

Decision 83 11 013 NOV 2 - 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RALPH L. HAAS,

Complainant,

vs.

GENERAL TELEPHONE COMPANY
OF CALIFORNIA, a corporation,

Defendant.

Case 83-01-04
(Filed January 20, 1983)

Ralph L. Haas, for himself, complainant.
Kathleen S. Blunt, Attorney at Law, for
defendant.
David M. Shantz, for the Commission staff.

O P I N I O N

Ralph L. Haas (Haas) seeks an order requiring General Telephone Company of California (General) to promptly refund to him and to all like customers the appropriate prorata refund of alleged overcharges resulting from the imposition of a previously authorized surcharge after it had been canceled.

A duly noticed hearing was held before Administrative Law Judge N. R. Johnson in Los Angeles on May 23, 1983 and the matter was submitted. Testimony was presented on behalf of Haas by himself; on behalf of General by its rates and tariff manager, Robert J. Krohnfeldt, and by its business office administrator, Jacqueline Hine; and on behalf of the Commission staff by one of its senior utilities engineers, David M. Shantz.

I. BACKGROUND

Decision (D.) 82-04-028 dated April 6, 1982 on General's Application (A.) 60340 for a general rate increase authorized an adjustment factor surcharge of 10.48%, effective May 17, 1982, applicable to all monthly recurring and measured rate service charges for service or equipment provided under tariff schedules A-1 through A-40. D.82-06-054 dated June 15, 1982 on the same matter reduced this surcharge to zero effective June 26, 1982. D.82-06-054 also increased the residence one-party exchange access line monthly rate from \$6.25 to \$7.75. On some of the billing cycles General applied the 10.48% to the \$6.25 exchange for an entire month in addition to a prorata portion of the \$1.50 increase in the exchange rate.

II. POSITION OF HAAS

Haas testified that his telephone bill, dated June 22, 1982, included a monthly service charge of \$6.25 plus a 10.48%, or 66c, surcharge applicable for the billing period June 19 through July 18, 1982. He further testified that since the surcharge was reduced to zero effective June 26, 1982, his bill should be adjusted downward 51c to reflect this change in rate.

III. POSITION OF GENERAL

Testimony presented on behalf of General indicated that:

1. The general procedure in filing a compliance-type filing is to discuss the proposed filing with the Commission staff's Communications Division before the tariff sheets are actually filed.

2. The 10.48% service charge applies to each customer's bill rendered between May 17, 1982 and June 25, 1982.
3. No surcharge, either positive or negative, has been prorated since tariff Schedule A-38 was originated.
4. There is no Commission order which states that the tariff Schedule A-38 adjustments are to be billed in advance.
5. The adjustment factor or surcharge is based on the monthly service rate which is paid in advance. However, the billing surcharge is not paid in advance but is applied as of the date of the bill.
6. D.82-04-028 states that the revised tariff schedule shall apply only to service rendered on and after the effective date.
7. General has 10 billing cycles of approximately three days each.
8. Billing computer programming changes, where possible, are prepared in such a manner that only one line of code has to be changed before it can be applied, whether it is a debit or credit.
9. If any attempt is made to do prorating the costs and time required increase significantly.
10. To implement a program that would allow for proration of a billing adjustment would take from 11 to 12 months.
11. In order to prorate the surcharge it is necessary to hold all files in detail where the normal procedure is to hold them in summary.

12. It would not be possible to prorate tariff Schedule A-38 retroactively.
13. Haas is billed on Cycle 7, and from November 1980 through July 1982 in every instance except for the June 26 effective date in this matter, he has benefited from no proration in the application of the surcharge to his bills.
14. The programming for monthly service charges is already in place, making a prorate of such a service charge relatively fast and simple.
15. The percentage factor surcharge does not apply uniformly to all customers' bills because for some of the customers the surcharge applies to certain items but not to others.

IV. POSITION OF COMMISSION STAFF

Testimony presented on behalf of staff indicated that:

1. Tariff Schedule A-38 was first established on September 1, 1978 as a means of passing the reductions in ad valorem taxes associated with "Proposition 13" onto the ratepayers. Since that time it has been revised as follows:

<u>Advice Letter</u>	<u>Effective Date</u>	<u>Summary of Revisions</u>
4270	9/1/78	Implement 5.42% negative surcharge to reflect Proposition 13 tax savings. Billing base was "total monthly exchange service charges".

<u>Advice Letter</u>	<u>Effective Date</u>	<u>Summary of Revisions</u>
4337 (T-9908)	12/1/78	Revised surcharge to a 7.23% negative surcharge.
4604 (D.92366)	11/1/80	Revised surcharge to a 2.99% negative surcharge per decision authority.
4662 (D.93255)	7/14/81	Revised surcharge to 0.12% negative surcharge and revise billing base to be "all monthly recurring and measured rate service charges" per decision authority.
4697 (D.93728)	11/28/81	Revise surcharge to a 7.87% positive surcharge and make minor modifications to the billing base per decision authority.
4727 (D.82-04-028)	4/17/82	Revise surcharge to a 10.48% positive surcharge per decision authority.
4748 (D.82-06-054)	6/26/82	Revise surcharge to a 0% surcharge per decision authority.
4771 (T-10647)	1/1/83	Implement a 10.23% positive surcharge and specifically identify those tariff schedules to which the surcharge does and does not apply.

