

Decision 02-12-058 December 17, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Paul Higginbotham,	Complainant,
vs.	
Pacific Bell Telephone Company,	Defendant.
And Related Matters.	

Case 01-03-028

ORDER DENYING REHEARING OF
DECISION 02-08-069

I. SUMMARY

Decision 02-08-069 ordered Pacific Bell Telephone Company (“Pacific”) to publish on the Internet local and nearby prefixes which customers can call without incurring a toll charge, and refused to allow Pacific to recover from ratepayers the costs of such publication. Pacific filed an application for rehearing, seeking recovery. As discussed below, however, the costs Pacific incurs in implementing and updating prefixes on the Internet are properly recovered from its shareholders since such information represents an alternative means of obtaining service, and is thus an essential element of its tariffs.

II. BACKGROUND

On October 12, 1989, the Commission issued Decision 89-10-031, establishing a new regulatory framework for Pacific designed to cap prices based on a specified index of costs. Along with the index was included an adjustment, called the Z-Factor, to account for costs associated with exogenous events. On

June 8, 1994, the Commission issued Decision 94-06-011, setting forth nine criteria for determining whether an event may qualify for recovery as a Z-Factor. On October 8, 1998, the Commission issued Decision 98-10-026, eliminating the Z-Factor, except for changes in cost caused by “(1) matters mandated by the Commission and (2) changes in total intrastate cost recovery resulting from changes between federal and state jurisdictions.” 82 CPUC 2d 335, 365. Availability of this modified adjustment, called the Limited Exogenous Factor (“LE-Factor”), was further limited to changes expressly authorized by the Commission for recovery and unique to Pacific. *Id.* On July 12, 2001, the Commission issued Decision 01-07-026, adopting revisions to General Order 96-A intended “to ensure that consumers can exercise informed choices among increasingly complex and competitive utility services.” Mimeo at 1. In particular, the Commission required that utilities publish their tariffs on the Internet and that their tariffs “identify optional features as such, disclose alternative means of obtaining a particular service, and in both cases specify the means by which the customer chooses.” *Id.* at 4; see also Appendix at A-3.

III. DISCUSSION

On August 22, 2002, the Commission issued Decision 02-08-069, ordering Pacific to resume publication in its directories of local and nearby prefixes which customers can call without incurring a toll charge. As the Commission explained, statute and precedent require Pacific to make accurate information on pricing conveniently available. Merely allowing customers to contact an operator by dialing “0” for information on prefixes is not sufficient. In addition, consistent with Decision 01-07-026, the Commission ordered Pacific to publish and regularly update such information on the Internet. The Commission further explained, “While that decision does not specifically address the local calling prefixes at issue in this proceeding, the decision does reflect our strong policy favoring publication of tariff and pricing information at a site on the

Internet to enable fully informed customer choice.” Mimeo at 11. At the same time, the Commission refused to allow Pacific to recover from ratepayers the costs of publishing prefixes on the Internet.

On September 20, 2002, Pacific filed an application for rehearing of Decision 02-08-069. According to Pacific, “[T]he Commission erroneously rejected Pacific’s request to recover the expense of implementing, maintaining and updating local and nearby prefixes on its Internet website.” Application at 1. In its view, “Pacific is entitled to recover costs for an undertaking never before mandated by the Commission and beyond the control of management.” *Id.* at 2. By relief, Pacific seeks to have the Commission “authorize LE factor recovery of its costs for implementation and maintenance of local and nearby prefixes on its Internet website.” *Id.*

In seeking such relief, however, Pacific overlooks that an essential element of its tariffs is a list of local and nearby prefixes which customers can call without incurring a toll charge. Fundamentally, as discussed in Decision 01-07-026 and made applicable to utilities generally, tariffs must “disclose the alternative means of obtaining a particular service.” Mimeo at 2, A-3. And this requirement applies directly to the publication on the Internet of local and nearby prefixes, without which consumers cannot make informed choices about an “increasingly complex and competitive service.” *Id.* at 1. Furthermore, the Commission has emphasized that the cost of disclosing such information is the responsibility of the utility’s shareholders alone: “Utilities reap large economic gains from providing a broader range of services, and we believe that those who profit from economic activity should bear the associated expenses.” *Id.* at 15. In sum, Pacific should not be authorized to recover from ratepayers the costs it incurs in implementing and maintaining prefixes on the Internet.

IV. CONCLUSION

Pacific has failed to demonstrate that the Commission committed legal error in denying Pacific's request to recover from ratepayers the costs of publishing on the Internet local and nearby prefixes which customers can call without incurring toll.

THEREFORE, IT IS ORDERED that:

1. Pacific's application for rehearing of Decision 02-08-069 is denied.
This order is effective today.

Dated December 17, 2002, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners