

ORIGINAL

Decision 93140 JUN 2 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE PACIFIC TELEPHONE AND TELEGRAPH)
COMPANY, a corporation, for authority)
to increase certain intrastate rates)
and charges applicable to telephone)
services furnished within the State)
of California.)

Application 53587
(Petition filed March 12, 1981)

And Related Matters.)

(Re Tax Reserve Matters))

Application 51774
Application 55214
Case 9503
Case 9802
Application 51904
Application 53925
Case 9100
Case 9504
Case 9578

ORDER ON PETITION FOR CLARIFICATION OF DECISION

On March 12, 1981, General Telephone Company of California (General) filed a petition to clarify an alleged ambiguity in Decision (D.) 91337, dated February 13, 1980, with respect to the refund plan that General was ordered to implement to carry out the refunds mandated by D.87838. The petition states that the ambiguity concerns only the portion of the refund plan applicable to business customers and does not in any way affect the plan as it applies to the refunds that have been or will be paid to General's residential subscribers. The petition requests that if the Commission does not approve General's interpretation of D.91337 General requests an extension of time for distribution of the second refund installment to its business customers, now scheduled to take place in June 1981. The petition sets forth the salient facts underlying this matter as follows:

1. On February 13, 1980 the Commission issued D.91337 ordering The Pacific Telephone and Telegraph Company (Pacific) and General to implement the refunds ordered by D.87838.

2. The petition for clarification concerns only that portion of the refund plan applicable to General's business customers.

3. The refund plan ordered General to make refunds to its business customers in two installments. The first installment, which was distributed in June 1980, involved a maximum refund payment to a single business customer of not more than \$35. Those customers entitled to more than \$35 are scheduled to receive the balance of their respective refunds in June 1981.

4. The class of business customers entitled to share in the refund consists of all business customers (as of February 13, 1980) and those former business customers who had discontinued service between January 1, 1979 and February 13, 1980. In order to determine each business customer's share of the total refund amount, the plan provided that "such refunds will be based on recurring exchange charges weighted for the number of months each customer was in continuous service during the refund period." (Emphasis added.) (D.91337, Slip Op., p. 29; Appendix B, p. 1.)

5. The ambiguity that has recently arisen with respect to the business portion of the refund plan concerns the interpretation of the language emphasized in the preceding paragraph. General interpreted the term "months in continuous service" to mean the number of months that a business subscriber had been its customer based on the in-service date shown on General's service records as of February 13, 1980 or the most recent service records for eligible customers who had discontinued service prior to February 13, 1980.

6. The potential ambiguity that exists concerning General's interpretation is based on the fact that the in-service date shown on the records in question may not reflect the actual period of time that a customer may have been in continuous service. A number of activities--both customer- and company-initiated--could have resulted in the establishment of a new in-service date even though there may not have been a physical interruption of the customer's service.

7. General believes its interpretation of the refund order is correct and that it will result in the average business customer receiving the appropriate share of the total refund amount.

8. General further states that since D.91337 required a June 1980 initial distribution, it was not the staff's intent to require General to run the number of change tapes containing the actual in-service dates for its business customers since that would have taken 7 to 10 months.

9. General states that its interpretation of the refund plan is reasonable since it still results in an equitable distribution of the total refund to the average business customer. General admits that for some customers the amount of the refund they will receive under General's interpretation may be significantly less. For the average customer, General contends that the refund would probably not be significantly different.

10. If the Commission should conclude that General's interpretation is not in accordance with the intent of D.91337, General requests an extension of time for making the second refund distribution to its business customers.

On April 13, 1981, the Administrative Law Judge (ALJ) issued a ruling requesting any party of record desiring to comment on the petition to file such comments no later than April 24, 1981. No comments were received from any of the parties of record.

On May 4, 1981 General filed a copy of an alternative refund plan at the ALJ's request. The alternate refund plan will be received as an exhibit in this proceeding as Exhibit P.C.1.

Discussion

The refund plan adopted in D.91337 relating to business customers provided that refunds for business customers be based on the current monthly recurring exchange billing weighted to reflect the number of months that the customer has been in continuous service during the refund period. General interpreted the language to mean the number of months that a business subscriber had been its customer based on the in-service date shown in General's service records as of February 13, 1980 or the most recent service records for eligible business customers who had discontinued service prior to February 13, 1980. General admits that for some business customers the amount of the refund they will receive under General's interpretation may be significantly less because certain activities either customer-initiated or company-initiated would have changed the in-service date on the customer records. General, however, believes that its interpretation will result in the average business customer receiving its appropriate share of the total refund.

While we do not agree that General's interpretation conforms precisely with the intent of the refund plan ordered in D.91337 we are also concerned that if we require General to conform its refunds precisely to the plan ordered in D.91337 it would result in an additional delay of 10 months before the refunds could be made to the business customers.

In its alternative refund plan (Ex. P.C.1) General indicates that there is possibly \$1 million in returned refund checks which could be used for handling refund inequities. Since General indicates that its interpretation results in equitable refunds to most customers it would appear reasonable to avoid the additional costs in rerunning tapes and the 10 months delay in making refunds if a viable alternative was available to treat the inequities.

We believe this goal can be accomplished by permitting General to use returned refund checks from business customers to settle any refund inequities where a business customer can document that its actual period of continuous service was greater than that shown on General's records used in computing the refunds. Approximately \$500,000 is available for this purpose in returned refund checks from business customers. The remaining \$500,000 in returned refund checks from residential customers will not be disposed of in this decision. That sum will be the subject of a future Commission decision, following our receipt of a more precise accounting in a report to be filed by General.

Findings of Fact

1. While General's interpretation of D.91337 relating to refunds to business customers was not precisely that intended by the Commission, General's interpretation does provide for the average business customer's receiving its appropriate share of the total refund amount.

2. Any inequities resulting from General's interpretation of the months of continuous service can be corrected by permitting General to use returned refund checks from business customers as a reserve for correcting refund inequities.

3. Enabling General to make this change in the refund plan will enable business customers to receive their second refund installment in the time frame contemplated by D.91337.

4. It is reasonable for General to use returned refund checks from business customers to correct any refund inequities resulting from General's interpretation of D.91337.

5. It is reasonable to require General to make inequity adjustments, to business customers who are otherwise qualified, where the customer can document that it had been receiving continuous service longer than that shown on General's in-service records used in making refunds.

Conclusion of Law

General's interpretation of D.91337 relating to business customer refunds is not unreasonable provided General is required to make inequity adjustments to those business customers who can document that the months of continuous service are longer than the in-service dates used by General in making its refunds. In order to permit General to expeditiously proceed with the second refund distribution to business customers, the following order should be effective the date of signature.

IT IS ORDERED that:


1. General is authorized to use returned refund checks from business customers as a reserve for making inequity refund adjustments to qualified business customers who can document that they had been receiving continuous service longer than shown on General's in-service records used in making refunds. The claims for refund adjustments shall be filed within 90 days. If the total claims exceed the reserve amount, the refund adjustment amounts shall be prorated down so the total equals the reserve.


2. General is ordered, at the time each refund is made to a business customer, to provide a notice to the effect that if the customer believes the refund is deficient by reason of length of service from General, the customer should contact his business office. The notice should inform the customer that he will be responsible for providing reasonable evidence of the date he first received service from General before a claim for additional refund will be considered.

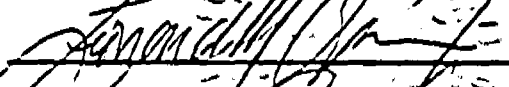
3. In all other respects D.91337 remains in full force and effect.

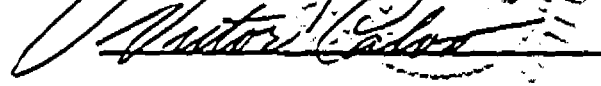
This order is effective today.

Dated JUN 2 1981, at San Francisco, California.



President






Commissioners

Commissioner Priscilla C. Grew, being necessarily absent, did not participate in the disposition of this proceeding.