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MAR 11 1992

Decision 92-03-023 March 11, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

James T. Hazen,
 Complainant,
 vs.
 GTE California Incorporated,
 Defendant.
 (U 1002 C)

ORIGINAL

Case 91-08-032
 (Filed August 13, 1991)

James T. Hazen, for himself, complainant.
Michael Lee Allan, Attorney at Law, for GTE
 California Incorporated, defendant.

O P I N I O N

Statement of Facts

GTE California Incorporated (GTE) provides telephone service to the general public in various areas of California, including the Los Gatos Exchange Area in Santa Clara County. As such, it is a public utility within the jurisdiction of this Commission.

By Decision (D.) 90-11-058 issued November 21, 1990 (Re Alternative Regulatory Frameworks for Local Exchange Carriers), the Commission, inter alia, ordered local exchange telephone carriers to file appropriate advice letters to expand local calling areas to include all exchanges whose rate centers are within 12 airline miles of one another as of June 1, 1991.

GTE complied, using the formula applicable to calculating mileage between rate centers as provided in GTE Cal. P.U.C. No. D&R (Rule 16). In May of 1991, GTE informed its Los Gatos Exchange

customers of the expanded local calling area. Included in this information was notice that Ben Lomond was now within the area.

James T. Hazen, a GTE customer who lives on Bear Creek Road outside of Los Gatos and in Santa Cruz County, on the southwest side of Los Gatos Town nearest to both Ben Lomond and Boulder Creek, noted that the Boulder Creek Exchange Area was still excluded from the Los Gatos local calling area. By his initial calculation, using a California State Automobile Association map, and drawing an arc centered on Los Gatos, it appeared that Ben Lomond was actually further away from Los Gatos than Boulder Creek. Initial efforts to secure an explanation from GTE were not fruitful and led Hazen on May 22, 1991 to write the Commissioner's Los Angeles office, asking that the Commission correct the situation or furnish information on the actual physical locations of the respective rate centers and the measured miles as determined by the Commission.

Advised by a Consumer Affairs Branch representative that the applicable tariff was Pacific Bell's A.6 tariff which provides grid coordinates for all California rate centers, Hazen was given the vertical and horizontal grid references for the Los Gatos, Ben Lomond, and Boulder Creek rate centers. From what he termed to be "personal knowledge," Hazen then determined that the distance between Boulder Creek and Ben Lomond was almost exactly three miles, and thence deduced that each grid unit would be 0.30 mile. He then applied "basic high school trigonometry" to calculate the distances between rate centers to find:

| | |
|-------------------------|-------------|
| Los Gatos-Ben Lomond | 11.68 miles |
| Los Gatos-Boulder Creek | 11.24 miles |

Hazen thus concluded that both Ben Lomond and Boulder Creek should be included within the 12-mile local calling area. Accordingly, Hazen decided to file the present formal complaint.

A duly noticed public hearing before Administrative Law Judge (ALJ) John B. Weiss was held on January 21, 1992 in Los Gatos. Both Hazen and GTE representatives participated.

In an opening statement, the GTE attorney briefly traced the history of the Pacific Bell A.6 tariff applicable here from the first uniform schedule of rates established by the Federal Postal Service during World War I, when the government took control of telecommunications, to American Telephone and Telegraph's (AT&T) adoption, after the war, of this schedule and the maps from which it was derived, to 1960 when AT&T introduced more accurate standards by which to compute mileage for telecommunication purposes. In 1960, the AT&T engineers derived a grid using longitude and latitude lines as a basis to divide North America and the world into squares with an area of 1/10th of a mile. Formulas were developed to compensate for the curvature of the earth when calculating mileage for a flat map. The method used the intersection of vertical and horizontal lines to establish rate centers between which distances are to be measured.¹ Today, AT&T, Pacific Bell, GTE and all carriers use this standard of calculation. The method is contained in the tariffs of all California telephone companies.

Complainant Hazen then testified that he had obtained a copy of GTE's Tariff Rule 16 and that he was now satisfied that GTE

1 The spacing between adjacent vertical grid lines and between horizontal grid lines represents a distance of one coordinate unit. This unit is the square root of 0.1, expressed in statute miles. A four-digit vertical and a four-digit horizontal coordinate is computed for each rate center from its latitude and longitude location by use of appropriate map-projection equations. A pair of vertical-horizontal coordinates locates a rate center for determining airline mileages at a particular intersection of an established vertical grid line with an established horizontal grid line. The distance between any two rate centers is the airline mileage computed by a formula set forth in Pacific Bell Tariff 6-A.

had allocated the mileages involved in the present proceeding based on the calculation methodology and formula of that rule correctly. However, Hazen asserted that while he found no argument against that methodology in long distance applications, in applying it to do short distances such as a 12-mile local calling area, the round-off errors derived out of the formula just accumulate to the point where the distances under the formula vary depending on whether the rate centers at issue grid-wise are straight up and down or 45 degree diagonally apart. He asserts that these short distance errors from the round offs can be up to around 18%, and to the disadvantage of the ratepayer. He offered several examples of Rule 16 rate center calculation errors derived from the round offs.

In that Hazen readily stipulated that GTE had adhered to its filed tariff in determining the area vis-a-vis Boulder Creek and Ben Lomond to be included in the extended 12-mile local calling area ordered by the Commission, the ALJ pointed out to Hazen that pursuant to Public Utilities (PU) Code § 1702, the complaint would be dismissed because Hazen failed to allege or produce evidence that GTE had done or omitted to do anything that violated any law, order or rule of the Commission. Hazen agreed with this conclusion. The ALJ advised Hazen as to alternate ways to bring what essentially is a generic, industry-wide potential issue to the Commission should Hazen desire to pursue the matter.

Discussion

In extending its local calling area to the 12 miles ordered by the Commission in D.90-11-058, GTE has acted pursuant to provisions of its filed tariff, and no evidence was alleged or presented that GTE has done any act or thing or omitted to do any act or thing or has violated any provision of law or any order or rule of the Commission. Accordingly, pursuant to the requirements of PU Code § 1702, the Commission should not entertain this complaint by an individual person, and it must be dismissed.

Findings of Fact

1. By D.90-11-058, local exchange telephone carriers in California were ordered to file appropriate advice letters to expand local calling areas to 12 airline miles as of June 1, 1991.
2. GTE, a local exchange telephone carrier subject to the jurisdiction of this Commission, complied, following the provisions of its filed Tariff Rule 16 to determine the extended area.
3. Application of Rule 16 found the Ben Lomond Exchange Rate Center within the expanded local calling area of the Los Gatos Exchange Rate Center while the Boulder Creek Exchange Rate Center was excluded.
4. PU Code § 1702 limits complaints filed by individual persons to written complaints setting forth any act or thing done or omitted to be done by a public utility in violation or claimed to be in violation of any provision of law or of any order or rule of the Commission.
5. The complainant has failed to meet the requirements of PU Code § 1702 and the complaint should be dismissed.

Conclusion of Law

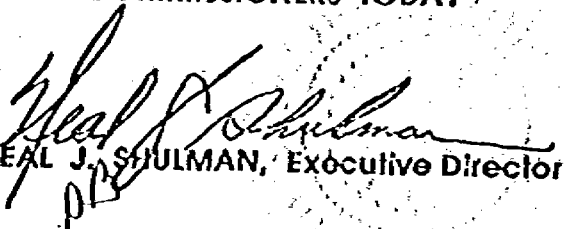
The complaint should be dismissed.

ORDER

IT IS ORDERED that Case 91-08-032 is dismissed.
This order becomes effective 30 days from today.
Dated March 11, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director