

Decision No. 84924

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CONTINENTAL TELEPHONE COMPANY OF
CALIFORNIA, a California corporation,
for authority to increase its rates
for telephone service.

Application No. 55376
(Filed December 12, 1974)

OPINION AND ORDER
GRANTING RECONSIDERATION

On December 12, 1974 Continental Telephone Company of California (Continental) filed this application requesting a general rate increase to provide approximately \$15,500,000 of additional annual gross revenues; included therewith was a petition for prompt interim rate relief amounting to \$5,609,000 annually, assertedly justified by a serious decline in its interest coverage. Hearings were held on the interim relief issue on March 24, 25, and 26, 1975. At the hearings Continental introduced evidence, based on its 1975 budget, that additional revenues of approximately \$3.6 million would be required in 1975 to provide an interest coverage ratio of 2.30 for the calendar year 1975. The staff witnesses testified that 2.18 times coverage would provide an adequate cushion to permit debt financing in early 1976 and that Continental's toll revenue estimates for the year were approximately \$1,000,000 too low. In rebuttal, a Continental witness testified that, according to recent estimates from The Pacific Telephone and Telegraph Company (Pacific), the budgeted toll revenues were too high rather than too low. Accordingly, Continental urged the Commission not to adopt the optimistic revenue estimates of the staff in establishing interim rates.

The Commission determined that the decline in Continental's interest coverage constituted a financial emergency and granted an interim increase (Decision No. 84662). It adopted the staff's position that coverage of 2.18 was adequate and also adopted the staff's revenue estimate. It authorized a surcharge on Continental's intra-state billings designed to provide \$1,657,000 of additional revenues during the year 1975, substantially less than the amount sought by Continental. Approximately 50 percent of that difference was due to adoption of the lower coverage ratio of 2.18 recommended by the staff. The other \$1,000,000 reduction in requested revenue resulted from the adoption of the staff's revenue estimate.

Presumably, in response to Continental's position at the interim hearings, the decision made the following statement (mimeo. p. 13) in adopting the staff's revenue estimate:

"Because of the ability of applicant to seek further interim relief should there be any major unanticipated loss of revenue, we will accept the more optimistic revenue projection proposed by the staff." (Emphasis added.)

On July 25 Continental filed a petition to modify Decision No. 84662, claiming that the staff projection of toll revenues was significantly in excess of those being actually experienced during the time when the interim relief petition was under submission and that, as a result, the company would need an additional \$1,853,000 in revenues before financing could be attempted.^{1/}

Applicant conceded that it was unrealistic to expect the consumers to bear the total amount of this sum in the remaining few months of 1975 and indicated that its lender would be willing to

^{1/} It also sought modification of the provisions contained in the order which were designed to provide protection against possible overcollection.

extend the expiration of applicant's short-term line of credit to permit financing at a later date. It also claimed to be engaged in a program to accomplish a reduction in expenditures. It was indicated that the program would cause delays in providing new service and in upgrading existing plant. While the program includes deferral of maintenance, it was alleged that there would be little immediate impact on service to existing customers.

The staff on August 7, 1975 filed a written motion to dismiss the petition, claiming that it was an attempt to evade Rules Nos. 23, 24, and 52 of the Commission's Rules of Practice and Procedure and the notice requirements of Section 454(a) of the Public Utilities Code.

Discussion

This dispute over whether this is a new or continuation of an existing rate increase would be of primarily theoretical interest were it not for the public notice requirements of Section 454(a) of the Public Utilities Code. That section provides:

"No public utility shall raise any rate or so alter any classification, contract, practice, or rule as to result in any increase in any rate except upon a showing before the commission and a finding by the commission that such increase is justified. Whenever any electrical, gas, heat, telephone, water, or sewer system corporation files an application to increase any rate of charge, other than an increase reflecting and passing through to customers only increased costs to the corporation, for the services or commodities furnished by it, the corporation shall furnish to its customers affected by the proposed increase notice of its application to the commission for approval of such increase. The corporation may include such notice with the regular bill for charges transmitted to such customers within 45 days if the corporation operates on a 30-day billing cycle, or within 75 days if the corporation operates on a 60-day billing cycle.

The notice shall state the amount of the proposed increase expressed in both dollar and percentage terms, a brief statement of the reasons the increase is required or sought, and the mailing address of the commission to which any customer inquiries relative to the proposed increase, including a request by the customer to receive notice of the date, time, and place of any hearing on the application, may be directed."

If the company's theory is correct, and modification is an available remedy, then no additional notice to the general consuming public is required. On the other hand, if the staff characterization is correct, applicant cannot obtain the relief sought without filing of a new or amended application which would require notice to the general consuming public by bill insert or separate mailing (§ 454(a), Pub. Util. Code).

The original Section 454(a) notice, given by Continental, stated that the company was seeking \$5.6 million of interim relief. The public responded to that notice either by correspondence or by participating in hearings held at various locations through the applicant's service area.^{2/} The staff has not claimed that it expects to add any useful evidence or comment to the record as a result of the additional notice it claims is required. Nor has it shown any reason why the public comments, insofar as they touched on the question of interim relief, should not be considered as comments on the renewed petition for interim relief.

If the company's petition for modification had asked for interim relief in excess of that mentioned in its original Section 454(a) notice, there might be good reason to require additional notice;

^{2/} The company was careful to inform those attending the hearings conducted after Decision No. 84662 that the company was seeking additional interim relief.

in that event, it would be possible to argue that the original notice could no longer be relied upon and that the statutory purpose required notice of any additional relief sought. Here, however, the company is not seeking any more relief than the amount of interim relief stated in the original notice. Section 454(a) literally requires only one notice per rate increase proceeding. We see no reason to expand that requirement. So long as the original notice remains an accurate depiction of the ultimate issues and the public has an opportunity to participate in the resolution of those issues, the spirit as well as the letter of Section 454(a) has been observed.

We find that:

1. The company's mailed notice to its customers indicated that the company was seeking \$5,609,000 in interim relief.
2. The public's responses to the original request for interim relief are applicable to this request for interim relief.
3. The only material difference between the company's initial reasons for seeking interim relief and those asserted on reconsideration is the existence of later data.

We conclude that:

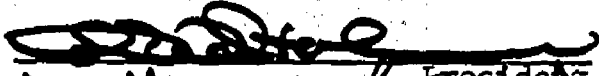
1. A utility denied interim rate relief in part may seek reconsideration of that denial by giving notice to the parties as required by Section 1708; if the utility originally gave notice of the request for interim relief as required by Section 454(a), no additional notice to its consumers is required unless there has been a material increase in the amount of relief sought.


2. The Commission's Rules of Practice and Procedure have not been evaded.


IT IS ORDERED that the staff's motion to dismiss applicant's petition to modify Decision No. 84662 is denied.

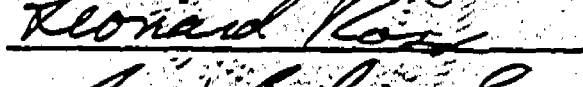
The effective date of this order is the date hereof.


Dated at San Francisco, California, this 16th
day of SEPTEMBER, 1975.



President








Commissioners