

Decision 88 08 036 AUG 24 1988**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of)
 AT&T COMMUNICATIONS OF CALIFORNIA,)
 INC., a corporation, for authority)
 to increase rates and charges)
 applicable to telecommunications)
 services furnished within the State of)
 California (U 5002 C).)

Application 85-11-029
 (Filed November 18, 1985)

ORDER GRANTING PARTIAL STAY OF DECISION 88-06-036.
REQUIRING PRESERVATION OF BILLING RECORDS.
REQUIRING REVISIONS TO TARIFFS.
AND DISMISSING EXTELCOM'S APPLICATION FOR REHEARING

The California Association of Long Distance Telephone Companies (CALTEL); U.S. Sprint Communications Co. (U.S. Sprint); MCI Telecommunications Corp. (MCI); and Extelcom, Inc. (Extelcom) (collectively "Applicants") have filed applications for rehearing of D.88-06-036 (the Decision), in which the Commission ordered AT&T Communications of California (AT&T-C) to reduce its ongoing rates and to amortize previously experienced expense reductions by means of a six-month surcredit. We have not yet completed our review of these applications for rehearing. However, we are prepared to dispose of some of the issues raised by these applications at this time.

Extelcom's Application for Rehearing

First, we are of the opinion that Extelcom's application for rehearing should be dismissed as improper, because Extelcom is not a party to this proceeding and lacks the financial interest in AT&T-C required by Public Utilities Code §1731(b).

Public Utilities Code §1731(b) provides, in pertinent part:

After any order or decision has been made by the commission, any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing . . .

Extelcom was not a party to this proceeding. Furthermore, Extelcom does not allege that it is a stockholder or bondholder of AT&T-C; nor does Extelcom allege that it has any other pecuniary interest in AT&T-C. Instead, Extelcom alleges that it is a competitor of AT&T-C's. Extelcom does allege that it will suffer financial harm as a result of the Decision. However, the mere existence of financial harm is not sufficient to make the statute applicable to Extelcom. Cf. D.82043, 76 Cal. Pub. Util. Comm. 2, 5-6 (1973) (a ratepayer is not a person "pecuniarily interested in the public utility" within the meaning of P.U. Code §1731). See also D.79189, headnoted at 72 Cal. Pub. Util. Comm. 542 (September 28, 1971). Because an application for rehearing may be filed only by those persons or entities described in §1731(b),¹ we will dismiss Extelcom's application for rehearing. (However, many of the issues it raises are also raised by the other applications for rehearing.)

The Tariffs Covering AT&T-C's New, Ongoing Rates

In its application for rehearing, MCI alleges that AT&T-C's compliance tariff filings in fact fail to comply with the Decision. We find several of MCI's allegations to be clearly meritorious, and therefore will order AT&T-C to correct its tariffs.

First, AT&T-C did not reduce its ongoing rates for half-state WATS by as large a percentage as it did for full-state

1. See 76 Cal. Pub. Util. Comm. at 4.

WATS. The Decision, however, required AT&T-C to file new, ongoing rates incorporating a "uniform percentage adjustment" for switched services. (See Ordering Paragraph 3 and Conclusion of Law No. 28.) AT&T-C now attempts to justify the lesser reduction for half-state WATS on the grounds that an equal reduction would have driven those rates below the cost of access. (However, the workpapers AT&T-C submitted in support of its tariff filings do not contain any calculations to support this allegation.)² Even if AT&T-C's allegation is correct, it would not justify AT&T-C's failure to comply with the Decision. Moreover, our intent in ordering a "uniform percentage adjustment" was to avoid re-doing AT&T-C's rate design. Here, AT&T-C has revised its rate design, allegedly to avoid driving its rates below cost, without the benefit of any Commission directive or any hearings at which other parties could challenge its allegation.³ Accordingly, we will order AT&T-C to comply with the Decision and pass through the reductions allocated to WATS by applying a uniform percentage reduction to half-state and full-state WATS.

It also appears that AT&T-C did not apply a uniform adjustment to half-state and full-state 800 service.⁴ Accordingly, we will also order AT&T-C to pass through the reductions allocated to 800 service by applying a uniform percentage reduction to half-state and full-state service.

2. Moreover, its Advice Letter 100 did not even mention that AT&T-C was not giving equal reductions to half-state and full-state WATS.

3. MCI has argued that AT&T-C gave half-state WATS a lower rate reduction because AT&T-C faces no competition for half-state WATS.

4. In D.86-11-079 (an earlier opinion in this same proceeding) we approved a particular ratio between half-state and full-state 800 rates (Finding No. 75 at page 223).

Furthermore, AT&T-C reduced rates for on-peak 800 service without reducing rates for off-peak 800 service. For the reasons explained above, such a non-uniform reduction fails to comply with the Decision (notwithstanding AT&T-C's claim that this non-uniform treatment was required to avoid driving rates below the cost of access). Moreover, in D.86-11-079 (an interim opinion in this proceeding), the Commission found that "[i]t is fitting to retain the present 60% off-peak hourly discount for 800 service" (Finding No. 76 at 223). (See also D.86-11-079 at 205, 228 (Conclusion No. 25).) By lowering rates for on-peak service without lowering rates for off-peak service, AT&T-C has reduced the 60% discount found appropriate by our prior decision, without Commission authorization. Accordingly, we will order AT&T-C to comply with the Decision and D.86-11-079 and pass through the reductions allocated to 800 service by maintaining the 60% off-peak discount, thus applying a uniform percentage reduction to on-peak and off-peak service.

Finally, AT&T-C's new tariffs for SDN service contain excessive reductions. In its response to the applications for rehearing, AT&T-C concedes this fact and says it will file a new advice letter. We will now order AT&T-C to file new tariff sheets for its SDN service which adjust SDN rates in precisely the same manner as the rates for all other AT&T-C switched services.

Stay of the Surcredit and Preservation of Records

The Applicants for rehearing have raised a number of challenges to the six-month surcredit ordered by the Decision. Although we have not yet concluded our review of these claims, it now appears to us that we will need to grant a rehearing to consider at least some of these challenges.

Both MCI and CALTEL have asked us to stay the surcredit. We believe that we would unduly limit our own options if we did not suspend the surcredit pending the anticipated rehearing. If we did not stay the surcredit, it is likely that all, or most, of the money involved would have been returned to

ratepayers by the time we issue our decision after rehearing. In that situation, if the rehearing showed that our surcredit plan needed to be changed, it nevertheless might be impossible for us to grant any relief. To preserve our options and avoid that potential problem, we will stay the six-month surcredit ordered by the Decision pending rehearing.

Our order, however, will give AT&T-C a period of time to implement this change to its tariffs. We will give AT&T-C ten days to file an advice letter with tariff sheets to become effective on September 12, 1988.⁵ In addition, to protect AT&T-C's ratepayers, we will order AT&T-C to place the money that this surcredit would have returned to its ratepayers -- during the period from September 12 through the end of the year -- into an appropriate interest-bearing account.

Finally, and in order to preserve our options after the anticipated rehearing, we will order AT&T-C to arrange to have its billing records preserved until further order of the Commission. AT&T-C's billing is generally performed by local exchange companies [LECs]. AT&T-C has informed the Commission that many of these LECs do not maintain AT&T-C's billing records for more than 90 days. Accordingly, we will require AT&T-C to arrange with the LECs to preserve all of AT&T-C's billing records.

A Further Order

The remaining issues raised by the applications for rehearing, including the scope of any rehearing to be granted, will be addressed in a subsequent order.

5. We will order AT&T-C to follow the same timetable in implementing the changes to its ongoing rates that we discussed in the preceding section of this decision.

Conclusions of Law

1. Under the provisions of Public Utilities Code §1731(b), Extelcom has no standing to apply for rehearing of the Decision, as it was not a party to this proceeding, nor a bondholder, stockholder, or other party pecuniarily interested in AT&T-C.

2. Extelcom's application for rehearing should be dismissed.

3. AT&T-C did not comply with the Decision when it reduced its half-state WATS rates by a smaller percentage than its full-state WATS rates.

4. The Decision required AT&T-C to apply a uniform adjustment to half-state and full-state 800 service.

5. AT&T-C did not comply with the Decision and D.86-11-079 when it reduced its on-peak 800 rates without reducing its off-peak 800 rates.

6. AT&T-C's tariffs for SDN service contain excessive rate reductions.

7. AT&T-C should be ordered to file new tariff sheets that comply with the Decision and D.86-11-079.

8. The six-month surcredit ordered by the Decision should be stayed pending an anticipated rehearing, to preserve the Commission's options to grant relief if the rehearing shows that relief is justified.

9. AT&T-C should place into an appropriate interest-bearing account the money that its six-month surcredit would otherwise have returned to AT&T-C's ratepayers during the remainder of the surcredit's term (from September 12 through the end of the year).

10. To preserve the Commission's options, AT&T-C should preserve all of its billing records and arrange with the LECs who perform its billing to do the same.

Therefore, good cause appearing,

IT IS ORDERED that:

1. The application for rehearing of D.88-06-036 filed by Extelcom, Inc. is hereby dismissed.
2. Within ten days of the effective date of this order, AT&T-C shall file an advice letter with revised tariff sheets to reflect the following:
 - a. AT&T-C shall pass through the reductions allocated to WATS by applying a uniform percentage reduction to half-state and full-state WATS.
 - b. AT&T-C shall pass through the reductions allocated to 800 service by applying a uniform percentage reduction to half-state and full-state 800 service while keeping the off-peak hourly rates at a 60% discount.
 - c. AT&T-C shall adjust its SDN rates in precisely the same manner as the rates for all other AT&T-C switched services.
 - d. AT&T-C shall suspend the six-month surcredits for switched and non-switched services ordered by D.88-06-036. (AT&T-C shall maintain its surcredit for non-switched services to the extent that it accounts for ongoing rate reductions, but not to the extent that it accounts for the six-month credit.)
 - e. AT&T-C shall place the money that this six-month surcredit would otherwise have returned to its ratepayers during the remainder of the surcredit's term (from September 12, 1988 through December 31, 1988) into an appropriate interest bearing account, pending further order of this Commission on the disposition of these funds.
 - f. AT&T-C shall ensure that its ratepayers receive the benefit of interest on sums retained in this

account at the 90-day commercial paper rate as published in the Federal Reserve Bulletin.

3. The effective date of the tariff revisions ordered by Paragraph 2 hereof shall be September 12, 1988.

4. AT&T-C shall include with the Commission's copies of its advice letter filing, supporting workpapers setting forth the calculations for the rate changes ordered by subparagraphs a through d of Ordering Paragraph 2. Within 20 days after the effective date of those rate changes, AT&T-C shall file with the Commission workpapers supporting its calculation of the amount to be placed in the appropriate account and its method for calculating interest, pursuant to subparagraphs e and f of Ordering Paragraph 2. CACD shall verify the proper rate changes and calculations.

5. AT&T-C shall preserve all of its billing records until further order of the Commission and shall arrange with the local exchange companies that perform billing for AT&T-C to have them preserve all AT&T-C billing records until further order of the Commission.

6. The Executive Director shall write a letter to all of the local exchange companies informing them of Ordering Paragraph 5 hereof and enclosing a copy of this order.

7. AT&T-C shall inform its ratepayers, as soon as possible, by means of a bill insert, that the Commission has ordered it, effective September 12, 1988, to: (i) suspend the existing six-month surcredit for all services, that began in July 1988, pending a further Commission order concerning how the sums involved should be returned to ratepayers; (ii) adjust its WATS rates so that the recent ongoing reduction in WATS rates is spread evenly to half-state and full-state service (thus lowering some WATS rates while increasing others); (iii) adjust its 800 rates so that the recent ongoing reduction in 800 rates is spread evenly between half-state and full-state service and between on-peak and

L/JTP/pds *

off-peak service (thus lowering some 800 rates while increasing others); and (iv) increase its SDN rates to bring the recent ongoing reduction in SDN rates into line with the reductions for other classes of service.


This order is effective today.

Dated AUG 24 1988, at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
FREDERICK R. DUDA
C. MITCHELL WILK
JOHN B. OHEANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Victor Weiss, Executive Director

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

August 29, 1988

Local Exchange Company

The Commission at its regularly scheduled meeting on August 24, 1988 issued Decision No. 88-08-066 (enclosed) in response to applications for rehearing of D.88-06-036 relating to AT&T's general rate application, A.85-11-029.

The Commission, in Decision No. 88-08-066 ordered AT&T-C to "...preserve all of its billing records until further order of the Commission and arrange with the local exchange companies that perform billing for AT&T-C to have them preserve all AT&T-C billing records until further order of the Commission." (Ordering Paragraph No. 5.)

Your cooperation in this matter will be greatly appreciated.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Victor Weissner", written over the typed name.

VICTOR WEISSER
Executive Director

Enclosure

Therefore, good cause appearing,

IT IS ORDERED that:

1. The application for rehearing of D.88-06-036 filed by Extelcom, Inc. is hereby dismissed.

2. Within ten days of the effective date of this order, AT&T-C shall file an advice letter with revised tariff sheets to reflect the following:

- a. AT&T-C shall pass through the reductions allocated to WATS by applying a uniform percentage reduction to half-state and full-state WATS.
- b. AT&T-C shall pass through the reductions allocated to 800 service by applying a uniform percentage reduction to half-state and full-state 800 service while keeping the off-peak hourly rates at a 60% discount.
- c. AT&T-C shall adjust its SDN rates in precisely the same manner as the rates for all other AT&T-C switched services.
- d. AT&T-C shall suspend the six-month surcredits for switched and non-switched services ordered by D.88-06-036. (AT&T-C shall maintain its surcredit for non-switched services to the extent that it accounts for ongoing rate reductions, but not to the extent that it accounts for the six-month credit.)
- e. AT&T-C shall place the money that this six-month surcredit would otherwise have returned to its ratepayers during the remainder of the surcredit's term (from September 12, 1988 through December 31, 1988) into an appropriate account.
- f. AT&T-C shall ensure that its ratepayers receive the benefit of interest on sums retained in this account at the 90-day commercial paper rate as published in the Federal Reserve Bulletin.

3. The effective date of the tariff revisions ordered by Paragraph 2 hereof shall be September 12, 1988.

4. AT&T-C shall include with the Commission's copies of its advice letter filing, supporting workpapers setting forth the calculations for the rate changes ordered by subparagraphs a through d of Ordering Paragraph 2. Within 20 days after the effective date of those rate changes, AT&T-C shall file with the Commission workpapers supporting its calculation of the amount to be placed in the appropriate account and its method for calculating interest, pursuant to subparagraphs e and f of Ordering Paragraph 2. CACD shall verify the proper rate changes and calculations.

5. AT&T-C shall preserve all of its billing records until further order of the Commission and shall arrange with the local exchange companies that perform billing for AT&T-C to have them preserve all AT&T-C billing records until further order of the Commission.

6. The Executive Director shall write a letter to all of the local exchange companies informing them of Ordering Paragraph 5 hereof and enclosing a copy of this order.

This order is effective today.

Dated AUG 24 1988, at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners