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ORIGINAL

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Richard A. Gifford and)
Vivian D. Gifford,)

Complainants,)

vs)

Continental Telephone of)
California,)

Defendant.)

(ECP)

Case 11039

(Filed October 9, 1981)

Richard A. Gifford, for himself, complainant.
Daniel Johnson, for Continental Telephone
Company of California, defendant.

O P I N I O N

This is a complaint by Richard A. Gifford and Vivian D. Gifford (Gifford) against certain billing practices applied to the Giffords by Continental Telephone of California (Continental). Continental filed its answer to the complaint on November 16, 1981.

A public hearing, conducted under Rule 13.2 (Expedited Complaint Procedure) of the Commission's Rules of Practice and Procedure, was held December 7, 1981 before Administrative Law Judge Ermet J. Macario and submitted for decision that day subject to the receipt of late-filed Exhibit 2 from Continental.

Gifford is a subscriber to telephone service from Continental in its Knights Landing exchange (Yolo County). The Manteca business office is responsible for customer services in Knights Landing. The main accounting center for California operations including customer billing is in Bakersfield.

At the hearing Gifford clarified the relief sought. Gifford stated he sought an order of the Commission directing Continental to credit him for interest on payments made by him during 1980 to Continental in excess of telephone service charges due at the time the payments were made.

The Commission is presently holding a total of \$46.02 deposited with the Commission by Gifford. Gifford stated that he deposited this money with the Commission only to "keep his complaint alive" and that he had no objection to that amount being disbursed to the utility to be credited to his account.

Gifford testified that in July, 1980 he deposited \$61.54 with the Commission and on September 18, 1980 he deposited an additional \$21.66. These disputed bill deposits were made because of claims for credit for out-of-service conditions and for claims for toll calls and charges allegedly not made by Gifford. Gifford stated that Continental credited his account for over 50% of his toll message claims.

The \$61.54 and \$21.66, total \$83.20, on deposit with the Commission were returned to Gifford on October 23, 1980.

Gifford testified that in mid-September Continental threatened to disconnect his service if certain past due amounts were not paid promptly. Gifford stated that he told Continental that adequate funds were on deposit with the Commission but because of their insistence and threats to disconnect his service he mailed payment of \$81.73 to Continental's Bakersfield office. The payment was mailed September 19, 1980 and received September 23 in Bakersfield.

Gifford further testified that even though he had deposited adequate funds with the Commission and made duplicate payment to Bakersfield the Manteca office, on that same day, September 19, insisted on payment to that office; if he did not, his service would be disconnected.

Gifford later requested return of the surplus payments. Continental refused and told him the excess funds would be credited to his account to cover future billing. Gifford then requested that he receive interest on the excess funds held by Continental. This also was refused based on Continental's interpretation of their tariffs which provide for interest payments only on customer deposits made to establish credit.

To summarize, Gifford, on September 19, 1980, made a number of payments to Continental: \$81.73, \$20.60, and \$6.43 paid in the Manteca business office; \$81.73 mailed to the Bakersfield Office (received September 23); or a total of \$190.49. This amounted to overpayment of \$102.01; but giving recognition to Gifford's February and July 1980 deposits with the Commission of \$61.54 and the September 18, 1980 deposit of \$21.66, the overpayment of \$102.01 became an overpayment of \$185.21, as of September 19, 1980.

Continental introduced Exhibit 1, a recitation of the facts concerning the Gifford account as Continental saw them. Information in Exhibit 1 generally confirms the above discussion on debits and credits to Gifford's account for the period in question beginning in July, 1980 until March, 1981 when Gifford's credit balance was reduced to two cents by charges for ongoing telephone service. The following tabulation reconstructs the Gifford account history for the period being examined based upon Gifford's testimony and exhibits K and L of Exhibit 1:

Gifford Account

<u>Date</u>	<u>Remarks</u>	<u>Credit</u>	<u>Debit</u>	<u>Bal. Due</u>
7-25-80	Cont. bill, past and current	\$	\$82.25	\$82.25
7-9-80 and 2-8-80	Deposit, P.U.C.	61.54		20.71
8-25-80	Cont. bill, curr. chgs		6.23	26.94
9-18-80,	P.U.C.	21.66		5.28
9-19-80	Total of 4 payments to Cont.	190.49		(185.21)
9-25-80	Cont. bill, curr. chgs		31.35	(153.86)
10-23-80	P.U.C. dep. returned to Gifford		83.20	(70.66)
10-25-80	Cont. bill, curr chgs.		9.23	(61.43)
11-25-80	" " " "		5.32	(56.11)
12-25-80	" " " "		15.86	(40.25)
1-25-81	" " " "		12.63	(27.62)
2-25-81	" " " "		19.23	(8.39)
3-25-81	" " " "		8.37	(.02)
() = credit balance			

Continental is correct in that its tariffs make provision for interest payments only in connection with customer deposits to establish credit. Continental's assertion that Gifford's excess payments were made voluntarily and not as a result of demands for multiple payments is probably true. However, the fact that Gifford did make the multiple payments and in so large an amount (\$190.49) compared to the small net amount then due Continental (\$5.28), strongly suggests that Gifford felt under considerable pressure from Continental.

Given the facts and circumstances in this particular case we conclude that it is equitable, just, and reasonable to order Gifford's account credited with interest on his excess payments over the period September 19, 1980 to March 25, 1981.

The Commission in a number of recent proceedings has employed three-month commercial paper rate in calculating interest on refunds to customers and in balancing account calculations. This is reasonable and we will use the same treatment here. The average three-month commercial paper rate for the period September, 1980 through March, 1981 was 14.68%. The interest to be credited to Gifford equals the total dollar-days of credit balance in Gifford's account, accumulated from September 19, 1980 through March 25, 1981, divided by 365 days, times 14.68%. Making this calculation results in interest due Gifford of \$4.71. This conclusion that interest is due Gifford does not establish a precedent. ✓

Late-filed Exhibit 2 is an approximate copy of the November, 1981 bill and notices mailed to Gifford by Continental. The bill shows \$82.66 as the past due amount and the notice states that if the past due amount is not paid by a certain date service will be disconnected. The error in the above transmittal is its failure to recognize the disputed bill deposits with the Commission of \$46.02. The notice should have requested payment of \$82.66 less \$46.02 or \$36.64. We will order Continental to revise its billing procedures so that disconnect notices

will reflect the delinquent amounts due less amounts on deposit with the Commission of which Continental has been notified.

O R D E R

IT IS ORDERED that:

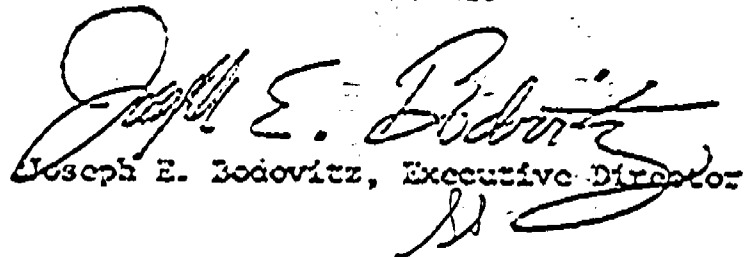
1. Continental Telephone Company of California (Continental) is ordered to credit the account of Richard A. Gifford with \$4.71.
2. The Executive Director is directed to have Richard A. Gifford's deposit of \$46.02 disbursed to Continental for credit to the account of Richard A. Gifford.
3. Continental, within 60 days of the effective date of this order, shall revise its billing procedures, with a tariff filing, in cases where a customer is notified that service may be disconnected because of past due amounts, so that the payment requested reflects disputed bill deposits with the Commission of which Continental has been notified.

This order becomes effective 30 days from today.

Dated FEB 17 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD B. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director