

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

Resolution ALJ 176-3174  
Administrative Law Judge Division  
June 15, 2006

**RESOLUTION**

RESOLUTION ALJ 176-3174. 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.

**Next Steps**

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

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

**Conclusion**

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

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

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

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STEVE LARSON  
Executive Director

## PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3174 (6/15/06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A06-05-023</b> DEL ORO WATER COMPANY, INC. (U 61 W), for a Certificate of Public Convenience and Necessity to construct and operate its Regional Intertie Project to resolve the Long-Term Water Supply Deficit in its Paradise Pines, Magalia and Lime Saddle Districts and to recover all present and future costs in connection therewith in Rates.	Ratesetting	Ratesetting	YES
<b>A06-05-024</b> DEL ORO WATER COMPANY, INC. (U 61 W), for authority to borrow approximately Three Million Five Hundred Thousand (\$3,500,000) Dollars and to issue evidence of indebtedness in connection therewith in order to make certain Capital Improvements; and for authority to recover all such costs and advances by increases in the respective water rates of customers in its Paradise Pines, Magalia and Lime Saddle Districts in the vicinity of Magalia and Paradise, Butte County, California.	Ratesetting	Ratesetting	NO
<b>A06-05-025</b> AMERICAN WATER WORKS COMPANY, INC., CALIFORNIA-AMERICAN WATER COMPANY (U 210 W), RWE AKTIENGESELLSCHAFT, THAMES WATER AQUA HOLDINGS GMBH, for an order authorizing the sale by Thames GmbH of up to 100% of the common stock of American Water Works Company, Inc., resulting in a change of control of California-American Water Company; and for such related relief as may be necessary to effectuate such transaction.	Ratesetting	Ratesetting	YES
<b>A06-05-026</b> NATIONWIDE LONG DISTANCE SERVICE, 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>A06-05-029</b> ABOVENET COMMUNICATIONS, INC., dba FKA METROMEDIA FIBER NETWORK SERV., INC., for modification of Decision 00-09-039 and request for expedited ex parte relief.	Ratesetting	Ratesetting	NO
<b>A06-05-030</b> MGEN SERVICES CORP., 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 176-3174 (6/15/06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A06-05-031</b> NEXTG NETWORKS OF CALIFORNIA, INC. (U 6754 C), to expand its existing Certificate of Public Convenience and Necessity [A.02-09-019, D.03-01-061], to include full Facilities-based Telecommunications Services.	Ratesetting	Ratesetting	NO
<b>A06-05-032</b> CONCORD'S EXPRESS, LLC, for Passenger Stage Authority under Section 1031, et seq., of the California Public Utilities Code, to transport passengers and baggage express, on an on-call, county-to-county fare basis between the counties of San Diego, Orange, Los Angeles, San Bernardino, Riverside, Kern, Monterey, Tulare, Fresno and Santa Clara; and to establish a Zone of Rate Freedom (ZORF) under Section 454.2, et seq., of the Public Utilities Code.	Ratesetting	Ratesetting	NO
<b>A06-05-033</b> CARLYLE/RIVERSTONE II AND III, L.P., ENCANA CORPORATION, NISKA GAS STORAGE US, LLC, WILD GOOSE STORAGE INC. (U 911 G), for review under Public Utilities Code Section 854 of the Transfer of Control of Wild Goose Storage Inc. from EnCana Corporation to Niska Gas Storage US, LLC, and for approval of financing under Public Utilities Code Section 851.	Ratesetting	Ratesetting	NO
<b>A06-05-034</b> GOLDEN STATE WATER COMPANY (U 133 W), for a Certificate of Public Convenience and Necessity to construct and operate a Water System in Sutter County, California; and to Establish Rates for Public Utility Water Service in Sutter County, California.	Ratesetting	Ratesetting	YES
<b>A06-06-001</b> PACIFIC GAS AND ELECTRIC COMPANY, for Adoption of its 2007 Energy Resource Recovery Account (ERRA) Forecast Revenue Requirement and for Approval of its 2007 Ongoing Competition Transition Charge (CTC) Revenue Requirement and Rates.	Ratesetting	Ratesetting	YES
<b>A06-06-002</b> SOUTHWEST GAS CORPORATION (U 905 G), for Approval of Program Years 2007 - 2008 Low-Income Assistance Program Budgets.	Ratesetting	Ratesetting	NO

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A06-06-003</b> PACIFICORP (U 901 E), for Approval of 2007 and 2008 Low-Income Assistance Program Budgets.	Ratesetting	Ratesetting	NO
<b>A06-06-004</b> SOUTHERN CALIFORNIA EDISON COMPANY (U 338 E), for a Permit to Construct Electrical Facilities with voltages between 50 kV and 200 kV: Riverway Substation Project.	Ratesetting	Ratesetting	NO
<b>A06-06-005</b> SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E), for Approval of (1) Contract Administration, Least Cost Dispatch and Power Procurement Activities, and (2) Costs related to those activities recorded to the Electric Resource Recovery Account, incurred during the record period January 1, 2005 through December 31, 2005.	Ratesetting	Ratesetting	NO
<b>A06-06-007</b> WEST COAST GAS COMPANY (U 910 G), for Approval of Program Years 2007 and 2008 Low-Income Assistance Program Budgets.	Ratesetting	Ratesetting	NO
<b>A06-06-008</b> CITY OF BUENA PARK, for Authority to construct a Grade-Separated Pedestrian Crossing at the Buena Park Metrolink Station near Dale and Malvern Streets over Mainline 2 BNSF Railway Company at Milepost 161.20 in the City of Buena Park, County of Orange.	Ratesetting	Ratesetting	NO
<b>A06-06-009</b> SIERRA PACIFIC POWER COMPANY (U 903 E), for Approval of its 2007 and 2008 Low Income Energy Efficiency (LIEE) and California Alternate Rates for Energy (CARE) Plans and Budgets.	Ratesetting	Ratesetting	NO
<b>A06-06-010</b> MCI COMMUNICATIONS SERVICES, INC., TELECONNECT LONG DISTANCE SERVICES AND SYSTEMS COMPANY, dba TELECOM*USA, TTI NATIONAL, INC., for exemption from the requirement that they keep books and records in accordance with the Uniform System of Accounts.	Ratesetting	Ratesetting	NO

**PRELIMINARY DETERMINATION  
SCHEDULE**

Resolution ALJ 176-3174 (6/15/06)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A06-06-011</b> ALPINE NATURAL GAS COMPANY OPERATING COMPANY NO. 1 LLC (U 909 G), for Approval of Program Years 2007 - 2008 Low Income Assistance Program Budgets.	Ratesetting	Ratesetting	NO
<b>A06-06-012</b> SOUTHERN CALIFORNIA EDISON COMPANY (U 338 E0, for authority to Lease available land on the Center-Del- Amo/Alamitos-Center Right of Way to RHC Communities, LLC.	Ratesetting	Ratesetting	NO