

*Recent Cases from the Court of Appeal Construing Section 1759*

(In Reverse Chronological Order)

**18. *City of Anaheim v. Pacific Bell***

119 Cal. App. 4th 838, 2004 Cal. App. LEXIS 967 (2004)

In a matter abeyed by the Supreme Court during the pendency of *Orloff*, the Court of Appeal (Fourth District, Division 3), affirmed the trial court's dismissal of the City's claim for reimbursement of costs incurred to underground Pacific Bell's lines. The City had created a special undergrounding district and had advised Pacific of the City's belief that the District met the requirements of Pacific's tariff rule for utility-funded undergrounding. When Pacific refused to underground at its own expense, the City did so and sued Pacific for the costs incurred by the city. The Court concluded that undergrounding of utility wires was a matter of statewide concern over which the Commission not only (1) possessed exclusive jurisdiction but (2) had exercised that jurisdiction. Because the City sought to circumvent what the court viewed as a statewide undergrounding plan, the action in Superior Court was deemed to interfere with the Commission in violation of Section 1759.