

L/ltq

Decision 91-10-051

October 23, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Independent Consulting Services,)
a Division of Independent)
Communications Services, Inc.,)
a California corporation,)

Complainant,)

v.)

Pacific Bell,)

Defendant.)

Application of General Telephone)
Company of California, a)
California corporation, to)
discontinue its obligation to)
provide refunds for Protective)
Connecting Arrangements pursuant)
to Decision 87620.)

ORIGINAL

Case 85-07-008
(Filed July 1, 1985)

Application 87-08-019
(Filed August 10, 1987)

ORDER DENYING REHEARING

Pacific Bell has filed an application for rehearing of Decision No. 91-07-053. This decision orders Pacific Bell to file an advice letter providing an accounting of unrefunded revenues resulting from overcharges for protective connecting arrangements (PCA) and to deliver unrefunded balances for PCA overcharges to the Controller of the State of California following issuance of a Commission resolution confirming the amounts.

Pacific Bell contends that it need only account for refunds to PCA customers with certified equipment who had requested refunds and had been found eligible; and that California Escheat Law is limited to escheating of unclaimed refunds by identified claimants or uncashed refund checks.

The Commission has reviewed each and every allegation of the application for rehearing and believes that no grounds for rehearing are set forth. The scope of the accounting ordered is consistent with our orders in Decision No. 86-06-071 and we do not believe the California Escheat Law is limited to undelivered or uncashed refund checks in view of the discussion in Cory v. Public Utilities Commission (1983) 33 C.3d 522. We note that Pacific interprets the Cory decision narrowly by contending that the refund amounts subject to escheat are only those unpaid amounts relating to identified owners, i.e. customers. We do not agree with this interpretation by Pacific Bell. As the Supreme Court explained:

"The purposes of the Unclaimed Property Law are to protect unknown owners by locating them and restoring their property and to give the state the benefit of the use of it. (Douglas Aircraft Co. v. Cranston (1962) 58 Cal.2d 462, 463 [24 Cal.Rptr. 851, 374 P.2d 819, 98 A.L.R.2d 298].) The Controller states that during the last few years his efforts to locate the true owners have been successful in returning to them approximately 50 percent of the property turned over to him. The commission is not authorized to forfeit the refunds of the unlocated customers, and the property should be held for the benefit of the unlocated customers and for the use of the state in accordance with the Unclaimed Property Law." (33 C.3d at 528)

Having fully considered the issues raised by petitioner, the petition for rehearing should be denied.

WHEREFORE,

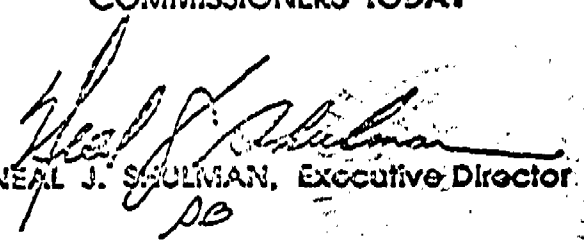
IT IS ORDERED that Pacific Bell's application for rehearing of Decision no. 91-07-053 is denied.

This order is effective today.

Dated October 23, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SULLIVAN, Executive Director