroleum Pipeline Utilities Only	Electric, Gas, & Heat Utilities	Electric, Gas, Petroleum Pipeline & Heat Utilities
<b>REVIEW PROCESS</b>	Ministerial	Ministerial	Discretionary	Discretionary	Ministerial
<b>EFFECTIVE DATE</b>	One Day After Filing	After 30 business day review period, unless suspended or extended.	30 days after submittal to Energy Division.	After Resolution Approval	N/A. (Not Applicable)
<b>REVIEW PERIOD</b>	30 business days	30 business days	30 days	Any advice letter not approved within six months will be placed on Commission's agenda for rejection without prejudice. Executive Director may extend six month limit one time, for good cause.	N/A.
<b>REVIEW PERIOD EXTENSIONS</b>	None	An additional 30 business days, for a total of 60, except for suspensions which stop the review period clock.	By Commission Resolution.	By Commission Resolution.	N/A.
<b>PROTEST</b>	When the filer agrees with a protest in whole or in part, the filer shall submit an advice letter revision within 5 business days from date of protest. If the filer does not agree with the protest, the filer shall file a reply within 5 business days. The Energy Division shall issue a Notice of Disposition (Tier 1 & Tier 2) either granting or denying the protest. If granted, the filer shall submit an advice letter revision making the correction within five business days, or withdraw the advice letter. In the event a proposed resolution (Tier 3 & 4) is prepared, the Energy Division shall recommend a disposition of the protest.				N/A.

**ENERGY INDUSTRY RULES -- SUMMARY OF TIER STRUCTURE  
GENERAL ORDER 96-B**

TIER CHARACTERISTICS	ADVICE LETTER TIERS				INFORMATION - ONLY FILING
	TIER 1	TIER 2	TIER 3	TIER 4	TIER 5
<b>DATA REQUEST</b>	Does not stop the 30 business day clock.	Stops the 30 business day clock, but does not extend the total number of review days. Clock starts again when the data request is answered.	Does not stop the 30 day clock.	N/A.	N/A.
<b>REFUND PROVISIONS</b>	During review period, see Energy Industry Rule 6.1.1. after review period, see General Rule 8.3	See General Rule 8.3.	During review period, see Energy Industry Rule 6.1.1. after review period, see General Rule 8.3	See General Rule 8.3.	N/A.
<b>TRANSFER TO ANOTHER TIER</b>	Not Allowed	Transfer to Tier 4 is allowed.	Not Allowed	Not Allowed	N/A.
<b>RECOURSE IN THE EVENT OF DEFECTS</b>	Staff may require changes or staff may reject advice letter.		Only the Commission may suspend or reject advice letter. Staff writes draft resolution.	Only the Commission may reject advice letter. Staff may suspend until requested data is received; staff writes draft resolution.	Staff communication with utility.
<b>DISPOSITION</b>	Deemed approved if no protest or staff data request; rejection by staff Notice of Disposition.	Deemed approved if no protest or staff data request; rejection by staff Notice of Disposition.	Approval or rejection by Resolution.	Approval or rejection by Resolution.	N/A.
<b>SUBSTITUTE SHEETS</b>	Identified by sheet revision number; no draft tariff sheets allowed; and no asterisks (*) allowed.			Identified by sheet revision number; draft tariff sheets are allowed; and no asterisks (*) allowed.	N/A.

In addition, the Energy Division will develop a mechanism, utilizing the Internet, to inform utilities and the general public of the status of advice letters and information-only filings before the Commission. The Energy Division is also interested in the electronic availability of advice letters and information-only filings. Faster access to documents translates into faster overall review times on the part of staff and decisionmakers. The Energy Division will establish and publish specifications to accept advice letter and information-only filings electronically. *The parties are encouraged to comment on preferred methods and protocols for electronic submission of documents.*

### **3.1 Tier Structure for Review of Advice Letters and Information-Only Filings**

The current advice letter process is too lengthy for the simplest advice letters and inadequate for the most complex, while the submission of information-only filings is dispersed and not centrally tracked in a database. To promote efficient handling and reduce workload on the Commission's agenda, the proposed rules split advice letters and information-only filings into five groups, called tiers. The tiers are based generally on the complexity of reviewing the subject matter of the advice letter, and an additional tier was added to accommodate information-only filings.

Tier 1 advice letters carry out actions specifically approved by the Commission and only need to be checked for conformity with the Commission's order. The Energy Division proposes these advice letters be made effective the day after filing, but subject to staff review and approval, and to refund if in error. Tier 2 advice letters propose actions in accord with general policy approved by the Commission; they are subject to staff review before becoming effective. Tier 3 advice letters implement a statutory procedure (see Public Utilities (PU) Code Section 455.3 and Decision (D.) 97-12-069) for rate increases by petroleum pipelines. Tier 4 advice letters propose actions that, by law, require authorization

by the Commission but that do not require a hearing or other formal procedure. Tier 5 information-only filings are reports that comply with previous Commission orders and requests and that (unlike advice letters) do not request any form of authorization or other relief from the Commission.

The Energy Industry Rules contain lists of specific types of information-only filings and of advice letters that are appropriate to each tier. Staff will have the authority to reject advice letters in Tier 1 or 2 for noncompliance with statute or Commission order. Tier 3 and Tier 4 advice letters require disposition by the Commission, unless they are defective on their face, in which case staff may reject them. Tier 5 information-only filings require review by the Energy Division only to ensure that they provide whatever information the Commission was seeking.

### ***3.2 Delegated Authority***

Expressly delegated authority is needed by staff because the current GO is vague and not conducive to efficient processing of energy advice letters. For example, when the Energy Division believes an advice letter should be rejected because of obvious errors, it currently writes a resolution for the Commission's agenda, even when an advice letter is in direct conflict with a Commission order. This wastes staff time, unnecessarily burdens Commissioners and process staff, and delays the response to the utility.

Energy Division recommends granting staff authority to reject advice letters that on their face violate Commission orders, violate the Public Utilities Code, or contain other obvious errors. Where disposition of an advice letter requires exercise of judgment, both the General Rules and Energy Industry Rules require that a resolution be prepared for the Commission's consideration.

### ***3.3 Tier 1 - Advice Letters Effective Pending Disposition***

Advice letters that are non-controversial and subject to ministerial review would be effective the day after filing, but the proposed action or rate would be

subject to protest for a 20-day period. Staff would have 30 business days within which to complete its review. If a defect in the advice letter was found during the review period, any rate change or other action that had been implemented would be subject to refund or other appropriate correction. For any defect found after the review period, the procedure for correcting tariffs (see General Rule 8.3) would apply.

The Tier 1 procedure would greatly speed the processing of many advice letters and, by putting the utility at risk for errors, may reduce the number of advice letter supplements required to correct errors. Because Tier 1 advice letters are effective before staff review, the Energy Industry Rules have considerable detail on how to correct such advice letters if they contain errors. If the filing is in error, staff must request corrective action by the utility, including a refund to the effective date where appropriate. The utility then must take such action or file an appeal. If the utility fails to make the change or file an appeal, the utility is subject to a \$500 per calendar day penalty. This penalty procedure is appropriate in Tier 1 because the incorrect tariff stays in effect until the utility acts.

An advice letter misfiled by the utility in Tier 1 must be rejected. This result is necessary in order to ensure that utilities do not abuse the advantages of Tier 1, especially the ability under Tier 1 to put an action into effect prior to disposition of the advice letter.

Gas Storage Contracts: In accordance with D.93-02-013, gas storage contracts meeting the requirements there specified are effective within seven days of filing, without Commission approval. For administrative efficiency, the Energy Division proposes to include these gas storage contracts in Tier 1, thus making them effective the day after filing. The parties to D.93-02-013 are put on notice of this proposal via service of this OIR. *We welcome comments on this proposal or on factors we should consider in processing these contracts. Parties may also*

*suggest similar situations warranting Tier 1 treatment (please cite the relevant statute or Commission order).*

### ***3.4 Tier 2 - Advice Letters Effective After Staff Review***

Tier 2 advice letters are subject to the same protest and staff review periods as Tier 1 advice letters. Staff may reject Tier 2 advice letters whenever the ground for rejection is ministerial. If a Tier 2 advice letter is not rejected during the review period, it becomes effective. Thus, staff must complete its analysis quickly. If the advice letter involves complex issues or the utility does not provide complete information, staff may extend the 30 business day review period an additional 30 business days to complete its analysis. If staff finds that a Tier 2 advice letter is controversial or otherwise requires Commission attention, staff may transfer the advice letter to Tier 4.

