

407 A.2d 65
(Cite as: 407 A.2d 65)

H

Commonwealth Court of Pennsylvania.
WESTINGHOUSE ELECTRIC CORPORATION,
Petitioner,
v.
PENNSYLVANIA PUBLIC UTILITY COMMISSION, Respondent,
The Bell Telephone Company of Pennsylvania et al.,
Intervenors.
Sept. 19, 1979.

Order of Public Utility Commission approving plan for allocating increases in [telephone utility revenues](#) was vacated, [404 A.2d 712](#), and utility filed petition for reargument. The Commonwealth Court, Nos. 1346 and 1364 C.D. 1978, held that action taken by Commission on utility's application respecting alleged oversight in allowance of additional revenues operated to render utility's appeal from original order inoperative since, whether application was a request for reconsideration or a request for modification, order was actually reconsidered by Commission in that it allocated burden of additional revenues among customers differently from manner in which it had allocated original allowance and thereby produced a different overall allocation of total of additional allowed revenues.

Petition for reargument denied.

West Headnotes

Telecommunications 372 977

[372](#) Telecommunications

[372III](#) Telephones

[372III\(G\)](#) Rates and Charges

[372k974](#) Judicial Review or Intervention

[372k977](#) k. Decisions and Orders Reviewable. [Most Cited Cases](#)

(Formerly 372k337.1, 372k337)

Action by Public Utility Commission on application of telephone utility respecting an alleged oversight in allowance of additional revenues operated to render appeal by utility from original commission order inoperative where, regardless of whether utility's ap-

plication was considered a request for reconsideration or request for modification, original order was actually reconsidered by Commission in that it allocated burden of additional revenues among customers differently from manner in which it had allocated original allowance and thereby produced a different overall allocation of total of additional allowed revenues. [Pa.R.A.P. No. 1701\(b\)\(3\)\(ii\)](#), 42 Pa.C.S.A.

*65 Robert H. Griswold, Edward J. Riehl, McNeese, Wallace & Nurick, Harrisburg, for petitioner.

Kathleen H. Larkin, Harrisburg, Mark P. Widoff, Consumer Advocate, Harrisburg, Jack R. Weinrauch, Harrisburg, Raymond F. Skully, Bell Tel. Co. of Pa., Andre C. Dasent, Community Legal Services, Philadelphia, Robert J. Masters, Beaver, Marvin A. Fein, Pittsburgh, Donald P. Young, Gen. Counsel, Gen. Service Administration, William H. Smith, Jr., Washington, D. C., Gary L. Smith, A. J. Jaffurs, S. L. Keyser, Pittsburgh, Harris T. Bock, Philadelphia, James H. Johnston, Cohn & Marks, Washington, D.C., Richard A. Fazzone, General Elec. Co., Schenectady, N.Y., Dennis L. Myers, Meyer, Capel, Hirschfeld, Muncy, Jahn & Aldeen, Champaign, Ill., Timothy F. Nicholson, Harrisburg, Charles W. Bowser, Pechner, Dorfman, Wolffe, Rounick & Cabot, William Deasey, Deasey, Scanlon, Bender, Ltd., Thomas J. Innes, III, Philadelphia, Bohdan R. Pankiw, Daniel F. Joella, Harrisburg, for respondent.

Irving R. Segal, Gerard J. St. John, Schnader, Harrison, Segal & Lewis, Daniel J. Whelan, Donald F. Clark, Philadelphia, Richard D. Spiegelman, Asst. Consumer Advocate, Harrisburg, for Bell Tel. Co. et al.

MEMORANDUM OPINION AND ORDER

PER CURIAM.

The Bell Telephone Company of Pennsylvania has filed a petition for reargument of the above captioned matter in which we filed our opinion and order on July 24, 1979. Bell principally seeks reargument relative to our holding that PUC's action on Bell's application concerning a \$9.4 million alleged oversight in allowance of additional revenues rendered Bell's appeal from the order inoperative pursuant to [Pa. R.A.P.](#)

407 A.2d 65
(Cite as: 407 A.2d 65)

[1701\(b\)\(3\)\(ii\)](#). Bell contends that we should have considered Bell's application to have been, not a request for reconsideration, but *66 a request for modification. It seems to us that whatever form Bell's application took, the PUC actually reconsidered its order because it allocated the burden of the additional revenues of \$9.4 million among customers differently from the manner in which it had allocated the original allowance and thereby produced a different overall allocation of the total of additional allowed revenues.

In any case, we do not construe [Pa. R.A.P. 1701\(b\)\(3\)](#) as rendering inoperative issues on appeal which were not the subject of an application for reconsideration. Indeed, we understand that Bell's claim for the \$9.4 million in revenues not allowed in PUC's original order was not raised in Bell's appeal. Surely, Rule R.A.P. 1701(b)(3)(ii) was not intended to render inoperative an appeal of issues which were not the subject of a request for reconsideration; and we certainly did not intend to so hold.

AND NOW, this 19th day of September, 1979 Bell's application for reargument is denied.

Pa.Cmwlth., 1979.
Westinghouse Elec. Corp. v. Pennsylvania Public
Utility Commission
407 A.2d 65

END OF DOCUMENT