

Decision 84-10-056 October 17, 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of General Telephone)
Company of California, a corpora-)
tion, for authority to increase)
certain intrastate rates and)
charges for telephone services.)

Application 83-07-02
(Filed July 1, 1983)

And Related Matters.)

OII 83-08-02
(Filed August 3, 1983)

Case 82-10-08
(Filed October 28, 1982)

(See Decisions 83-12-067 and 84-07-108 for appearances.)

OPINION MODIFYING DECISION 84-07-108

Summary of Decision

By application for rehearing General Telephone Company of California (General) asks us to modify our recent decision on its 1984 revenue requirement, and to increase its telephone rates to generate another \$16 million in annual revenue. The points raised by General primarily relate to whether the rates we adopted in Decision (D.) 84-07-108 last July will generate the gross revenue we estimated. We conclude that General's assertions may be meritorious with respect to \$15.718 million in annual revenue; however in the absence of formal hearings, we will make no rate adjustment at this time. Instead we will allow General to establish a tracking account, to accrue these revenues until General's new

attrition rates become effective. In the attrition proceeding itself, we will require General to make a presentation supportive of its modification request. Based on the outcome of these hearings we will order appropriate adjustments to the tracking account, and ultimately to General's rates, to coincide with the attrition rate change.

The result of one of General's contentions, that it will realize less revenue from the settlement process with Pacific Bell (PacBell) than estimated, means that PacBell's rates should be reduced by \$7.731 million annually, assuming General is correct. PacBell is ordered to establish a tracking account similar to the one ordered for General, so that an appropriate rate reduction can be implemented pending the outcome of the attrition hearings.

Other contentions raised by General and the Telephone Answering Services of California (TASC) which allege legal error in our July decision are not addressed in today's opinion. They will be addressed in a separate opinion.

Background

On July 18, 1984 we issued a Third Interim Opinion in these consolidated proceedings which, among other things, established General's test year 1984 revenue requirement. An application for rehearing was filed by General on August 17, 1984. TASC also filed an application for rehearing on August 17, and American Telephone and Telegraph Communications of California (AT&T-C) filed a petition for modification.

Certain points raised by General do not allege legal error; rather General alleges mathematical and policy errors. Today's opinion addresses only the following of General's contentions (with

the remaining several issues to be addressed later in an order addressing allegations of legal error):

1. General will realize \$6.056 million less in zone usage measurement (ZUM) settlement revenue than estimated in D.84-07-108;
2. General will realize \$.379 million less than we estimated from revised rates related to private line services;
3. General's revised move and change charges will generate \$3.426 million less than estimated;
4. The adopted test year level of intraLATA toll revenue was calculated incorrectly, and overstates by \$5.785 million the estimated level of revenue General can realize.
5. Clarification of whether the adopted criteria for imposing any surcharge necessary because of attrition year revenue requirement increases means the surcharge would be applied to toll calls provided by interLATA carriers (now AT&T-C) but billed for by General; whether the billing surcharge will apply to General's access charges assessed on interLATA carriers; and, whether the surcharge's billing base criteria should be modified to conform to that for PacBell's surcharge.
6. Whether General's implementation of our order on establishing tariffed sales prices for single and multiline terminal equipment is in conformance with our intent in D.84-07-108.

General's application for rehearing also alleged that the \$595,000 generated by the increased line extension charges was incorrectly considered as revenue, whereas it should be considered as contributions to offset telephone plant in service. Subsequently, General withdrew this allegation, having determined that line extension charges collected from individuals are booked as revenue.

Settlement Revenue Effects From D.84-06-111

Our D.84-07-108 (pages 123 and 182, mimeo.) assumed General would realize estimated additional revenues of \$77.1 million resulting from increasing certain statewide rates in the PacBell

proceedings. A portion of the overall \$77.1 million relates to revenue General will realize from increases in ZUM rates through the ZUM revenue settlement process with PacBell. Although rates for all three ZUM calling zones were raised in our D.84-06-111 on PacBell, and we assumed General would realize an additional \$14.5 million from the increases, General points out that ZUM Zone 1 billings are not subject to the ZUM settlement process. The result is that by assuming that the total ZUM billing increase is subject to ZUM settlements, we overestimated settlement revenue that would flow to General by \$6.056 million. Of course, if General is correct it means that we incorrectly set PacBell's rates recently by assuming PacBell would realize \$6.056 million less revenue from revised ZUM rates than it will realize. While General's rates are \$6 million too low, PacBell's are too high by the corresponding amount.

Our Evaluation and Compliance Division staff has investigated and recalculated the estimated 1984 flow of ZUM revenues stemming from the increases authorized in the PacBell proceedings, D.84-06-111. It concludes that General is correct, and that General will realize \$6.056 million less than we estimated, while PacBell will realize \$6.056 million more. Our staff informs us that PacBell agrees with staff's recalculation of the estimated ZUM revenue PacBell will realize in 1984.

Revenues From Private Line Services

D.84-07-108 estimated that the increased private line rates (General's Schedule G) would increase revenues by \$2.313 million. The revenues were overstated by \$.379 million, according to General, because our staff relied on outdated workpapers submitted early in the proceeding by General, and which were subsequently updated and superseded by Exhibit 118. Our staff has investigated General's contention, and it reports that we overstated the revenues and billings from adopted rates, but by only \$55,000.

Revenues From Service Connection - Move and Change Charges

General believes the increased rates for its Schedule A-41 will generate \$3.426 million less than estimated, because staff used

a \$25 charge for the central office work charge relating to residential customers whereas we adopted a \$20 charge. The \$5 difference times the estimated 785,000 annual occurrences when the charge will be assessed equals the \$3.426 million shortfall. Staff has investigated and concludes that General is correct.

Estimated Test Year IntraLATA Toll Revenue

General contends we used an "inappropriate method" for computing adopted test year intraLATA toll revenue, resulting in adopted test year revenues at present rates being overstated by \$5.7 million.

With the assistance of our Evaluation and Compliance Division, we have investigated General's assertion. The method used to derive test year intraLATA toll revenue is correct, and we used the inputs submitted by General in its Exhibit 123, page 2. However, further review by our staff uncovered that General's input data in Exhibit 123 was incorrect: General based its estimate of intraLATA toll revenue on the predivestiture state income tax rate of PacBell, instead of applying the post divestiture 1984 tax rate. The result of using the correct inputs is that General's estimated intraLATA toll revenues for 1984 were indeed overstated in D.84-07-108 by \$5,906,000. Instead of \$539,232,000, General will realize estimated test year intraLATA toll revenue of \$533,326,000. Since the error in question was caused by a defect in General's own Exhibit 123, there is some question whether we should allow a correction at this late date. Obviously General has the burden of proving its affirmative case. There may be a point beyond which it is impermissible to entertain remedial changes necessitated by General's failure to correct its own Exhibits prior to submission of the case. This is primarily a legal issue which should be addressed in the hearings which review General's proposed modifications.

Summary of Amounts Subject to Tracking
Account Mechanism

Following is our development of the additional revenues which will be accorded tracking account treatment and which may be

placed into rates, (assuming they are fully justified in hearings) at the time General's 1985 attrition rates become effective:

\$6,056,000	(settlement revenue flow)
55,000	(private line services)
3,426,000	(service connection charges)
<u>5,906,000</u>	(overstatement of intraLATA toll revenue)
Total \$15,443,000	

General has requested retroactive recovery of the revenue shortfall back to the "effective date of D.84-07-108" (although the revised rates went into effect about 20 days after that). We will not allow the retroactive recovery that General requests. Retroactive revenue recovery is legally only permissible if a balancing account has been established, and even then recovery can only go back to the date such an account was authorized and established. Therefore General will be allowed to begin accruing revenues in the tracking account from the effective date of this decision forward, and will in no event accrue amounts attributable to the revenue shortfall for the interval between the effective dates of D.84-07-108 and today's decision.