2. The 10.48% surcharge effective April 17, 1982 was reduced to 0% effective June 26, 1982 at the same time the residence one-party exchange access line monthly rate was increased from \$6.25 to \$7.75.
3. General properly applied the 10.48% surcharge as tariff Schedule A-38 clearly states that the surcharge applies to each customer's bill for all recurring monthly rates for service provided under tariff Schedule A-1. Therefore, General has correctly billed Haas in compliance with its tariffs.

V. DISCUSSION

Special Condition 1 of tariff Schedule A-38 states in part as follows:

- "1. The percentage rate applies to all monthly recurring and measured rate service charges for service or equipment provided under tariff Schedules A-1 through A-40."

It is obvious that the surcharge is intended to follow the monthly recurring and measured rate service charges, i.e. when the service charge is prorated the surcharge would equal a percent of the prorated bill or, in effect, would be prorated. It is equally obvious from the record that General has not, nor did it intend to, prorate the service charge as provided in the tariff. Thus, General has not correctly billed Haas in compliance with this tariff. General is placed on notice that it will be expected to prorate surcharges in the future and the order that follows will require the necessary computer programming to accomplish such proration.

General claims that it would take 11 to 12 months to program such a procedural change. It is noted, however, that the surcharge is set forth on the bills as a separate item and is changed to reflect increases or decreases in the surcharge in the first bills issued after the effective date of the surcharge change. Under these circumstances it is difficult to comprehend any program change more complicated than the application of a factor to be applied to the individual bill item. If this is the case, it is axiomatic that the required program changes can be easily and quickly accomplished.

General alleges that its method of application of the surcharges resulted in Haas being billed less during the period November 1980 through July 1982 than were the bills prorated. Assuming he were billed on the 18th of each month of a surcharge change the overall effect on his bills as billed and with surcharge proration is as follows:

<u>Effective Date</u>	<u>Billing Date</u>	<u>Proration Factor X 30</u>	<u>Surcharge %</u>	<u>Prorated \$</u>	<u>As Billed \$</u>
9-1-78	8-18-78	14	0.00	0.00	0.00
		16	(5.42)	(2.89)	
12-1-78	11-18-78	13	(5.42)	(2.35)	(5.42)
		17	(7.23)	(4.10)	
11-1-80	10-18-80	14	(7.23)	(3.37)	(7.23)
		16	(2.99)	(1.59)	
7-14-80	6-18-80	26	(2.99)	(2.59)	(2.99)
		4	(0.12)	(0.02)	
11-28-81	11-18-81	10	(0.12)	(0.04)	(0.12)
		20	7.87	5.25	
4-17-82	3-18-82	30	7.87	7.87	7.87
		0	10.48	0.00	
6-26-82	6-18-82	8	10.48	2.79	10.48
		22	0.00	0.00	
1-1-83	12-18-82	13	0.00	0.00	0.00
		17	10.23	5.80	
			Total	\$ 4.76	\$ 2.59

Thus, as shown above, General's application of the surcharge to bills rendered after the effective date of the changed surcharge resulted in a smaller total billing for Haas than had such surcharge been prorated. Since Haas has not been overcharged, he is not entitled to a refund and his claim for refunds for like customers must also fail. He lacks standing to complain for customers on other billing cycles. Customers on some of the other billing cycles, however, may be paying different rates for like services which certainly is not this Commission's intent. As previously stated, we will require General to program its billing computers to provide for proration of bills to eliminate the problem for the future.

Findings of Fact

1. D.82-04-028 dated April 6, 1982 on General's A.60340 for a general rate increase authorizes an adjustment factor surcharge of 10.48%, effective May 17, 1982, applicable to all monthly recurring and measured rate service charges for service or equipment provided under certain tariff schedules.
2. D.82-06-054 dated June 15, 1982 on the same matter reduced this surcharge to zero effective June 26, 1982.
3. General does not prorate and has not prorated the surcharge since its inception in 1978 but applies it to bills rendered after the effective date of the surcharge.
4. The surcharge is intended to follow the monthly recurring and measured rate service charges and be prorated when such monthly service charges are prorated.
5. General's practice relative to the application of the surcharges is contrary to the tariffs and results in some subscribers paying different rates for like service.

6. General should program its billing computers so as to be able to prorate surcharges as required by the tariffs.

7. General's practice of applying the surcharges on bills following the effective date of surcharge changes has resulted in Cycle 7 customers, such as Haas, paying less surcharge than had such surcharges been prorated.

8. Haas has not been overcharged.

Conclusions of Law

1. General should be required to program its billing computers so as to permit proration of surcharges as contemplated in the tariffs.

2. The relief requested should be denied.

O R D E R

IT IS ORDERED that:

1. Within 120 days of the effective date of this order General Telephone Company of California shall develop and have available for implementation a billing computer program that will permit proration of surcharges as set forth in tariff Schedule A-38.

2. The relief requested in Case 83-01-04 is denied.

This order becomes effective 30 days from today.

Dated NOV 2 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
FRISCELLA C. GREW
WILLIAM T. BACLEY
Commissioners

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

Commissioner Donald Vial, being
necessarily absent, did not
participate.


Joseph E. Bodovitz, Executive Director