

L/GTD/ddb/bjk *

Decision ~~88-04-016~~ APR 12 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on
the regulatory framework for
InterLATA Telecommunications Market.

I.85-11-013
(Filed November 13, 1985)

Application of AT&T Communications
of California, Inc. for limited
regulatory flexibility.

A.87-10-039
(Filed October 30, 1987)

ORDER DENYING APPLICATION FOR REHEARING
OF DECISION (D.) 88-12-091 FILED BY
TOWARD UTILITY RATE NORMALIZATION
AND MODIFYING D. 88-12-091

Application for rehearing of D. 88-12-091 was filed by
Toward Utility Rate Normalization (TURN).

We have reviewed each and every allegation of error in
TURN's application, and are of the opinion that sufficient
grounds for granting rehearing have not been shown. However,
upon further reflection, we have determined that the decision
requires modification.

THEREFORE, IT IS HEREBY ORDERED;

1. The second paragraph on page 23 is deleted and replaced
with the following:

"We note that the purpose of the Observation
Approach is to give AT&T-C an opportunity to
respond to the marketplace by setting prices
either below or above its current rate case
prices and to give the Commission an
opportunity to observe AT&T-C's behavior once
that flexibility is granted. We adopted the
pricing flexibility plan based on the weight
of expert witnesses' testimony in I.85-11-013
that Therefore, we believe that granting
AT&T-C some limited form of both upward and
downward flexibility is in the public
interest and will result in just and
reasonable rates. We agree with AT&T-C that
DRA's and TURN's arguments of illegality
regarding AT&T-C flexibility proposal are

unfounded. This Commission has ample authority under Public Utilities Code Sections 451, 454, 457 and 728 to grant limited rate flexibility to AT&T-C. TURN v PUC (1978) 22 Cal. 3d 529, 542. Duquesne Light Co. v. Barasch (1988) U.S. _____, 102 L.Ed. 2d 646, 662-663. We also believe that the Commission has fulfilled its legal duty under PUC Section 454 regarding public witness hearings."

2. The first sentence on page 24 is deleted and replaced with the following:

"While we believe that the pricing flexibility plan is reasonable and in the best interests of ratepayers, we will not hesitate to rescind pricing flexibility if changed circumstances cause the rates to become unreasonable and compromise the responsibility of the Commission to ensure just and reasonable rates."

3. The words "and we adopt it." are added to the end of the third sentence in the fourth full paragraph on page 44.

4. The second and third sentences in the third full paragraph on page 45 is deleted and replaced with the following:

"We are convinced that our compromise is a reasonable one. On the one hand, ratepayers will benefit from price competition in a more competitive marketplace and AT&T-C will be able to respond quickly to pricing initiatives of competitors. On the other hand, AT&T-C's pricing flexibility scheme as originally offered to the Commission has been limited and the scheme actually adopted by the Commission will be subject to a monitoring plan. This will ensure that the Commission will have the means to evaluate AT&T-C's place in the market while still having the tools to act quickly to ensure that ratepayers receive the full benefit of a more competitive marketplace. We also believe that our approach is reasonable in light of the whole record and fully consistent with the provisions of the Public Utilities Code, requiring the Commission to

ensure that rates charged by a public utility are just and reasonable."

5. The fourth finding of fact on page 86 is deleted and replaced with the following:

"The Commission has ample authority under the Public Utilities Code to grant limited rate flexibility to AT&T-C."

IT IS FURTHER ORDERED:

Rehearing of Decision 88-12-091, as modified herein, is denied.

The Executive Director shall cause a corrected decision to be published in this proceeding, incorporating the changes ordered above.

This order is effective today.

Dated APR 12 1989, at San Francisco, California.

G. MITCHELL WILK
President
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

Commissioner Frederick R. Duda,
being necessarily absent, did
not participate.

Commissioner Patricia M. Eckert
present but not participating.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Victor Weiss
Victor Weiss, Executive Director

Decision 89 04 016 APR 12 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Toward Utility Rate Normalization (TURN).

We have reviewed each and every allegation of error in
TURN's application, and are of the opinion that sufficient grounds
for granting rehearing have not been shown. However, upon further
reflection, we have determined that the decision requires
modification.

THEREFORE, IT IS HEREBY ORDERED;

1. The second paragraph on page 23 is deleted and replaced
with the following:

"We note that the purpose of the Observation
Approach is to give AT&T-C an opportunity to
respond to the marketplace by setting prices
either below or above its current rate case
prices and to give the Commission an
opportunity to observe AT&T-C's behavior once
that flexibility is granted. Therefore, we
believe that granting AT&T-C some limited form
of both upward and downward flexibility is in
the public interest and will result in just and
reasonable rates. We agree with AT&T-C that
DRA's and TURN's arguments of illegality
regarding AT&T-C flexibility proposal are
unfounded. This Commission has ample authority
under Public Utilities Code Sections 451, 454,
457 and 728 to grant limited rate flexibility
to AT&T-C. TURN v. PUC (1978) 22 Cal. 3d 529,

542. Duquesne Light Co. v. Barasch (1988) ___
U.S. ___, 102 L.Ed. 2d 646, 662-663. We also
believe that the Commission has fulfilled its
legal duty under PUC Section 454 regarding
public witness hearings."

2. The first sentence on page 24 is deleted and replaced
with the following:

"As we stated in D.87-07-017 while we believe
that the Observation Approach is reasonable and
in the best interests of ratepayers, we will
not hesitate to rescind this decision if
changed circumstances cause the rates to become
unreasonable and compromise the responsibility
of the Commission to ensure just and reasonable
rates."

3. The words "and we adopt it." are added to the end of the
third sentence in the fourth full paragraph on page 44.

4. The second and third sentences in the third full
paragraph on page 45 is deleted and replaced with the following:

"We are convinced that our compromise is a
reasonable one because it strikes a balance
between the ratepayers' right to benefit from
price competition in a more competitive market
place and AT&T-C's desire to respond quickly to
pricing initiatives of competitors. Moreover,
under this compromise the Commission will have
the means to evaluate AT&T-C's place in the
market while still having the tools to act
quickly to ensure that ratepayers receive the
full benefit of a more competitive marketplace.
We also believe that our approach is reasonable
in light of the whole record and fully
consistent with the provisions of the Public
Utilities Code, requiring the Commission to
ensure that rates charged by a public utility
are just and reasonable."

5. The fourth finding of fact on page 86 is deleted and
replaced with the following:

"The Commission has ample authority under the Public Utilities Code to grant limited rate flexibility to AT&T-C."

IT IS FURTHER ORDERED:

Rehearing of Decision 88-12-091, as modified herein, is denied.

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