ALJ/LEM/pc

Decision 90 10 063 OCT 24 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Lucille D. Rogers, Complainant, vs. General Telephone Company of California, Defendant.	Case 88-07-025 (Filed July 18, 1988)

OPINION

This decision is in response to a Motion to Compel and Petition for Modification of Decision (D.) 89-11-065, dated November 22, 1989. The Motion and Petition were filed May 29, 1990 by Lucille D. Rogers, complainant against General Telephone Company of California, now known as GTE California Incorporated (GTE).

Background

Rogers originally had alleged that GTE was overbilling her in connection with its Frequent Caller Program (FCP) telephone service between her home in Huntington Beach and prefixes located in Santa Monica and Saddleback. Under the FCP program offered by GTE, Rogers could receive for the fixed charge of $8.55, a usage allowance of double that amount, or $17.10. For service provided in excess of the usage allowance Rogers is billed in accordance with rates set forth elsewhere in GTE's tariff.

For the first few months of service in 1987, Rogers was billed on the basis of a 30-day billing period. Thereafter, she was billed not on a fixed, but a variable billing period basis, ranging from 24 to 36 days. She originally alleged that she had been overcharged $44.87. During the course of the hearing she revised her claim to $20.00; however, she asserted that she is bringing this complaint principally on behalf of other users of GTE's FCP service who may experience overcharges because of GTE's variable billing periods.

By D.89-11-065 we found that GTE did not violate its tariff when it switched to a variable billing period, and we denied the complaint. However, we also directed GTE to revise its FCP Service Schedule B-4 by deleting Special Condition 6.c., and adding a new special condition that matches the usage period with the corresponding usage allowance.

In response to the decision, GTE filed its 1st Revised Page 26 to Schedule B-4 effective February 15, 1990, setting forth the following provisions:

> Rule 6.d. The billing period for usage is that period over which usage charges accumulate.
>
> Rule 6.e. The applicable usage allowance is credited to the customer for calls made during that period over which usage charges are rendered.
>
> Rule 6.f. The applicable usage allowance will never exceed the aggregate of all billing rendered for usage during the billing period.

In her Motion to Compel and Petition for Modification of D.89-11-065 Rogers alleges that the revised tariff is incoherent and confusing. She urges that the billing for FCP be on a monthly basis, and that the tariff of GTE should read as follows:

> "Monthly billing charge for the frequent caller program will be the same period each month. Example: Frequent Caller Program billing period will start on the 7th of the month and end on the 6th of the following month and the usage allowance will be for the same period."

Alternatively, complainant suggests the following tariff wording:

"Frequent Caller Program will be billed for the same period as the usage allowance is applied to."

GTE has not responded to complainant's Motion and Petition.

<u>Discussion</u>

A review of the decision and the transcripts reveals that GTE professed it was unable to observe a fixed billing period in connection with its FCP. Assertedly, this is because it is often unable to capture all billing data in time for inclusion in a 30-day billing period by the 10th day of the following month. For example, Rogers had originally been billed from the 28th of the first month to the 27th of the following month, the billing date being the 10th day of the third month. But later, GTE changed the billing period to a variable one, alleging that otherwise all calls made during a 30-day period might not be internally processed in time for billing by the 10th day of the third month. Such calls would thus be lost to GTE; i.e. unbilled - even during the next billing period. GTE alleged it was losing, and therefore the public was paying for, about $265,000 annually in unbilled revenues due to this circumstance.

A senior accountant in GTE's customer accounting department explained in detail during the hearing the process which takes place from the time a frequent call is made to the billing thereof. He stated that it could take from 12 to 15 days to bill such calls.

It appears to us that GTE's admittedly complex and time consuming FCP accounting/billing process can be made compatible with the needs of FCP customers by simply not rendering bills for this service until all calls made during a specific billing period are processed. Although the 30-day billing period commonly observed in connection with services offered by GTE has not been a requirement stated in its tariffs, it appears to be necessary to require the observance of such a fixed period in connection with the company's FCP service.

GTE had argued during the hearing that its FCP service was simply a service offered without reference to a particular billing period. Such a practice may be practical and proper in connection with GTE's billing for normal toll service, but is not suitable in connection with its FCP service which is subject to a specific monthly charge and usage allowance. A usage allowance necessarily contemplates a time period within which to attain that allowance.

The new tariff filing by GTE, especially Rule 6.f. which provides that the applicable usage allowance will never exceed the aggregate of all billing rendered for usage during the billing period, does not satisfy the needs of FCP customers. It appears merely to set, as a maximum, the usage allowance named in its tariff. But the wording does not prohibit the use of a variable billing period.

A user of FCP service who endeavors to keep close track of her calls, and to achieve maximum economic efficiency in connection therewith, could be easily thwarted therefrom under GTE's variable billing practice. Consider the following example: An FCP user knows she is entitled to a usage allowance of $17.10 without being penalized, and uses an amount of service close to the usage allowance during a "normal" 30-day period. Ten or 12 days later she learns that the billing period had been cut off at 25 days, up to which point she had used only $10 or $12 of service. She is thereby prevented from achieving that maximum efficiency which should be available under the plan with careful usage. This is an unreasonable result.

It appears to us that a reasonable remedy for this problem will be to require GTE to observe a fixed billing period in connection with its FCP service. The company should not bill its FCP customers until it can include all calls made during that fixed period. A monthly fixed period is a reasonable period to observe in connection with this service.

Findings of Fact

1. By D.89-11-065 GTE was ordered to revise its FCP Service Schedule B-4 by deleting Special Condition 6.c., and adding a new special condition matching the usage period with the corresponding usage allowance.

2. GTE filed its 1st Revised Page 26 to Schedule B-4 effective February 15, 1990, setting forth the following provisions:

> Rule 6.d. The billing period for usage is that period over which usage charges accumulate.
>
> Rule 6.e. The applicable usage allowance is credited to the customer for calls made during that period over which usage charges are rendered.
>
> Rule 6.f. The applicable usage allowance will never exceed the aggregate of all billing rendered for usage during the billing period.

3. The tariff revision stated in Finding 2 does not adequately serve the needs of FCP customers who desire to achieve the maximum economic benefit available in connection with such service, because it does not require GTE to adhere to a fixed billing period applicable in connection with the prescribed usage allowance.

4. GTE's FCP service will adequately serve the needs of its customers if the stated monthly charge and usage allowance are provided within a fixed billing period. A monthly fixed billing period is a reasonable one within which to apply a prescribed usage allowance for this service.

Conclusions of Law

1. GTE should be directed to amend its tariff by stating therein that the usage allowance named in connection with its FCP service applies in connection with a fixed monthly billing period.

2. Since this proceeding was filed in July 1988, and there is an immediate need for relief by FCP customers, this order should be effective today.

O R D E R

IT IS ORDERED that GTE California Incorporated shall, within 30 days of the effective date of this order, file an advice letter to revise its Frequent Caller Service Schedule B-4 by including therein a provision stating that a stated usage allowance applies in connection with a fixed monthly billing period. The advice letter shall be effective upon the regular notice of 40 days.

This order is effective today.

Dated OCT 24 1990, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
PATRICIA M. ECKERT
Commissioners

Commissioner John B. Ohanian, being necessarily absent, did not participate.

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

Neal J. Shulman

NEAL J. SHULMAN, Executive Director