

Decision 12-04-052

April 19, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Paul Betouliere,
Complainant,

C.99-03-069
(Filed March 29, 1999)

vs.

GTE California Incorporated,
Defendant.

ORDER DENYING REHEARING OF DECISION (D.) 99-09-052

In March 1999, Paul Betouliere filed a complaint against GTE California Incorporated (“GTEC”), after his son was billed for local calls made in the mistaken belief that an internet access number would be toll free. (Complaint, p. 1.)¹ He asserted that: (1) Rate center guidelines had been incorrectly applied to the Topanga area by GTEC; (2) Topanga required its own rate center; and (3) Topanga residents were not being accurately billed for toll-free calls, including the calls made by Mr. Betouliere’s son. (Rehrg. App., p. 1.) Mr. Betouliere supported his assertions with a GTEC policy document which outlined the history and purpose of rate centers. (Complaint, Exhibit A.) The complaint requested that the Commission require GTEC to relocate the rate center serving Topanga, California and to refund a GTEC phone billing of \$1,260.37. (D.99-09-052, at p. 7.)

GTEC moved to dismiss the complaint on the following grounds: (1) Once established, rate centers do not move regardless of changes in demographics; (2) the

¹ The application for rehearing contained no page numbers. Page numbers have been given to the rehearing application commencing with page 1.

complaint failed to claim any violation of law or of any rule or order of the Commission; and (3) Mr. Betouliere lacked proper standing because he was not the GTEC customer of record and his complaint was brought individually. (Motion to Dismiss, at p. 1.)

In Decision (D.) 99-09-052, we granted GTEC's motion to dismiss the complaint for failure to state a cause of action for which relief can be granted. (D.99-09-052, at p. 1.) We noted that the complaint failed to cite a violation of any provision of law or of any order or rule of the Commission. (D.99-09-052, at p. 6.) Mr. Betouliere conceded that GTEC was in compliance with tariffs controlling the location of rate centers, but merely requested that a rate center be moved closer to his local area. (D.99-09-052, at p. 5.) In addition, we affirmed the administrative law judge's denial of Mr. Betouliere's request for an expedited hearing. (D.99-09-052, at p. 3.) Further, we denied Mr. Betouliere's motion to compel production of the rate center map because he failed to provide adequate justification for such discovery. (D.99-09-052, at p. 6.)

Mr. Betouliere timely filed an application for rehearing of D.99-09-052. In his application, he asserts that we had acted unfairly. (Rehrg. App., p. 1.) Specifically, Mr. Betouliere states the following: (1) The Commission failed to adequately consider the material issues of fact put forth by Mr. Betouliere; (2) GTEC's tariffs allowed an additional rate center to be placed between Santa Monica and Topanga; and (3) Mr. Betouliere requested that GTEC produce its rate center map and explain the relevance of its intersecting gridlines. (*Ibid.*)

We have reviewed each and every allegation raised by Mr. Betouliere, and are of the opinion that good cause does not exist for the granting of his application for rehearing. In particular, he has failed to set forth in his rehearing application how the Decision is unlawful.

An application for rehearing shall set forth specifically the grounds on which the applicant considers the decision or order to be unlawful. (Pub. Util. Code, §1732; see also, Rule 16.1(c), Cal. Code Regs., tit. 20, § 16.1, subd. (c).) Furthermore,

an application for rehearing should not be used to relitigate an issue that has been ruled upon by the Commission.²

In his application for rehearing, Mr. Betouliere merely states that we were unfair in our Decision. (Rehrg. App., p. 1.) The application for rehearing also appears to be no more than an attempt to relitigate the case. However, the simple assertion that the Commission has acted unfairly or an attempt to relitigate do not demonstrate legal error. Therefore, Mr. Betouliere has failed to set forth specific grounds on which we acted unlawfully or committed legal error, and thus, has failed to comply with Public Utilities Code section 1732 and Rule 16.1(c) of the Commission Rules of Practice and Procedure. Accordingly, we deny the application for rehearing of D.99-09-052.

THEREFORE, IT IS ORDERED that:

1. Rehearing of D.99-09-052 is denied.
2. Case (C.) 99-03-069 is closed.

This order is effective today.

Dated April 19, 2012, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

² See *Application of Pacific Gas and Electric Co.* [D.10-12-064] (2010) ___ Cal. P.U.C.3d ___, at p. 11 (slip op.) [“An application for rehearing is not a vehicle for relitigation; rather, the ‘purpose of an application for rehearing is to alert the Commission to a legal error, so that the Commission may correct it expeditiously.’ ”].