

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of SBC  
California (U 1001 C) for a Surcharge and a  
Balancing Account to Recover Undergrounding  
Costs in the City of San Diego.

Application 05-03-005  
(Filed March 3, 2005)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S  
SCOPING MEMO**

**Background**

In January 2001, the City of San Diego (City) adopted its Underground Utilities Procedural Ordinance to provide for the expedited undergrounding of overhead utility wires within the city limits. This Commission has adopted comprehensive, statewide rules that govern when and where a utility may remove overhead lines and replace them with underground service, and whether such costs will be recovered through rates. These rules are set forth in Tariff Rule 32 for Pacific Bell Telephone Company dba SBC California (SBC). To accommodate the City's ordinance, the Commission granted SBC permission to deviate from this Rule.

On March 3, 2005, SBC filed this application to approve a surcharge and balancing account to track and recover its costs for the City undergrounding project.

On April 7, 2005, the Utility Consumers' Action Network (UCAN) protested the application, arguing that undergrounding costs are before the Commission in the undergrounding rulemaking (Rulemaking 00-01-005). UCAN

also found SBC's cost estimates to be "shockingly high" and suggested that the proposed cost recovery might violate the New Regulatory Framework (NRF).

On May 2, 2005, XO Communications, Inc., MPower Communications Corp., and the California Association of Competitive Telephone Companies submitted their late-filed protest, along with a motion seeking leave to file it, and argued that SBC is already being compensated for undergrounding costs pursuant to rates set under the NRF.

On April 18, 2005, the ORA filed a motion requesting permission to late-file its protest to this application, which was granted on May 3, 2005. ORA also challenged the requested relief as violating NRF principles.

On April 29, 2005, Telscape Communications, Inc. (Telscape) filed a motion seeking permission to late-file its protest to the application, with the protest attached. In its protest, Telscape stated that SBC California proposes to place a surcharge on the fees Telscape pays to lease unbundled basic loops from SBC. Telscape contended that such a surcharge violates federal law, and that undergrounding costs must be allocated between regulated and unregulated services.

On May 24, 2005, the assigned Administrative Law Judge (ALJ) convened a prehearing conference. To resolve the threshold issues of whether the Commission was prohibited by federal law or NRF from approving the proposed surcharge, a schedule was set to consider the motions to dismiss. A coalition of competitive local carriers and ORA filed motions to dismiss based on these arguments, and both motions were denied by the Commission in Decision (D.) 05-10-028.

In that decision, the Commission also concluded that the parties had raised valid objections to including certain cost elements in the surcharge calculations.

Specifically, the Commission directed the Assigned Commissioner and ALJ to distinguish between ordinary undergrounding costs, which would be included in NRF and network element revenue requirements, and extraordinary undergrounding costs necessary to comply with the City's ordinance. The Commission also found that allocating undergrounding costs between SBC's regulated and unregulated services should be resolved, and any cost savings analyzed, quantified, and used as an offset to the costs SBC proposes to pass along to San Diego residents. Finally, the Commission concluded that on-going accounting and cost allocation oversight of SBC's program was essential.

On December 5, 2005, the assigned ALJ convened the second prehearing conference, and adopted a procedural schedule.

### **Schedule**

February 15, 2006	SBC Distributes Comprehensive Proposal With Supporting Testimony
April 14, 2006	Parties Distribute Reply Testimony
May 5, 2006	SBC Distributes Rebuttal Testimony
May 15 -17, 2006 10:00 a.m.	Evidentiary Hearings - Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, CA 94102

### **Scope of the Proceeding**

The scope of this proceeding includes whether SBC has justified its request for a surcharge and balancing account to recover the costs of undergrounding its aerial lines in San Diego. The issues include the costs to be included in the balancing account and the entities to be assessed the surcharge.

**Alternative Dispute Resolution**

The parties are encouraged to consider means other than litigation to resolve this dispute. Upon request of the parties, the Chief Administrative Law Judge will assign an Administrative Law Judge to serve as a mediator to assist the parties.

**Category of Proceeding**

This proceeding is categorized as ratesetting, and it is determined that hearings are necessary.

**Ex Parte Communications**

Pursuant to Pub. Util. Code § 1701.3(c), ex parte communications are prohibited, except as provided therein and in Commission Rules Of Practice and Procedure 7(c).

**Presiding Officer**

Pursuant to Rule 6(a) of the Commission's Rules of Practice and Procedure, the assigned Administrative Law Judge, Maribeth A. Bushey, is designated the principal hearing officer.

**IT IS SO RULED.**

Dated April 4, 2006, at San Francisco, California.

/s/ MICHAEL R. PEEVY  
Michael R. Peevey  
Assigned Commissioner

/s/ MARIBETH A. BUSHEY  
Maribeth A. Bushey  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner and Administrative Law Judge's Scoping Memo on all parties of record in this proceeding or their attorneys of record.

Dated April 4, 2006, at San Francisco, California.

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/s/ JOYCE TOM  
Joyce Tom

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.