### ***3.5 Tier 3 - Petroleum Pipeline Rate Increases by Advice Letter***

Petroleum pipeline rate increases are subject to PU Code § 455.3. Tier 3 is written to comply with the statute and the Commission decision implementing the statute (D.97-12-069). Rate increases are effective 30 calendar days from filing but are subject to refund after staff review and Commission action.

### ***3.6 Tier 4 - Advice Letters Effective After Commission Action***

Tier 4 is intended for advice letters that must be granted or rejected by Commission order. Staff will put a proposed resolution on the Commission's agenda containing staff's analysis of the Tier 4 advice letter and suggested disposition. If a Tier 4 advice letter has not been approved within six months of its notice in the Daily Calendar, and staff believes that disposition on the merits is still premature, staff will put a resolution on the Commission's agenda recommending rejection of the advice letter without prejudice. The Executive Director may extend the six-month limit once, for good cause.

### ***3.7 Tier 5 - Information-Only Filings***

Tier 5 is intended for information-only filings. Except as expressly ordered by the Commission to be filed with its Docket Office, any Commission-ordered reports or other information-only filings (including Annual Reports and Quarterly Reports of any kind that previously were submitted to the Annual Reports Room, e.g., FERC Form 1) shall be submitted directly to the Energy PAL Coordinator. This procedure provides centralized receipt and notice in the Daily Calendar of information-only filings by energy utilities.

### ***3.8 Tariff Format and Numbering - Petroleum Pipelines***

Many petroleum pipelines have noted that the Commission's tariff format differs from that used by other federal and state agencies. Some pipelines have obtained deviations from GO 96-A to allow them to use the Federal Energy Regulatory Commission (FERC) format. The Energy Division proposes a blanket authorization allowing any petroleum pipeline tariff to be filed in the FERC format. Otherwise, these utilities shall file their tariffs in accordance with the new numbering system proposed for electric, natural gas, and heat utilities.

### ***3.9 Tariff Sheet Numbering for Electric, Natural Gas, & Heat Utilities***

The current rules require that tariff sheets be numbered consecutively in the sequence filed. This sequence has little relationship with the subject matter or other bases of tariff organization. Consequently, the tariffs lack page numbering or a table of contents with sequential sheet (page) numbers and an index that can be used to quickly search for a specific rate schedule in the tariff book. In the historical tariff file, the subject matter is essentially randomly distributed throughout the sequentially numbered tariffs sheets. This makes historical analysis of a particular rate schedule time-consuming and difficult. The challenge of tracking proposed, canceled, rejected, and current tariffs has been done in many different ways by different regulatory agencies.



Energy Division recommends adopting a different numbering system, based on a sheet's placement in the tariff. This proposed system is very similar to that employed by the Federal Communications Commission (FCC). See 47 CFR 61.54(c).

At first blush, it might seem preferable to use the tariff numbering system used by FERC. Unfortunately, there is no single tariff numbering system at FERC, and the systems reviewed by staff were highly complex. For example, the FERC system for natural gas tariffs contains many different sheet types (e.g., Substitute Sheets, Superseded Sheets, Alternate Sheets, Inserted Sheets) in order to track all proposed gas tariff sheets and thus allow for the possible adoption of any of the proposed sheets that were filed in a given docket. This level of complexity seems inappropriate for our purposes. The Energy Industry Rules' new tariff numbering system will perform tariff sheet tracking in a simplified way but with comparable exactitude.

Under the new system, all tariffs of a given utility would constitute the "tariff book" for that utility. A table of contents would list each rate schedule, rule, or other section of the tariff book along with the corresponding sheet numbers. The title page to the tariff book would begin with Sheet 1. The sheet numbers would be unique, and when a tariff sheet was revised it would be replaced with a revised sheet with the same sheet number, along with a revision designation (e.g., 1<sup>st</sup> Revised Cal. PUC Sheet 12, Canceling Original Cal. PUC Sheet 12). To allow expansion of tariff material, an additional number after a period shall be used with each additional tariff sheet (e.g., Original Cal. PUC Sheet 1, 1.1...1.9, 1.10 ... 1.99, and so on). The tariff book shall also contain a section on how to use the tariff book, to help people unaccustomed to a utility tariff book. A list and explanation of symbols, reference marks, and abbreviations of technical terms used in the tariff book shall be included.

Under the new system, one master check sheet for the whole tariff book will be used as an index. It will be located at the front of the tariff book after the table of contents, and it will contain a list of all tariff sheets in the entire tariff book. All sheets contained in the tariff book will be listed consecutively in the check sheet by sheet number and revision number. Additional information will be provided in the check sheet, as shown in the example below. Initially, check sheets will provide a bridge between the new and old numbering systems (e.g., Original Cal. PUC Sheet 12, Canceling Cal. PUC Sheet No. 16543). Here is an example of a small portion of a master check sheet for an entire tariff book:

(New) Sheet No.	(New) Sheet Type	Advice Letter No.	Schedule	Schedule Name	(Old) Sheet No.	Type of Change
14	Original	1234-E	E-1	Residential Service	15236	(T)
15	Original	5678-E	E-1	Residential Service	15237	(R)
16	1 <sup>st</sup> Revised	7899-E	E-1	Residential Service	15238-E	(N)
17	Original	1340-E	EE	Service to Company Employees	15239-E	
18	7 <sup>th</sup> Revised	1245-E	EM	Master-Metered Multifamily Service	6 <sup>th</sup> Revised	

### 3.10 Customer Requests for Deviations

The current GO does not provide *customers* a forum to request deviations from tariff rules. The complaint process is not adequate, because it is limited to complaints about utility violations of its tariffs or Commission rules. Requests for deviations have been an issue recently with electric and gas line extensions. When the tariff charge far exceeds the cost of providing a facility, customers currently can request special treatment via letter; the staff then analyzes the letter and produces a Commission resolution. This letter procedure is not clearly

articulated anywhere. Energy Division proposes a procedure for customers (including, for this purpose, potential customers and developers on behalf of potential customers) to request a deviation for facilities needed to establish or improve electric or gas service (e.g., line extensions). We are aware that an open-ended procedure for customer deviations could generate numerous requests for lower rates and unwarranted special treatment. *If parties are aware of matters other than the given example for which this customer request procedure may be appropriate, please so indicate.*

### **3.11 Need for Separate Electric and Natural Gas Tariffs**

The current GO requires that "combination" utilities file separate tariffs for electric and gas services. While we are not proposing elimination of this requirement at this time, *we ask the parties to comment on advantages and disadvantages of continuing the separation requirement.*

### **3.12 Implementation Plan**

The Energy Division would like to implement the new rules as soon as possible. Implementation of the new staff review periods should occur within 60 days of adoption. These new review periods should not impact the industry's filings. Changes in tariff format, especially tariff numbering, can be more challenging because a utility's tariffs may run to several volumes. Energy Division plans to work with the parties before, during, and after the Informational Workshop to develop a working model for energy tariffs that meets the specifications described herein. *Further, we ask the utilities and other parties to comment upon a reasonable schedule to implement all the Energy Industry Rules.*

## **4. Industry Rules for Telecommunications**

The full text of the proposed Industry Rules for Telecommunications is set forth in Appendix C to today's rulemaking order.

The Telecommunications Industry Rules proposal tries to accomplish two things: first, to compile all the applicable GO 96-A related rules adopted since its last revision, in 1988, into one document; and second, to clarify and update the disparate rules in a comprehensive set of rules that are consistent with Commission policy for this marketplace. Many existing exceptions to GO 96-A granted by the Commission in various decisions are reflected in these Industry Rules. However, some streamlining changes to these decisions are proposed. These decisions and changes are identified below, and service of this OIR provides notice that these decisions may be modified. Stakeholders' comment is invited on both the broad concepts stated below and the implementation of those concepts through the proposed Industry Rules.

