

Decision 83 99 009 SEP 7 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Richard A. Gifford
Vivian D. Gifford,

Complainants,

vs

Continental Telephone Company of
California,

Defendant.

(ECP)
Case 82-04-06
(Filed April 19, 1982)

ORDER OF DISMISSAL

In June 1982, Richard A. Gifford had two complaints pending against Continental Telephone Company of California (Continental). The first, Case 11053, was settled at hearing on June 28, 1982, and was later dismissed. Regarding the second, the parties agreed at the same hearing to settlement negotiations.

On July 5, 1983, Administrative Law Judge (ALJ) Baer sent a letter to both parties inquiring about the progress of settlement negotiations. The letter stated that unless one of the parties responded by July 29, 1983, that the complaint should be litigated, the complaint would be dismissed for lack of prosecution.

Continental replied by letter of July 14, 1983. Its correspondence indicates that two Continental employees met with Gifford on September 10, 1982 and successfully resolved the difficulties between Continental and him. The terms of the settlement were set out in a letter dated September 17, 1982, and addressed to ALJ Baer. Continental signed the letter, mailed it to Gifford, and asked him to sign it and forward it to ALJ Baer in the pre-addressed and stamped envelop furnished. The original of that

letter never reached ALJ Baer, but Continental attached a copy of it to its letter of July 14, 1983. No response has been received from Gifford to ALJ Baer's letter of July 5, 1983.

Gifford's failure to follow-up the negotiated settlement and his failure to respond to the ALJ's letter indicate that he lacks any desire to prosecute this matter. Accordingly, it should be dismissed for lack of prosecution.

Gifford has deposited \$74.83 with the Commission under the disputed bill rule. In the settlement letter Continental agreed to a toll adjustment of \$14.62. A credit in that amount was to have appeared on Gifford's September 25, 1982 bill. Assuming that to have taken place, then the amount on deposit with the Commission should be disbursed to Continental. If Continental has not yet issued the credit, then it should do so.

Findings of Fact

1. Gifford has failed to prosecute this complaint case.
2. Gifford has on deposit \$74.83.

Conclusions of Law

1. The complaint should be dismissed for lack of prosecution.
2. The amount of \$74.83 on deposit with the Commission should be disbursed to Continental.
3. If it has not already done so, Continental should credit Gifford's account with the \$14.62 toll adjustment mentioned in its letter of September 17, 1982.

IT IS ORDERED that:

1. The complaint in Case 82-04-06 is dismissed.
2. Complainant's deposit of \$74.83, and any other deposit made by complainant in connection with this complaint, shall be disbursed to Continental Telephone Company (Continental).
3. If Continental has not already done so, it shall credit complainant's account in the amount of \$14.62.

This order becomes effective 30 days from today.

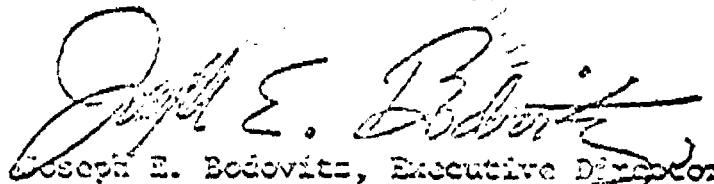
Dated SEP 7 1983, at San Francisco, California.

Commissioner William T. Bagley
being necessarily absent, did
not participate.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

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


Joseph E. Boedovitz, Executive Director