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MAIL DATE
3/21/97

Decision 97-03-052 March 18, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into the operations,)
practices, and conduct of Inter)
Continental Telephone Corporation,)
to determine whether the company)
has complied with the laws, rules,)
regulations and applicable tariff)
provisions governing the manner in)
which California consumers are)
switched from one long distance)
carrier to another, and other)
requirements for long distance)
carriers.)

ORIGINAL

I.97-01-011

ORDER DENYING REHEARING OF INVESTIGATION 97-01-011

Inter Continental Telephone Corporation (ICT) timely filed an application for rehearing of our Order Instituting Investigation 97-01-011 (OII), alleging that the OII violates Public Utilities Code section 1705 because it (1) is based upon insufficient evidence or evidence which has not been made available to ICT, and (2) fails to contain separately stated findings of fact and conclusions of law. On February 28, 1997, Consumer Services Division filed a response. We deny the application for rehearing.

ICT's argument seriously misconstrues the nature and function of an OII, which is simply the vehicle by which the Commission opens an investigatory proceeding pursuant to Public Utilities Code section 761 to determine whether the practices of a certificated carrier are lawful and proper. In such a proceeding, responding parties have a right of discovery and a right to a decision with separately stated findings and conclusions after a hearing takes place. Under Rule 14 of the Commission's Rules of Practice and Procedure, the initial OII

need only "indicate the nature of the matters to be investigated," a requirement amply satisfied by the OII in the case. Moreover, section 1705, by its terms, applies only to a decision issued after a hearing, not to an order which initiates a proceeding that will result in a hearing. ICT's arguments are patently without merit. As no legal error has been shown, the application for rehearing should be denied.

IT IS ORDERED that:

1. The application for rehearing of I.97-01-011 is denied. This order is effective today.

Dated March 18, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners