

Decision 98-07-011 July 2, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

C. David Stephan,

Complainant,

vs.

GTE California Incorporated (U 1002 C),

Defendant.

ORIGINAL

(ECP)

Case 96-06-028
(Filed June 14, 1996)

C. David Stephan, for himself, complainant.
Sandra Newmark, for GTE California
Incorporated, defendant.

O P I N I O N

Complainant seeks to have defendant ordered to provide him flat rate foreign exchange service and reparations for measured usage service which he paid. Defendant denied that complainant is entitled to such service. Public hearing was held May 1, 1998. The relief requested by complainant is denied.

Complainant testified that for years he lived in the Pacific Bell (Pacific) 213 exchange territory but in late 1994, he moved into the Mar Vista exchange in GTE California Incorporated (GTE) territory. As he had a great need to call telephones in the 213 area code exchange, he requested flat rate foreign exchange service from GTE subject only to a monthly mileage charge. He received that service from GTE from November 1994 to November 1995. In November 1995, GTE began billing complainant on a local usage charge basis. Complainant has been paying these local usage charges and seeks to return to flat rate service and a refund of the charges already paid. He testified that when he received the

foreign exchange service, he was required to pay a connection fee to GTE and add wiring to his home. The total cost was approximately \$400. He said that if he had been told he was receiving measured rate service, he never would have accepted the service and would not have incurred the \$400 expense.

Defendant's witness testified that complainant's telephone number (310) 280-1111 is a Pacific number in the Culver City exchange; since November 3, 1994, GTE has provided residential foreign exchange service for telephone number (310) 280-1111 within its Mar Vista exchange pursuant to Tariff Schedule A-19; Mar Vista is a GTE exchange that is contiguous with Culver City; since 1982 GTE's tariff provides for residential foreign exchange service at measured rates; due to a system problem associated with service order processing during 1994 and 1995, GTE erroneously failed to bill local usage charges to hundreds of residential foreign exchange subscribers, including complainant; GTE began billing complainant local usage charges associated with the residential foreign exchange service for (310) 280-1111 in November 1995. The witness denied that in October 1994, complainant was told by GTE that residential foreign exchange service was an unlimited residence number with only a monthly mileage charge.

The failure of GTE to bill complainant for local usage charges for a full year after foreign exchange service began supports complainant's assertion that he was told that he would be receiving flat rate service. Apparently, GTE misread its own tariff. Nevertheless, complainant has been receiving and paying for local usage charges since November 1995 as required by GTE's tariff. Complainant is not entitled to benefit in perpetuity from GTE's original mistake; nor is he entitled to reparations for the measured usage service billed and paid. GTE is required by law to enforce its tariff. The relief requested is denied.

O R D E R

IT IS ORDERED that:

1. The relief requested by complainant is denied.
2. Money on deposit with the Commission shall be disbursed to defendant to be credited to complainant's account.
3. Case 96-06-028 is closed.

This order is effective today.

Dated July 2, 1998, at San Francisco, California.

RICHARD A. BILAS
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners