

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Bell Telephone Company
dba SBC California to Modify D.94-09-065 to
Enable SBC California to Reduce Prices to Meet
Competition.

Application 04-03-035
(Filed March 30, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING SETTING PREHEARING
CONFERENCE**

On March 30, 2004, Pacific Bell Telephone Company dba SBC California (SBC) filed this application seeking Commission authorization to “lower or waive any tariffed charge . . . to meet a competitor’s legal price, irrespective . . . of the . . . price floor tests described in IRD [Decision (D.) 94-09-065].” SBC stated that consumers would benefit from modifying the price floors to enable SBC to lower its prices to meet competitor offerings, and that pricing to meet competition is legal, irrespective of cost.

On April 27, 2004, the assigned Administrative Law Judge issued a ruling directing SBC to respond to requests for copies of the application and resetting the date for filing protests to May 17, 2004.

The California Association of Competitive Telecommunications Companies, along with Anew Telecommunications Corporation dba Call America, AT&T Communications of California, Inc., MCI, Inc., Mpower Communications Corporation, and Telscape Communications, Inc. (CALTEL Parties) timely filed a joint protest. The CALTEL Parties contended that SBC’s proposal would “scrap” the entire D.94-09-065 price floor concept by

allowing SBC to price partially competitive services below cost. The Commission adopted the price floors to ensure that incumbent local exchange carriers did not thwart emerging competition by pricing partially competitive services below cost. The CALTEL Parties recommended that the Commission reject the application or undertake a comprehensive review of the price floor rules.

Cox California Telcom, L.L.C. and Pac-West Telecomm, Inc. (Cox/Pac-West) timely filed a joint protest and contended that price floors are working well and, due to limited competition, remain necessary. Cox/Pac-West also disputed SBC's legal analysis supporting its request.

The Office of Ratepayer Advocates and The Utility Reform Network (ORA/TURN) filed a joint, timely protest and argued that SBC had failed to demonstrate new facts that justified altering D.94-09-065. Like the CALTEL Parties, ORA/TURN requested that the Commission dismiss SBC's application.

Paetec Communications timely filed a protest and contended that the local exchange market is insufficiently competitive to remove price floors for SBC, and that SBC's request amounted to shifting all partially competitive services, which are subject to price floors, to the fully competitive category, with no price floors.

SBC filed a reply on May 27, 2004 and argued that the antitrust laws are not intended to shield competitors from competition, and that the Commission processes for approving tariff rate changes will ensure that SBC does not abrogate price floors across the boards.

Prehearing Conference (PHC)

A PHC is scheduled for:

**Friday, July 2, 2004
10:00 am
Commission Hearing Rooms
505 Van Ness Avenue
San Francisco, California**

At the PHC the parties should be prepared to discuss appropriate scope of this proceeding and to set a procedural schedule.

IT IS SO RULED.

Dated June 23, 2004, at San Francisco, California.

/s/ MARIBETH A. BUSHEY

Maribeth A. Bushey
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties who have provided an electronic mail address, this day served a true copy of the original attached Administrative Law Judge’s Ruling on all parties of record in this proceeding or their attorneys of record.

Dated June 23, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission’s policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.