

Decision 99-05-039

May 13, 1999

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pacific Bell, for rehearing of resolution  
T-16254Application 99-01-035  
(Filed January 15, 1999)**ORDER DENYING REHEARING OF RESOLUTION T-16254****I. SUMMARY**

In Resolution T-16254, the Commission rejected an advice letter filing by Pacific Bell to eliminate the reference "yellow pages included" from its Foreign Telephone Directory Service Tariff. We cited the "protests, controversy and unknown potential impacts on ratepayers" as the basis for rejecting the filing. (Resolution T-16254, p. 6.)

**II. BACKGROUND**

On October 2, 1998, Pacific Bell filed Advice Letter (AL) 19727 to eliminate the reference "yellow pages included" from its Foreign Telephone Directory Service Tariff.<sup>1</sup> The tariff contains a schedule of charges for customers who purchase white pages directories for outside their local area code. Customers purchasing a white pages directory currently receive the yellow pages directory at no additional charge. Pacific Bell stated that there would be no impacts on revenue or withdrawals of service associated with AL 19727. Both the Office of

<sup>1</sup> Schedule Cal. P.U.C. No. A5, Exchange Services, 5.7 Directory Services, 5.7.3 Foreign Telephone Directory Service.

Ratepayer Advocates (ORA) and Toward Utility Rate Normalization (TURN) filed protests challenging the purported revenue neutrality of AL 19727.

In its protest, ORA interpreted AL 19727 as requiring a new charge to customers for yellow pages directories. ORA therefore concluded that there will be a revenue consequence in favor of Pacific Bell. In addition, ORA contended that AL 19727 will result in increased directory assistance revenues for Pacific Bell. ORA asserted that the absence of the yellow pages directories automatically increases customer demand for directory assistance. ORA emphasized that customers will only receive white pages directories for the ever-shrinking geographical spread of the area codes. ORA urged the Commission, at the very least, to require Pacific Bell to address these impacts on revenue.

Similarly, TURN contended that discontinuing the yellow pages directories will result in an increased use of directory assistance. TURN emphasized that Pacific Bell is concurrently seeking a 100% increase in directory assistance charges in A.98-05-038. TURN added that the tariff contains no proposed charge for customers who order yellow pages directories. TURN cited D.96-10-066, which states that "the continued free distribution of yellow pages is clearly in the best interests of carriers, their advertisers and the public." TURN also questioned why Pacific Bell will continue to charge the same amount for white pages directories, even though the yellow pages directories were no longer provided. TURN argued the tariff language evidences that the charge includes both yellow pages and white pages directories.

In response, Pacific Bell disputed that directory assistance revenues will increase. Pacific Bell objected that ORA and TURN are merely assuming there will be an increased demand for directory assistance. Pacific Bell also disputed that it is required to provide the financial impact of non-regulated services, such as yellow pages directories. Pacific Bell cited Pub. Util Code § 728.2 as precluding the Commission from exercising jurisdiction over yellow

pages directories. Pacific Bell construed the tariff as only listing the charge for a white pages directory. Pacific Bell reasoned that the reference "yellow pages included" simply accounts for the yellow pages directories previously being cobound with the white pages directories. Pacific Bell thus concluded that customers would not receive a diminished product under the proposed tariff revision.

Questioning the revenue neutrality and potential adverse impacts on ratepayers, the Commission rejected AL 19727 in Resolution T-16254. The Commission reasoned that yellow pages revenues were "above the line" for ratemaking purposes, even though the yellow pages rates were deregulated by Pub. Util. Code § 728.2. The Commission went on to state that it was unable to address the proposed tariff revision "without a more complete showing of its effects on ratepayers." (Resolution T-16254, p. 5.) Accordingly, we instructed Pacific Bell to file an application to seek the proposed revisions in AL 19727. Pacific Bell instead filed an Application for Rehearing of Resolution T-16254 on January 15, 1999.

### III. DISCUSSION

We have reviewed the arguments raised by Pacific Bell in its Application for Rehearing of Resolution T-16254. As discussed below, we conclude that sufficient grounds for rehearing have not been shown. Pacific Bell has failed to demonstrate legal error in Resolution T-16254, as required under Pub. Util. Code<sup>2</sup> § 1732.

The gravamen of Pacific Bell's Rehearing Application is that we erred in exercising jurisdiction over yellow page directories. (Pacific Bell Rehearing Application, p. 2.) Pacific Bell cites Section 728.2(a), which states that the "[C]ommission shall have no jurisdiction or control over classified telephone directories . . ."

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<sup>2</sup> Unless otherwise indicated, all statutory references are to the Public Utilities Code.

Pacific Bell argues that, in effect, the Commission is erroneously asserting its ratemaking authority with respect to yellow pages directories. Pacific Bell notes that we rejected AL 19727 based on "unknown potential impacts on ratepayers." (Resolution T-16254, p. 5.) Pacific Bell then cites Re Pacific Telesis Group, D.97-03-067, wherein the Commission stated that it does "not have 'ratemaking authority' over Yellow Pages." See also Re Alternative Regulatory Frameworks for Local Exchange Carriers, D.89-10-031. Absent rate of return regulation for yellow pages directories, Pacific Bell contends that there can be no effect on rates. Pacific Bell disputes that "the Commission's ability to take account of directory revenue" is in anyway affected by the proposed change in the tariff. (Pacific Bell Rehearing Application, p. 3.) Pacific Bell thus concludes that "no issues of revenue neutrality or ratepayer impacts" warrant the rejection of AL 19727. *Id.* Lastly, Pacific Bell objects that it has been singled out among publishers of yellow pages for a "Commission mandated give away." (Pacific Bell Rehearing Application, p. 3.)

Neither TURN nor ORA filed a response to the Application for Rehearing.

Contrary to the Rehearing Application, we did not err in exercising jurisdiction. Pacific Bell's contention that Section 728.2(a) divests the Commission of jurisdiction to regulate yellow pages rates is obviously valid. Yet it is equally obvious that the Commission has jurisdiction to consider yellow pages revenues for other ratesetting purposes. While Section 728.2(a) removes some regulatory oversight from the Commission's jurisdiction, "the authority the Commission has under the section provides a mechanism for protecting ratepayers. . ." D.90-09-084, (1990) 37 CPUC2d 488, 1990 Cal. P.U.C. LEXIS 795, \*6.

Pacific Bell simply misconstrues the Commission's rationale underlying Resolution T-16254. We are not exercising jurisdiction so as to establish rates for yellow pages directories. Rather, the Commission is required by Section 728.2(a) to consider yellow pages revenues in establishing rates for other services offered by Pacific Bell. Section 728.2(a) provides, in pertinent part:

[T]he commission shall have no jurisdiction or control over classified telephone directories . . . except that the commission shall investigate and consider revenues and expenses . . . for purposes of establishing rates for other services offered by telephone corporations.  
(Emphasis added.)

As we stated in D.95-12-021, our analysis of section 728.2(a) permits the consideration of revenues associated with yellow pages directories in "establishing the rates for services other than telephone directory advertising." D.95-12-021, (1995) 62 CPUC2d 690, 696. For example, in D.96-10-066, (1996) 68 CPUC2d 524, 616, the Commission stated that "rates are calculated based on yellow pages revenues." The Commission in D.89-10-031 likewise held that yellow pages revenues are subject to the ratesetting process. *See also* D.91-01-016, (1991) 39 CPUC2d 209, 255. Therefore, the Commission did not exceed its jurisdiction by rejecting AL 19727 based on other potential rate impacts associated with yellow pages directories.

#### IV. CONCLUSION

No further discussion is required of Pacific Bell's allegations of error. Accordingly, upon review of each and every allegation of error, we conclude that sufficient grounds for rehearing have not been shown.

Therefore, **IT IS ORDERED** that the Application for Rehearing of Resolution T-16254 filed by Pacific Bell is denied.

This proceeding is now closed.

**This order is effective today.**

**Dated May 13, 1999, at San Francisco, California.**

**RICHARD A. BILAS**  
President  
**HENRY M. DUQUE**  
**JOSIAH L. NEEPER**  
Commissioners