

Decision No. 87838 was issued on September 13, 1977. Petitioners have previously sought and this Commission has denied rehearing of Decision No. 87838. The California Supreme Court has three times annulled Commission approaches to treatment of the issues involved herein. By declining to grant petitioners' petitions for review of Decision No. 87838, the California Supreme Court has affirmed the treatment adopted in that decision. The United States Supreme Court has refused to grant certiorari in this matter. Thus the avenues of judicial review have been exhausted, and Decision No. 87838 has become final.

For these reasons, we conclude that petitioners' latest petition has no procedural basis and cannot be considered by the Commission and we deny it as improperly filed.

We have also reviewed the various contentions made in the petition to rehear Decision No. 89894, and after consideration are of the opinion that no good cause for granting the petition is set forth.

THEREFORE, IT IS ORDERED that the petition of the Pacific Telephone and Telegraph Company and General Telephone Company of California, filed February 6, 1979, is denied.

IT IS FURTHER ORDERED the refund plan and tariffs which are the subject of Decision No. 87838 be filed on March 23, 1979.

The effective date of this decision is the date hereof.

Dated at San Francisco, California, this 14th day of MARCH, 1979.

John E. Boyer
President

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.

Richard D. Howell
Clair J. Delridge
Donald M. King
Commissioners

*I am filing a
concurring opinion.*


John E. Boyer

A. 53587, et al.

PRESIDENT JOHN E. BRYSON, Concurring

I am persuaded that Decision No. 87838 has become final and that the Commission has no further jurisdiction to consider the telephone companies' petitions.

If the Commission had continuing jurisdiction, I would explore additional approaches to limit what the Decision termed the "staggering rate increases that are foreseeable" should the telephone companies lose eligibility for accelerated depreciation and investment tax credit under the federal tax law. However, after three California Supreme Court decisions, on the one hand, and the federal 1969 Tax Reform Act, on the other, it is uncertain whether such an approach could be found.


JOHN E. BRYSON
President

San Francisco, California
March 14, 1979