

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

Resolution ALJ 176-3064  
Administrative Law Judge Division  
May 24, 2001

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

RESOLUTION ALJ 176-3064. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

---

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

**The Categories**

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The applicability of many of the changes it requires depends upon the category assigned to

the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

### **Mixed or Unclear Category Proceedings**

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

### **Next Steps**

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

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

### **Conclusion**

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

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

ALJ/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 May 24, 2001, 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 176-3064 (05/24/01)

<b>NUMBER TITLE</b>	<b>PROPOSED CATEGORY</b>	<b>PRELIM. CATEGORY</b>	<b>HEARING</b>
<b>A01-05-024</b> LUCKY 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>A01-05-025</b> INTEGRATED COMMUNICATIONS CONSULTANTS CO, NET-TEL CORPORATION (U-5818-C), Joint Application for a Commission Order Pursuant to Public Utilities Code Sections 851 and 854 Authorizing the Sale of Assets of Net-Tel Corporation to Integrated Communications Consultants Corporation	Ratesetting	Ratesetting	NO
<b>A01-05-026</b> SIERRA TOUCH AMERICA, LLC for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-05-027</b> REDUCED RATE LONG DISTANCE, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-05-028</b> VOS TRANSPORTATION, LLC, for authority under section 1031 et seq., of the Public Utilities Code to operate an on-call, door-to-door, Passenger Stage Operation between the Los Angeles International Airport, the Burbank Airport, the Ontario International Airport, the John Wayne Airport, the Los Angeles Amtrak Station, the Los Angeles/Long Beach Harbors and other places of interest described in the body of the Application, on the one hand, and points in Los Angeles and Orange Counties, on the other hand; and to Establish a Zone of Rate Freedom (ZORF) under Section 454.2 et seq., of the Public Utilities Code	Ratesetting	Ratesetting	NO
<b>A01-05-029</b> NEW ORBIT 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

## PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3064 (05/24/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
<b>A01-05-030</b> VIVA TELECOM, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013.	NDIEC Registration Application	Ratesetting	NO
<b>A01-05-031</b> NOVATEL GLOBAL, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
<b>A01-05-032</b> CALIFORNIA ASSN. OF COMPETITIVE TELECOMM, for Rehearing of Resolution M-4801	*	*	*
<b>A01-05-033</b> ONEPOINT COMMUNICATIONS-COLORADO, LLC, dba VERIZON AVENUE, for a Certificate of Public Convenience and Necessity to Offer Competitive Resold and Limited Facilities-Based Local Exchange Carrier Services and Access Services in the State of California	Ratesetting	Ratesetting	NO
<b>A01-05-034</b> SACRAMENTO REGIONAL TRANSIT DISTRICT, for an order authorizing the District to construct, modify, maintain, and operate a light rail passenger system and Union Pacific Railroad tracks across Jackson Road, Florin- Perkins Road, Mather Field Road, Mills Park Drive, Zinfandel Drive, Olson Drive, Kilgore Road and Sunrise Boulevard in the County of Sacramento, State of California	Ratesetting	Ratesetting	NO
<b>A01-05-035</b> INDIGINET, 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>A01-05-036</b> INDIGINET, INC., for a Certificate of Public Convenience and Necessity to Provide Resold and Limited Facilities- Based Local Exchange Telecommunications Services within California	Ratesetting	Ratesetting	NO

\*Application for Rehearing of Resolution is assigned to Legal Division.  
Categorization/Need for Hearing will be addressed as necessary if the Commission  
subsequently grants rehearing.

**PRELIMINARY DETERMINATION  
SCHEDULE**

Resolution ALJ 176-3064 (05/24/01)

<b>NUMBER TITLE</b>	<b>PROPOSED CATEGORY</b>	<b>PRELIM. CATEGORY</b>	<b>HEARING</b>
<b>A01-05-037</b> BHUPINDER K. SAINI, dba EAST BAY EXPRESS AIRPORTER, to extend the authority to operate as a passenger stage operation from Santa Clara, Alameda, Contra Costa and San Mateo Counties to San Joaquin County	Ratesetting	Ratesetting	NO
<b>A01-05-038</b> WORLD COMMUNICATIONS, INC., dba WASHINGTON WCI, for a Certificate of Public Convenience and Necessity to Offer Local Exchange and Interexchange Service within the State of California	Ratesetting	Ratesetting	NO
<b>A01-05-039</b> BRIDGECOM INTERNATIONAL, 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>A01-05-040</b> AFFINITY CORPORATION, NETWORK US, INC., for Authority to Transfer the Assets, including the Certificate of Affinity Corporation, an NDIEC operating in California, to Network US, Inc.	Ratesetting	Ratesetting	NO
<b>A01-05-041</b> MPOWER COMMUNICATIONS CORP. (U-5859-C), for Authority to Withdraw from Provision of Services in Specified Local Exchange Areas in California.	Ratesetting	Ratesetting	NO
<b>A01-05-042</b> GST PACIFIC LIGHTWAVE, INC. (U-5371-C), GST TELECOM CALIFORNIA, INC. (U-5469-C), for Authority to Withdraw the Provision of Telecommunication Services in California.	Ratesetting	Ratesetting	NO