

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

Resolution ALJ 176-3079  
Administrative Law Judge Division  
January 9, 2002

**R E S O L U T I O N**

RESOLUTION ALJ 176-3079. 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/hkr

### **Next Steps**

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

### **Conclusion**

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

**IT IS ORDERED** that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on January 9, 2002, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN  
Executive Director

LORETTA M. LYNCH  
President  
HENRY M. DUQUE  
RICHARD A. BILAS  
CARL W. WOOD  
GEOFFREY F. BROWN  
Commissioners

## PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3079 (01/09/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-11-047</b> CITY OF PALO ALTO, for a Finding that construction of the Embarcadero Road Bike Path Extension Project along the CalTrain right of way owned by the Peninsula Corridor Joint Powers Board located in the City of Palo Alto between Churchill Avenue and Encina Avenue will not create an unsafe condition for the public or the employees or passengers of CalTrain	Ratesetting	Ratesetting	NO
<b>A01-11-048</b> L.A. TOP SHUTTLE, INC., dba SHUTTLE ONE, a California corporation, (PSC-6235) to Modify its Scheduled Service in its existing authorized service area to additional communities identified herein	Ratesetting	Ratesetting	NO
<b>A01-12-005</b> ALAMEDA CORRIDOR TRANSPORTATION AUTHORITY, Alameda Corridor Transportation Authority (ACTA) for an Order authorizing reconstruction of two existing at-grade railroad/highway crossings (CPUC numbers BG-492.80 and BG-490.90) along the new ACTA By-Pass Track in the County of Los Angeles, and the cities of Compton and Lynwood, California	Ratesetting	Ratesetting	NO
<b>A01-12-006</b> GLOBALTRON COMMUNICATION CORPORATION, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-12-011</b> PARK WATER COMPANY, (U 314-W), for Authority to Issue Evidence of Indebtedness (First Mortgage Bonds)	Ratesetting	Ratesetting	NO
<b>A01-12-013</b> BLUE RIDGE TELECOM SYSTEMS, LLC, for a Certificate of Public Convenience and Necessity to Provide Facilities-Based and Resold Local Exchange Services within California	Ratesetting	Ratesetting	NO
<b>A01-12-014</b> UNITED SYSTEMS ACCESS TELECOM, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

## PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3079 (01/09/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-12-015</b> ENHANCED COMMUNICATIONS NETWORK, INC. (U 6162 C), SINGLE BILLING SERVICES (U 6251 C), Joint, for Authority of the former to acquire certain assets of the latter pursuant to Public Utilities Code Sections 851- 854	Ratesetting	Ratesetting	NO
<b>A01-12-016</b> HYUNDAI TELECOM (USA), INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-12-017</b> COUNTY OF SAN JOAQUIN, for an Order authorizing construction of a crossing at separated grades between West Lane and the Tracks of the Union Pacific Railroad Company, sometimes referred to as the West Lane Overhead (PUC No.D-92.8A) (DOT No. 752897L)	Ratesetting	Ratesetting	NO
<b>A01-12-018</b> VOLONET TECHNOLOGIES, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-12-019</b> INFONET TELECOMM. CORPORATION, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-12-020</b> PANTHER TELECOMM. CORPORATION, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-12-021</b> FULTONEX HR INTERNATIONAL, INC., dba GLOBAL TELECOM, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-12-023</b> NORCAST COMMUNICATIONS CORPORATION, for a Certificate of Public Convenience and Necessity to Provide Competitive Resold and Facilities-Based Local Exchange Service, IntraLATA and Intra-State InterLATA Services in the State of California	Ratesetting	Ratesetting	NO