Settlement Effects

In order to develop the revised revenues for both PacBell and General it is necessary to consider the cross-flows of settlement revenues which will result from such revised rates. The combined effects of the revisions in PacBell's and General's adopted revenues are as follows:

Revenue Effects

General

\$15.443 million	(increase in revenue)
<u>-.275 million</u>	(settlement in revenue cross-flows)

\$15.718 million (increase in annual revenue)

PacBell

\$6.056 million	(decrease in revenue)
<u>1.675 million</u>	(decrease in revenue due to settlement flow from General's increase in revenue)

\$7.731 million (decrease in annual revenue)

Establishment of the Tracking Account

Resolution of the issues raised by General in its modification request necessarily requires a delicate balancing of the interests of the utility and its ratepayers. As regulators we strive to be both fair and precise in developing the test year revenue requirement in our rate decisions. If legitimate calculation or mathematical errors have been made in our decisions, fairness and evenhanded regulatory policy require that they be corrected. Nonetheless it is disconcerting to make corrections which in this case work totally in General's favor, without requiring the proponent(s) of the corrections to withstand cross-examination so that all parties to the proceeding can be satisfied that basic due process concerns are addressed.

Our decision to require that General's request be subjected to cross-examination is not intended to single out General. The problem presented in this case is neither new nor singularly confined; in this case, however, the problem is exacerbated by the magnitude of the claimed calculation errors. It is crucial, in fairness to all parties, that any utility claiming calculation errors be prepared to defend its claims under cross-examination. At minimum this requires inclusion in its Application for Rehearing and/or Modification of verified statements (in format akin to prepared testimony) of the witnesses propounding correction of the Commission's decision. In certain cases these statements will be sufficient to assure that fairness is served, in other cases it may be more appropriate for the Commission to require brief hearings based on the statements submitted. This is necessarily a case-by-case determination. In this case where hearings will begin very shortly in General's attrition phase, we will require that General support its \$15.718 million claim by making an affirmative showing which fully describes General's internal review process relative to D.84-07-108, including a listing of all errors found during this process which impacted General's revenue requirement in either direction. After the hearings we may adjust the \$15.718

million figure for errors working in ratepayers' favor. However we will entertain no upward adjustment to the \$15.718 million figure, under the assumption that General's modification request is a result of its thorough review of those corrections needed to make it whole.

In the meantime we will allow General to establish a tracking account to accrue only those revenues associated with the \$15.718 figure discussed in this decision, until General's new attrition rates become effective. This accrual shall be done through a monthly prorate of the \$15.718 annual amount. In the attrition proceeding itself, we will require General to make the affirmative showing, discussed above, of entitlement to these revenues. Based on the outcome of these hearings, we will order appropriate adjustments to the tracking account; the amounts which General's showing supports plus interest will then be added to its rates, to coincide with the attrition rate change. This one time adjustment will make General whole within the strictures of the ban on retroactive ratemaking and will also provide General's ratepayers with a measure of rate stability by shielding them from the seriatim rate increases that would otherwise result.

Impact on PacBell

The result of one of General's contentions, that is will realize less revenue from the settlement process with PacBell than estimated, means that PacBell's rates should be reduced by \$7.731 million annually, assuming General is correct. We will order PacBell to establish an account to track this amount so that a corresponding adjustment can be made to PacBell's rates to coincide with the outcome of PacBell's attrition hearings. This accrual shall be done through a monthly prorate of the \$7.731 million annual amount.

General's and AT&T-C's Requested
Clarification and Modification of the
Adopted Surcharge Rate Design to Spread
1985 and 1986 Attrition Revenue Requirement

General asks that we clarify our adopted criteria for adjusting rates in the event of revenue increases resulting from

attrition allowance filings for 1985 and 1986. AT&T-C also requests clarification. The language in D.84-07-108 which alarms both General and AT&T-C is:

"When, at any time, the cumulative revenue increase exceeds \$50 million, the total cumulative surcharge revenue requirement shall be respread and the new surcharge applied equally on all [emphasis in original] intrastate services [emphasis added] on a bill-and-keep basis. Bill-and-keep means the surcharge on toll calls [emphasis added] will be retained by General and not submitted for revenue division with other utilities."

Both General and AT&T-C think it would be unfair and unlawful for the surcharge to apply to toll calls handled by AT&T-C but billed for by General. It was not our intent to have a surcharge apply to interLATA calls, and we have already addressed this conceptual point last December in connection with General in D.83-12-067. The surcharge will only apply to General's intraLATA message toll calls.

Another point raised by AT&T-C is that the surcharge on "all intrastate services" should not apply to General's access charges for interLATA carriers, such as AT&T-C. It contends that "the Commission has clearly indicated that an exchange company's access charges constitute a unique area to be considered on an independent basis." Access charges are, as AT&T-C points out, being addressed in a separate proceeding, and accordingly AT&T-C contends "It would be both irrational and a violation of AT&T-C's rights to due process of law, to directly impact General's access rates in the attrition rate design...." Since there are so many issues outstanding with respect to access charges, primarily because devising the charges is an ongoing process now in its infancy, we will not impose any attrition-related surcharges on General's access charges to interLATA carriers.

The last point on the surcharge rate design is General's request that the billing base, or services subject to the surcharge, be made the same as that for PacBell's present surcharge in its

Schedule 36-T, Rule 33. PacBell's surcharge is limited to certain recurring rates, whereas General's surcharge would apply to recurring rates, nonrecurring charges, and local usage (excluding ZUM). General believes it is improper to impose its surcharge on rates and charges which are "usage based, competitive (e.g. CPE) or priced in excess of direct costs." Rather than modify the billing base for General's eventual surcharge our inclination at this juncture is to modify PacBell's so it conforms to the surcharge adopted for General. We will review whether to change PacBell's surcharge billing base in the upcoming hearings on PacBell's attrition allowance mechanism. Our view is that billing surcharges are undesirable because of the customer confusion they cause, but if there must be rate changes between general rate decisions it is preferable to spread the impact as broadly as possible. We will not modify the surcharge billing base as requested by General.

General's Establishment of Sales Prices
For Certain Embedded Terminal Equipment

By General's letter of August 14, 1984 it requests ratification of certain tariff provisions which it filed in compliance with D.84-07-108, related to establishing sales prices for embedded customer premise equipment (CPE). In repricing single line CPE, using the net book value criteria we adopted in D.84-07-108, General found the tariffed sales price for a few single line CPE items would increase. General proposes to reduce prices only where that is the result of applying our adopted criteria, and not to increase any single line CPE prices. This solution is certainly within the spirit of our order. We had not contemplated increasing any tariffed single line CPE sales prices due to the use of a more current net book value factor.

Our D.84-07-108 directed General to offer alternative prices on what are termed state of the art PBXs: (1) the price as calculated solely from the two-tier contracts (for customers under such contracts); or (2) the tariffed sales price derived from following the adopted pricing criteria for other multiline CPE.

General points out that for these PBX systems (GTD-120, Focus, and Rolm) the individual net book values are known, because most were placed under individual contracts. Instead of using average net book value for this class of multiline CPE, General proposes using the current actual net book value by system, and developing a price quote upon request. The customer with an in-place PBX would select from the sales prices resulting from the two pricing formulas. The transaction, warranty, and administration cost component adopted for determining the sales price of multiline CPE only apply to the noncontract price calculated under our criteria.

General's proposed approaches for applying our criteria for both single line and state of the art electronic PBXs are reasonable, and the rates and the tariff provisions which result are reasonable.

Findings of Fact

1. General will realize \$6,056,000 less in annual revenue from ZUM rates, which are subject to settlement with PacBell, than estimated in D.84-07-108; likewise, PacBell will correspondingly realize \$6,056,000 more revenue from the recently increased ZUM rates than we estimated in setting its rates for 1984 in D.84-06-111 and D.84-07-108.

2. Estimated intraLATA toll revenues, received by General through the division of revenue process with other utilities, were overstated in D.84-07-108 (page 45) by \$5,906,000.

3. D.84-07-108 overstated by \$55,000 revenue which will be generated by revised rates for private line services.

4. D.84-07-108 overstated by \$3,426,000 revenue which will be generated by General's "Move and Change" charge.

5. General will be allowed to demonstrate that its rates should be adjusted to generate an additional \$15,718,000 in annual revenue during its upcoming attrition hearings.

6. We will allow General to establish a tracking account, to accrue revenues plus interest at the legal rate in accordance with the discussion in this decision until new attrition rates become effective.

7. Based on the outcome of hearings, we will order appropriate adjustments to General's tracking account, and ultimately to General's rates, to coincide with the attrition rate change.

8. We will require PacBell to establish a tracking account relative to the revenues referred to in Finding of Fact No. 1, so that an appropriate rate reduction can be implemented pending the outcome of PacBell's attrition hearings.

Conclusions of Law

1. The modifications to D.84-07-108 requested by General should be the subject of further evidentiary hearings, prior to implementation of appropriate rate changes.

2. The tracking account mechanisms discussed in this opinion (subject to the rule against retroactive ratemaking) are justified and reasonable methods of protecting the interests of General and its ratepayers.

3. General's proposals discussed in this opinion relating to its sales program for CPE are reasonable.

IT IS ORDERED that:

1. General Telephone Company of California (General) is authorized to establish a mechanism to track the revenues associated with the \$15.718 million adjustment, the subject of this opinion, effective today, and pending further order of this Commission following hearings in this matter.

2. Pacific Bell is ordered to establish a mechanism to track the \$7,731,000 adjustment the subject of this opinion, effective today, and pending further order of this Commission following hearings in this matter.

3. American Telephone and Telegraph Communications of California's petition for modification is granted: General's increased attrition revenue requirement in connection with attrition years 1985 and 1986 will not be spread by a surcharge on either interLATA toll calls or access charges paid by interLATA carriers.

This order is effective today.

Dated OCT 17 1984, at San Francisco, California.

I will file a written dissent.

PRISCILLA C. GREW
Commissioner

VICTOR CALVO
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

I will file a written concurrence.

WILLIAM T. BAGLEY
Commissioner

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE BOARD OF
COMMISSIONERS NOV 1 1984


Joseph E. Bodovitz
Joseph E. Bodovitz, Executive Director

A. 83-07-02
D.84-10-056

PRISCILLA C. GREW, Commissioner, Dissenting in part:

I support the majority's decision except for its treatment of the alleged errors. One of the calculation errors alleged by General in D. 84-07-108 has been traced to General's use of an incorrect tax rate in Exhibit 123 of its original showing in this case. General asserts that this error resulted in overstatement of its intraLATA toll revenues by \$5,906,000.

Since the error in question was caused by a defect in General's own Exhibit 123, I oppose allowing a correction at this late date. All of the other errors alleged by General are mistakes in calculating the revenue impacts of the rates we adopted for Pacific and General in D. 84-06-111 and D. 84-07-108; they are calculation errors in the Commission's decision itself. In contrast, the error in General's estimate of intraLATA toll revenue is a defect in the utility's own showing prior to submission of the case and closing of the record. General has the burden of proving its affirmative case, and had an opportunity to correct this error prior to the closing of the record.



Priscilla C. Grew, Commissioner

October 17, 1984
San Francisco, California

A.83-07-02
D.84-10-056

WILLIAM T. BAGLEY, Commissioner. Concurring:

I would strike the following language as it appears on page 5 of the opinion adopted today:

"Since the error in question was caused by a defect in General's own Exhibit 123, there is some question whether we should allow a correction at this late date. Obviously General has the burden of proving its affirmative case. There may be a point beyond which it is impermissible to entertain remedial changes necessitated by General's failure to correct its own Exhibits prior to submission of the case. This is primarily a legal issue which should be addressed in the hearings which review General's proposed modifications."

Any such distinction between this subject error and the others would be based not upon a logical or categorical difference but instead upon an "I caught you" approach to regulation. This commission should always resist an I caught you or "I gotcha" attitude. Our obligation is to establish a fair and reasonable return. By definition, our original decision in this matter did just that. If, in fact, there were arithmetical errors made in some of the components of the decision, it matters not who made the error.

181 
WILLIAM T. BAGLEY

October 17, 1984

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attrition rates become effective. In the attrition proceeding itself, we will require General to make a presentation supportive of its modification request. Based on the outcome of these hearings we will order appropriate adjustments to the tracking account, and ultimately to General's rates, to coincide with the attrition rate change.

The result of one of General's contentions, that it will realize less revenue from the settlement process with Pacific Bell (PacBell) than estimated, means that PacBell's rates should be reduced by \$7.731 million annually, assuming General is correct. PacBell is ordered to establish a tracking account similar to the one ordered for General, so that an appropriate rate reduction can be implemented on January 1, 1985, pending the outcome of the attrition hearings.

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In the meantime we will allow General to establish a tracking account to accrue only those revenues associated with the \$15.718 million figure discussed in this decision, until January 1, 1985, when General's new attrition rates become effective. This accrual shall be done through a monthly prorate of the \$15.718 million annual amount. In the attrition proceeding itself, we will require General to make the affirmative showing, discussed above, of entitlement to these revenues. Based on the outcome of these hearings, we will order appropriate adjustments to the tracking account; the amounts which General's showing supports plus interest will then be added to its rates, to coincide with the attrition rate change effective January 1, 1985. This one time adjustment will make General whole within the strictures of the ban on retroactive ratemaking and will also provide General's ratepayers with a measure of rate stability by shielding them from the seriatim rate increases that would otherwise result.

Impact on PacBell

The result of one of General's contentions, that is will realize less revenue from the settlement process with PacBell than estimated, means that PacBell's rates should be reduced by \$7.731 million annually, assuming General is correct. We will order PacBell to establish an account to track this amount so that a corresponding adjustment can be made to PacBell's rates on January 1, 1985, to coincide with the outcome of PacBell's attrition hearings. This accrual shall be done through a monthly prorate of the \$7.731 million annual amount.

General's and AT&T-C's Requested Clarification and Modification of the Adopted Surcharge Rate Design to Spread 1985 and 1986 Attrition Revenue Requirement

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General points out that for these PBX systems (GTD-120, Focus, and Rolm) the individual net book values are known, because most were placed under individual contracts. Instead of using average net book value for this class of multiline CPE, General proposes using the current actual net book value by system, and developing a price quote upon request. The customer with an in-place PBX would select from the sales prices resulting from the two pricing formulas. The transaction, warranty, and administration cost component adopted for determining the sales price of multiline CPE only apply to the noncontract price calculated under our criteria.

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4. D.84-07-108 overstated by \$3,426,000 revenue which will be generated by General's "Move and Change" charge.
5. General will be allowed to demonstrate that its rates should be adjusted to generate an additional \$15,718,000 in annual revenue during its upcoming attrition hearings.
6. We will allow General to establish a tracking account, to accrue revenues plus interest at the legal rate in accordance with the discussion in this decision until January 1, 1985 when new attrition rates become effective.

7. Based on the outcome of hearings, we will order appropriate adjustments to General's tracking account, and ultimately to General's rates, to coincide with the attrition rate change.

8. We will require PacBell to establish a tracking account relative to the revenues referred to in Finding of Fact No. 1, so that an appropriate rate reduction can be implemented on January 1, 1985, pending the outcome of PacBell's attrition hearings.

Conclusions of Law

1. The modifications to D.84-07-108 requested by General should be the subject of further evidentiary hearings, prior to implementation of appropriate rate changes.

2. The tracking account mechanisms discussed in this opinion (subject to the rule against retroactive ratemaking) are justified and reasonable methods of protecting the interests of General and its ratepayers.

3. General's proposals discussed in this opinion relating to its sales program for CPE are reasonable.

IT IS ORDERED that:

1. General Telephone Company of California (General) is authorized to establish a mechanism to track the revenues associated with the \$15.718 million adjustment, the subject of this opinion, effective today, and pending further order of this Commission following hearings in this matter.

2. Pacific Bell is ordered to establish a mechanism to track the \$7,731,000 adjustment the subject of this opinion, effective today, and pending further order of this Commission following hearings in this matter.