#### **4.1 General Process Changes**

The proposal changes the existing advice letter review process to lighten the industry's and the staff's regulatory burden where competitive circumstances exist, and to retain adequate regulatory oversight applicable to dominant carriers to ensure regulatory responsibilities in the public interest are fulfilled. The proposed advice letter process reflects the different needs and circumstances of each segment of the regulated industry, and can be easily updated as those needs and circumstances change, thereby facilitating the evolving utility market structures.

The proposed three tiers of advice letter review are:

- Tier 1: Effective one day after filing
- Tier 2: Effective 40 days after filing unless rejected
- Tier 3: Effective only upon Commission authorization

The following table provides an overview of the tiers.

## Telecommunications Industry Rules, General Order 96-B

Advice Letter Events & Actions	Advice Letter Tiers		
	Tier 1	Tier 2	Tier 3
<b>Review Process</b>	Ministerial	Ministerial	Discretionary
<b>EFFECTIVE DATE</b>	No sooner than one day but pending disposition	No sooner than 40 days and upon approval	If not rejected, Staff will issue a draft resolution within 90 days
<b>DISPOSITION</b>	Automatic	Automatic	After resolution approval
<b>REVIEW PERIOD</b>	40 calendar days	40 calendar days	90 calendar days
<b>EXTENDED REVIEW</b>	None	No more than 60 additional days for a total of 100 days	No more than 60 additional days for a total of 150 days
<b>SUBJECT TO REFUND PROVISIONS</b>	Not described	Not described	Commission Resolution
<b>INFO REQUESTS</b>	Does not stop the 40 day review clock	Utility shall respond within 5 business days. If not satisfactory, Staff may process AL under Tier 3.	Same as Tier 2 except if response not satisfactory, further delay possible
<b>RECOURSE IN THE EVENT OF DEFECTS</b>	Staff may request changes and/or reject AL	Staff may postpone, request changes, and/or reject or process as a Tier 3 AL.	Only the Commission may reject AL. Staff may suspend until requested data is received; staff prepares draft resolution.

Tier 1 advice letters consist of routine compliance matters and competitive service offerings. Because these matters require relatively little regulatory scrutiny, Tier 1 advice letters are effective the day after they are submitted to the Telecommunications Division, although they are subject to staff disposition within 40 days. If a Tier 1 advice letter ultimately is rejected, the utility must take all appropriate corrective action.

Tier 2 advice letters concern (1) the competitive or partially competitive services of the dominant utility, and (2) other matters requiring greater customer notice or greater regulatory oversight, as compared to the matters handled in Tier 1. Tier 2 advice letters are normally effective within 40 days. In certain instances, staff can request additional information when the advice letter is insufficient, but such review cannot extend beyond 60 days, and no further staff delays are permissible.

Tier 3 advice letters concern matters that are not subject to disposition through staff review. Tier 3 advice letters accordingly require disposition by Commission resolution and only become effective upon Commission approval.

Nondominant utilities generally will be filing advice letters under Tier 1 or Tier 2; dominant utilities generally will be filing advice letters under Tier 2 or Tier 3. Staff anticipates that the Commission will allow the dominant utility additional flexibility as circumstances warrant by redefining the carrier as non-dominant, or its service as competitive.

The rules for withdrawing entirely or partially from service in any territory are relaxed for non-basic exchange services and carriers who are not carriers of last resort: only Commission and 30-day customer notice is required. However, for withdrawal of basic exchange service, to ensure continuity of service to all customers affected by the withdrawal, both customer notice and appropriate arrangements to maintain service are required. Regarding transfer of assets, the

current process for transfer of interexchange carrier (IEC) assets to certified and non-certified carriers will be extended to competitive local carriers (CLCs).

Rules for filing contracts are simplified to reflect current Commission requirements, and the express contract procedure is specified.

Carriers using the existing GO 96-A page numbering system may continue to do so, or they may change to the preferred system (similar to that used for tariffs filed at the FCC); other page format requirements are relaxed (e.g., no ruled box). Instead of an indefinite retention period, a minimum 7-year retention period will be required for cancelled tariffs. Public access to tariff books may be provided by hard copy or searchable electronic copy.