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Resolution ALJ 176-3079 (01/09/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-12-024</b> RIVERSIDE COUNTY TRANSPORTATION COMMISSION, for Authority to construct a pedestrian overpass at railroad milepost 24.0 and a pedestrian emergency grade crossing at railroad milepost 24.08 of the BNSF Railroad Company's San Bernardino Subdivision main line, as part of the construction of a new Metrolink station in the City of Corona, County of Riverside	Ratesetting	Ratesetting	NO
<b>A01-12-025</b> CITY OF MONTCLAIR, SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (SCRRA), to construct a permanent pedestrian underpass and Application of the City of Montclair, to construct a temporary at-grade pedestrian crossing at the Montclair Transcenter located on San Gabriel Subdivision railroad Milepost 34.33 and 34.31 in the City of Montclair, San Bernardino County	Ratesetting	Ratesetting	NO
<b>A01-12-029</b> EAST BAY REGIONAL PARK DISTRICT, for an Order authorizing a pedestrian-bikeway trail crossing at grade of the Delta DeAnza Regional Trail (near Oakley), at the track of the Union Pacific Railway Company (PUC No. B-57.3)	Ratesetting	Ratesetting	NO
<b>A01-12-030</b> CF COMMUNICATIONS, LLC, dba TELEKENEX, for a Certificate of Public Convenience and Necessity to Provide Facilities Based and Resold Local Exchange Services in Pacific Bell, Verizon (formerly GTE California, Inc.), Citizens Telephone Company and Roseville Telephone Company and Interexchange Services Statewide	Ratesetting	Ratesetting	NO
<b>A01-12-033</b> PACIFIC GAS AND ELECTRIC COMPANY (U 39 E), for Approval of Two Irrevocable Licenses for Use of Optical Fiber, Utility Support Structures and Equipment Sites to IP Networks, Inc. (Redacted or Public Version attached as Appendix A and Appendix B)	Ratesetting	Ratesetting	NO
<b>A01-12-035</b> ALAMEDA CORRIDOR - EAST CONSTRUCTION AUTHORITY, for Authority to relocate the Mission Drive grade crossing over Union Pacific Railroad Company's Alhambra subdivision main line, to eliminate an acute skew angle grade crossing in the City of San Gabriel, County of Los Angeles	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-12-036</b> KDI DISTRIBUTION, INC., dba KROSSLAND COMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-12-037</b> STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, for authorization to widen the northbound structure of the West Van Nuys Overhead Bridge No. 53-1362 (PUC No. BY-456.80A) over the tracks of the Los Angeles County Metropolitan Transit Authority, County of Los Angeles	Ratesetting	Ratesetting	NO
<b>A01-12-038</b> SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, for an order approving safety appliances to be used at the at-grade crossings of the Autumn Street, Delmas Avenue, San Fernando Street and the San Fernando Station pedestrian crossing (82D-3.1, 82D02.9, 82D-2.8, 82D-3.0) by the light rail transit line of the Vasona Light Rail Project in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-12-039</b> CENTRAL UTAH COMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of the Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-12-041</b> IBN INTERTELECOM, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-12-042</b> TENBY, INC., Petition for Modification, or in the alternative for clarification, of Resolution No. G-3304	Quasi- legislative	Ratesetting	YES
<b>A01-12-043</b> TGEC COMMUNICATIONS CO., dba FIRST WORLD CONNECT (U 5809-C), (U 5809-C), for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

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Resolution ALJ 176-3079 (01/09/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-12-045</b> SACRAMENTO REGIONAL TRANSIT DISTRICT, for an order authorizing it to relocate, modify and maintain existing Power Inn Pedestrian Crossings #1 and #2, construct and maintain Coloma Pedestrian Crossing, Zinfandel Pedestrian Crossings #1 and #2, Cordova Town Center Pedestrian Crossings #1 and #2 and Sunrise pedestrian Crossing across the Placerville Branch of the Union Pacific Railroad in the City and County of Sacramento, State of California	Ratesetting	Ratesetting	NO
<b>A01-12-046</b> SOUTHERN CALIFORNIA EDISON COMPANY, (U 338-E), Proposing Lump-Sum Payment and Periodic Payment Options for Departing Load Customers	Ratesetting	Ratesetting	YES
<b>A01-12-049</b> STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, for authorization to widen Bassett Street Overhead (PUC No. E-46.50-A) on SR-87 in the City of San Jose, County of Santa Clara	Ratesetting	Ratesetting	NO
<b>A01-12-050</b> SOUTHERN CALIFORNIA GAS COMPANY, (U 904-G), for Modification or Clarification of Resolution G-3304	Quasi- legislative	Ratesetting	YES