

nf

ORIGINAL

Decision No. 88999 JUN 27 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CONTINENTAL TELEPHONE COMPANY OF)
CALIFORNIA, a California corporation,)
for authority to increase its rates)
for telephone service.)

Application No. 55376
(Filed December 12, 1974)

OPINION ON MOTION TO TERMINATE REHEARING

On March 20, 1978 Continental Telephone Company of California, applicant and petitioner herein, filed a written motion with the Commission proposing that:

1. The partial rehearing of Decision No. 86802 granted by Decision No. 87081 be withdrawn and terminated.
2. Applicant be authorized to make effective the rates and charges ordered by Decision No. 86802 and at the same time to terminate the interim surcharge authorized by prior decisions.
3. Refunds for 1976 be determined to be \$1,856,000.
4. The refunds for 1977 be fixed at \$1,581,000 and that refunds for partial 1978 be calculated in the same manner as the 1977 refunds.
5. A proposed refund plan attached as Exhibit C to the motion be authorized as the method of disposing of applicant's refund obligation.

Interim decisions (Decision No. 84662 issued on July 15, 1975, Decision No. 85252 issued on December 16, 1975, reduced by Decision No. 85293 issued on December 30, 1975) issued during the pendency of hearings on this matter had granted applicant substantial interim relief on a refundable basis by means of a surcharge. Decision No. 86802, issued on January 5, 1977 established new permanent rates based on a 9.0 percent rate of return.

Applicant filed a petition for rehearing of Decision No. 86802 contending, among other things, that the authorized 9.0 percent rate of return was inadequate and that the rates adopted would be inadequate to achieve even that rate of return; the petition was filed in time to stay the decision, thus extending the surcharge. Decision No. 87081 issued on March 9, 1977 granted rehearing on a limited basis; it gave applicant an opportunity to show, on the basis of a 1976 test year, that the rates authorized by the Commission would not achieve the rate of return found reasonable.

Applicant's petition for writ of review was rejected by the Supreme Court (S.F. No. 23618) on July 28, 1977. This had the effect of limiting the issues to the adequacy of the rates to achieve a 9.0 percent rate of return on recorded 1976.

Applicant now recognizes that further proceedings on this question could be protracted and expensive. Applicant contends that it would not be prudent to prosecute a proceeding that is tantamount to a general rate increase proceeding based on a test year now two years in the past. Accordingly, the motion proposes that, in effect, applicant and its subscribers be placed in the same position they would have occupied if Decision No. 86802 had gone into effect on January 25, 1977. Applicant proposes that the refund amount due for 1976 be calculated by determining its actual net revenues in excess of 9 percent on total intrastate rate base. For the 1977 refund, applicant has calculated what its exchange revenues would have been if Decision No. 86802 had not been stayed and is proposing to refund any amounts by which the total surcharge revenues exceeded that amount. Applicant proposes to calculate 1978 in the same manner.

Staff analysis of the company's proposed \$1.856 million refund for 1976 was based on 1976 recorded figures adjusted in a manner consistent with that used in Decision No. 86802.

If this matter had gone to hearing the staff would have recommended an additional \$100,000 in 1976 refunds. This recommendation would have been based on a capitalized interest adjustment developed subsequent to the issuance of Decision No. 86802. Since this adjustment could have been, but was not, raised prior to the issuance of Decision No. 86802 the company would have grounds to challenge it as being inconsistent with the provisions of Decision No. 87081. There is thus a substantial probability that the adjustment would have been rejected after hearing.

There is also a possible \$300,000 additional refund amount due to a working cash adjustment. However, it appears that the validity of this adjustment is dependent on a contingency which may not occur until 1980. There may also be other issues which the company could have argued in an attempt to eliminate this adjustment. Hearings might have been protracted especially if the company had taken the opportunity to raise other new issues in an attempt to reduce the refund; this would have further delayed refunds based on charges collected during 1976 and 1977. Hearings would also require careful preparation and analysis by staff personnel at the expense of other proceedings dealing with more current issues, where consumers have more at stake, and where the Commission has a formal commitment to avoid regulatory lag.

Everything considered, we have determined that the interests of California consumers are best served by accepting this settlement and thus terminating this proceeding.

The staff has filed a pleading supporting the utility proposal; there have been no protests from other appearances. It appears there is no reason to require further notice to consumers or additional hearings before adopting the proposed refund figures and approving the refund plan.

Findings

1. It is not appropriate to commit additional staff manpower to a hearing intended to determine whether applicant's rates were adequate in 1976.

2. If the rates established by Decision No. 86802 had been in effect during 1976, applicant would have received \$1.856 million less from its customers.

3. If those rates had been in effect during 1977, it would have received \$1.581 million less from its customers.

4. Applicant should be required to refund \$3.437 million with interest at 7.0 percent to its customers. It should also be required to calculate and refund the amount due for 1978.

5. The refund plan proposed is fair and reasonable.

6. The rates established by Decision No. 86802 do not reflect any savings in ad valorem taxes which may result from the adoption of California Constitution Article XIII-A. It is impossible to determine the amount of such savings now. Such savings should be flowed through to its customers by applicant.

Conclusions

1. No further notice of hearing is required before acting on the motion.

2. The Commission should order refunds based on the stipulated sums and on an agreed-upon additional sum for the period between January 1, 1978 and the effective date hereof.

3. The refund plan should be approved, subject to a condition that applicant may, at a later date, be required to refund any savings on ad valorem taxes to its customers back to July 1, 1978.

O R D E R

IT IS ORDERED that:

1. The refund plan attached to applicant's motion is approved. Applicant shall refund \$3.437 million plus the sum calculated to be due for each day of 1978 up to and including the effective date hereof together with interest at 7.0 percent per annum to its California customers.

2. Applicant shall place its refund plan into execution on the effective date of this order. Within one hundred and eighty days of the effective date of this order, applicant shall file a report setting forth the amounts refunded, amounts unrefunded, and its plan for disposition of the amount unrefunded for approval by the Commission's Executive Director.

3. Applicant shall forthwith deposit in each of its offices and in public libraries throughout its service area copies of its motion filed March 20, 1978 and of this order, for public inspection, together with a statement indicating how protests may be brought to the Commission's attention.

4. Decision No. 86802 shall become effective on the effective date of this order.

5. The authority to surcharge customers' bills shall expire concurrently with the effective date of the revised rate schedules filed pursuant to the authority granted by Decision No. 86802.

6. The authority granted herein is subject to the condition that any savings realized by applicant as a result of the adoption of Article XIII-A of the California Constitution, between July 1, 1978 and the effective date of any order establishing rates which reflect such savings, shall be flowed through by applicant to its customers.

7. This proceeding shall be terminated on the effective date of this order.

The effective date of this order shall be ~~thirty days~~ ^{MD} after the date hereof.

Dated at San Francisco, California, this 27th day of JUNE, 1978.

William J. Quinn President
Vernon S. Sturgeon
Clayton D. Goble
Paice J. DeBrih Commissioners

Commissioner Robert Batinovich, being necessarily absent, did not participate in the disposition of this proceeding.