#### **4.2 Commission Review Streamlining**

The Telecommunications Industry Rules proposal codifies, and in some cases updates, rules adopted since the last revision of GO 96-A. Staff proposes to accelerate some advice letter effective dates, consistent with the Commission's vision of streamlined regulation for the competitive telecommunications market. The following summary shows the proposed streamlining changes by carrier class, with references to the Commission decisions that would be modified by adoption of the proposal.

##### IECs/CLCs

- Proposal: All advice letters (including contracts) shall be effective one day after filing.
- Proposal: All competitive service rate increases shall be effective on one day's notice to the Commission and all rate increases shall be noticed to affected customers no less than 15 days prior to the effective date.

Currently, D.90-08-032 established for NDIECs that rate reductions require no customer notice and may be effective on five- days notice to the Commission, and that rate increases require at least 30-day advance customer notice and may be effective on 30-day notice to the Commission. D.91-12-013 revised notice requirements for rate increases for IECs: that "minor" rate increases require no advance customer notice and may

become effective on five working days' notice to the Commission. All other, "major" rate increases would continue to require 30-day customer and Commission notice. Subsequent decisions adopted the same distinction: D.95-07-054 for CLCs; D.95-12-061 for Pacific Bell as a CLC; and D.96-09-098 for detariffed IECs. The current staff five-day review for minor rate increases is to determine whether the rate increase actually qualifies as "minor." Elimination of the "major" and "minor" distinction would eliminate the need for staff review to enforce this distinction. Also, because the Commission does not set rates for these competitive services, there is no need for a 30-day staff review. For further discussion, see Section 4.3 below.

- Proposal: CLCs may use the advice letter procedure to seek authority to transfer assets.

Currently, IECs may transfer assets pursuant to authority sought by advice letter. A pending Commission order in the Local Competition proceeding (R.95-04-043) would extend this procedure to CLCs; Commission action on Agenda Item 3, at the July 23, 1998, Commission meeting may accomplish much of what is being proposed here, though notice requirements proposed in the Telecommunications Industry Rules would not be rendered moot by action on that item.

#### LECs Under "New Regulatory Framework" (NRF LECs)

- Proposal: Advice letters shall be effective one day after filing for: Category III services; express contracts; and Category II service rate changes within the price band.

Currently, Resolution T-15139 (March 24, 1993) required, for rate increases to Category III services, a five-day or 30-day notice, depending on the size of the increase ("less than 5%" or "greater than 5%"). D.94-09-065 required 30-day notice before the effective date of a price increase up to an approved ceiling price, and 14-day notice prior to the effective date of express contracts. D.96-03-020 required five-day notice of Category II price reductions to a level at or above an approved price floor. These types of changes are all suitable for Tier 1 advice letters because Tier 1 allows flexibility in rate adjustments but allows the Commission to reject an illegal rate and require appropriate corrective action within 40 days.

#### **4.3 Customer Notice**

Currently, Commission rules require that written customer notice for all LEC rate increases, and for some CLC and IEC rate increases, must be mailed at



least 30 days prior to the effective date of the change. In practice, these current rules result in more than 30 days notice in some instances and no prior notice at all in other instances. For example, the 30-day notice requirement translates into 60 days for the utility to properly notice all customers where notice is by insert in a monthly billing. On the other hand, IEC and CLC rules leave some customers without any advance notice of a "minor" rate increase. "Minor" rate increases are those which meet both of the following conditions: result in less than a 1% increase in total intrastate revenues, and result in less than a 5% increase in rates for the affected service, measured within a 12-month period. Furthermore, current IEC rules allow an IEC to omit advance customer notice even of a rate increase too large to qualify as "minor" unless the customer had requested, in writing, to be given advance notice of rate increases.<sup>4</sup>

The Telecommunications Industry Rules propose a new customer notice rule that is simple and broadly applicable. Specifically, for any competitive service, a carrier would have to give affected customers at least 15 days notice prior to the effective date of an increased rate or charge or more stringent terms or conditions of service. For any such changes to services that are less competitive or to wholesale services, or for any withdrawal of service, a carrier would have to give affected customers at least 30 days notice prior to the effective date of the change.

#### **4.4 Availability of Information on Services**

The current GO 96-A extensively lists the required contents of utility tariffs, including the utility's "rules" on matters such as how to apply for service,

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<sup>4</sup> For rules on notice of rate changes by IECs and CLCs, see Appendix A of D.96-09-098.

establish credit, dispute a bill, and so on. (See *id.*, Sec. II.C(4).) One such required "rule" (Rule 12) concerns "Optional Rates and Information to be Provided the Public." The description in GO 96-A of the intended contents of this utility rule is somewhat vague, but the underlying purpose seems to be to ensure that the utility informs customers of new or optional services and rates, and that the public can determine how to get information on the kinds of services that the utility offers, the prices and other terms of service, any conditions on eligibility, and the like.

As competition in this industry increases, and service offerings proliferate rapidly, this rule becomes even more important than it was in the era of monopoly carriers. A revised description of the rule is proposed in order to clarify the rule, consistent with the intent that carriers provide, and the public have ready access to, the carrier information needed to exercise reasoned choice in the telecommunications services market.

##### **5. Industry Rules for Water**

The full text of the proposed Industry Rules for Water is set forth in Appendix D to today's rulemaking order.

As indicated above, the Water Industry does not yet require the substantial changes to the procedures for filing advice letters that other industries require, so the proposed changes in the Water Industry Rules are modest. The purpose of these proposed rules is to improve the efficiency of and provide greater clarity to the advice letter process.

After the introduction and definitions (Industry Rules 1 and 2), "Filing Advice Letters" (Industry Rule 3) allows electronic filing and describes how and what should be filed by advice letter. We invite review for completeness and clarity, and any suggestions to improve either.

"Notice" (Industry Rule 2) supplements the notice requirements in the General Rules with particular requirements developed by the Water Division. For example, we set forth procedures that we have already agreed to with the industry but that have not been included in GO 96-A, which has not been revised for a decade. We are attempting to provide adequate notice for all interested parties, without undue burdens. If there are possible areas of improvement to this Industry Rule, please let us know.

The provisions for Protests (Industry Rule 5) and Responses (Industry Rule 6) simply expand on the General Rules to provide timeframes and additional specifics.

"Disposition" (Industry Rule 7) describes the two types of review for water advice letters. As there is insignificant competition in the provision of water service, the types of advice letters are simple and based on classic rate-of-return regulation. Industry Rule 7 states clear deadlines for handling advice letters. Thirty business days are allocated for review of all types of advice letters. Protests are due within 20 days of filing, although staff may consider late-filed protests where justified. If staff needs to request additional data that will extend the review period beyond 30 business days, notice of the extension will be published in the Daily Calendar. In rejecting an advice letter undergoing ministerial review, staff will send a letter to the filer (the existing procedure). For an advice letter undergoing discretionary review, staff will issue a proposed resolution for comment. We invite your suggestions for clarification or other improvements to these procedures.

"Revising Advice Letters" (Industry Rule 8) lays out a process consistent with existing practice for filing supplements and using slip sheets. If there are any ways to improve this practice, we would like to hear them.

Industry Rules 9 and 10 repeat much that is in existing GO 96-A, and they should be reviewed for correctness. Further, they allow tariff sheets to be filed without numbers (staff will do the numbering) and authorize the utility to provide an Internet version of and Internet access to the tariff book instead of a paper version of the tariffs. They also provide for charging for copies of the tariffs, if the utility doesn't have this as a tariffed service, and they allow staff to approve emergency contracts subject to refund. They also refer to some new Exhibits to the Industry Rules that provide examples of wording to be used in various types of advice letters.

Some provisions of these Industry Rules require the utility to do things not presently required. For example, the preliminary statement would have to contain a description of all authorized memorandum and balancing accounts, as is presently required for energy utilities but not heretofore required for water. If there are any problems with these requirements, please let us know in your comments.

Industry Rule 11 lists some common advice letters and the type of review they would normally require. Please comment on the appropriateness of the proposed classifications.

#### **6. Categorization, Need for Hearing, Scoping**

In 1996, Governor Wilson signed into law SB 960, which establishes new procedures (effective January 1, 1998) for the Commission in handling formal proceedings that go to hearing. We have adopted rules implementing SB 960,<sup>5</sup> and this part of the OIR addresses SB 960 procedures as applied to this proceeding.

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<sup>5</sup> All rules cited below are codified in the Commission's Rules of Practice and Procedure.

We do not anticipate any need for hearings, but we will make our final determination on whether to hold hearings in this proceeding after reviewing the comments due on September 2, 1998. If any party to this proceeding believes that an evidentiary hearing is required in this proceeding, that party must state that belief in its comments. The comments must expressly request an evidentiary hearing and justify the request by (1) identifying the material disputed facts, and (2) explaining why a hearing must be held. Also, the comments must describe the general nature of the evidence the party proposes to introduce at the requested hearing. Any right a party may otherwise have to an evidentiary hearing will be waived if the party does not follow the above procedures for requesting one.

Pursuant to Rule 6(c)(2), we preliminarily determine this to be a quasi-legislative proceeding, as defined in Rule 5(d). Commissioner Henry M. Duque will preside, and ALJ Steven Kotz will assist.

The scope of issues to be considered in this proceeding is as described in previous portions of the OIR. (See Sections 1-5 above.) SB 960 states the legislative policy that the Commission complete proceedings in the quasi-legislative category within 18 months. We hope to be quicker: Our goal is to make our final decision in this proceeding within 10 months, i.e., by April 1999. This goal is reflected in our tentative schedule.

The actual schedule of events, and whether we can achieve our goal for completing the proceeding, depends in significant part on whether and how many hearings are held. We therefore ask the parties to propose schedules in their comments. In drafting their proposed schedules, the parties should consider at least the list of probable events shown in the Tentative Schedule below. Please allow 75 days between submission of the proceeding (filing of final comments and/or briefs) and the date of issuance of the proposed decision.

Tentative Schedule

(Rulemaking to Revise GO 96)

⇒Days Shown Are Approximate

⇒Assumes No Hearings

Day 1	Issuance of OIR
Day 20	Informational Workshop
Day 40	Comments Due
Day 100	Issuance of Revised Drafts of Industry and General Rules *
Day 130	Comments on Revised Drafts *
Day 150	Reply Comments *
Day 225	Proposed Decision
Day 245	Comments on Proposed Decision
Day 250	Reply Comments
Day 280	Commission Decision

\* If needed. If not needed, schedule would be accelerated.

**7. Comment on Proposed General and Industry Rules**

Comment on the attached drafts of General and Industry Rules is due to be filed and served no later than Wednesday, September 2, 1998. In view of the large number of stakeholders receiving this OIR, we want to streamline the service process, using electronic service (e-mail) as much as possible.

Accordingly, no later than Wednesday, August 19, 1998, anyone intending to file and receive comments in this proceeding shall file a statement of such intent and serve this statement on ALJ Steven Kotz, 505 Van Ness Avenue, San Francisco, CA 94102 [e-mail: kot@cpuc.ca.gov]. At a minimum, the statement must include the name, postal address, and telephone number of the person to be served. Anyone who wants to be served by e-mail must include an e-mail

## APPENDIX B

### Proposed Timetable for the Rulemaking

December 17, 1998	Commission issues rulemaking.
February 26, 1999	Last day to submit written requests to the Process Office to be placed on the service list.
March 8, 1999	Initial service list posted on Commission's web site
March 17, 1999	Opening comments to be filed with Commission's Docket Office and served on the initial service list. Comments should include any objections to the categorization of the proceeding, the need for hearings, and the preliminary scoping memo.
May 17, 1999	Reply Comments due.
May 27, 1999	Motions for evidentiary hearings due.
June 4, 1999	Reply to motion(s) due. (Rule 45(f).)
August 1999	Ruling by the Assigned Commissioner on the final scope, schedule, need for hearing, and categorization of this proceeding. (Rule 6.3.) Appeals of categorization may be filed no later than ten days after the Assigned Commissioner's Ruling. (Rule 6.4(a).) Response to appeals may be filed no later than fifteen days after the date of categorization from which timely appeal has been taken. (Rule 6.4(b).)

(END OF APPENDIX B)