

ORIGINAL

Decision No. 46237

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DOEHART CORPORATION,)
)
 Complainant,)
)
 vs.)
)
 PACIFIC TELEPHONE & TELEGRAPH)
 COMPANY, a corporation,)
)
 Defendant.)

Case No. 5275

Paul H. Doe, for Doehart Corporation, complainant.
Arthur T. George and Pillsbury, Madison & Sutro, by Noel Dyer
and A. R. Imlay, attorneys, for defendant.

O P I N I O N

The complaint herein was filed on March 19, 1951, by Doehart Corporation. It alleges that complainant is the California distributor of Tele-Magnet, an automatic telephone-answering device manufactured by Mohawk Business Machines Corporation of New York, that the Tele-Magnet is an electrically-operated device which, when used with a French-type telephone, automatically answers the telephone with the operator's own voice when the operator is absent and makes a wire recording of any message the person calling wishes to leave, and that the defendant has advised users or prospective users of the device that the Tele-Magnet violates Rule 15 of the Rules and Regulations of the defendant on file with the Public Utilities Commission of the State of

California. Rule 15, in part, provides as follows:

"No equipment, apparatus, circuit or device not furnished by the Company shall be attached to or connected with the facilities furnished by the Company, whether physically, by induction or otherwise, except as provided in the tariff schedules or authorized by the Company. In case any such unauthorized attachment or connection is made, the Company shall have the right to remove or disconnect the same; or to suspend the service during the continuance of said attachment or connection; or to terminate the service."

The complaint further alleges that defendant has denied users or prospective users of the Tele-Magnet permission to use defendant's telephones in connection with said device, and has threatened to discontinue said persons' telephone services in the event such a device is installed in their respective premises. It is further alleged that said Rule 15 is unjust and unreasonable and in no way promotes the health, safety, comfort and convenience of defendant's patrons, employees, and the public.

Complainant requests that the Commission order that Rule 15 of the defendant corporation, in so far as it relates to the use of the device known as Tele-Magnet, be suspended, and that the defendant be restrained from preventing the use of that device with the telephone service supplied by defendant to its customers.

In its answer the defendant, Pacific Telephone & Telegraph Company, admits that the Tele-Magnet is intended to operate inductively as an automatic telephone-answering device as alleged in the complaint, and affirmatively alleges that the device is not appropriate or satisfactory for receiving, answering, or transmitting telephone messages, that the Tele-Magnet is inductively, acoustically, and mechanically connected with the telephone

station equipment contrary to defendant's tariffs, that the use of said device as proposed in the complaint will cause impairment of the telephone service provided by defendant to its subscribers, and that the use of the Tele-Magnet, in connection with defendant's telephone instruments, is prohibited by said Rule 15 of its tariff regulations duly filed with this Commission. Defendant also alleges that said Rule 15 is a necessary and reasonable regulation to prevent damage to the property of defendant, increased costs of maintenance, misuse of equipment, and impairment of the service provided all telephone subscribers.

Hearings on the complaint were held before Commissioner Huls and Examiner Rogers on June 4 and 6, 1951, and the matter was submitted on briefs which have been filed. The Commission has reviewed the evidence and the arguments presented by the complainant and the defendant. The arguments of the complainant are mostly dehors the record, and the record and the brief of the complainant indicate that it labored under the erroneous belief that the Commission may take judicial notice of the evidence presented before similar commissions in other states. One issue is placed squarely before the Commission by the evidence herein, that issue being as follows: is the Tele-Magnet an appropriate and satisfactory device for the receiving, answering, and transmitting of telephone messages? Inasmuch as the findings of the Commission on that issue will determine the disposition of the case, no determination will be made herein of the reasonableness of defendant's Rule 15.

Paul H. Doe, a witness on behalf of the complainant, is the President of Doehart Corporation. He testified that this corporation was originally formed for the purpose of distributing advertising signs, and is, and has been for about one year, the distributor of the Tele-Magnet in California, Arizona and Nevada. He has no experience in telephone engineering and is not a technical man. Mr. Doe stated that more than one year prior to the hearing, he installed a Tele-Magnet in his own office, and this machine has taken "probably" four or five thousand telephone messages with entire satisfaction. He described the Tele-Magnet as an electronic device, 15 inches by 26 inches by 8 inches in height, which operates on the induction principle with no direct connection to the telephone, and is used in connection with the French-type telephone. He stated that when the telephone is placed on the Tele-Magnet and the telephone rings an induction coil within the Tele-Magnet picks up the impulse from the base of the telephone, charges a tube which discharges through a condenser which in turn actuates a relay which starts the machine in motion, an arm raises the receiver, and a phonograph recording with the outgoing message, which can be varied to suit conditions, starts playing into the telephone mouthpiece from a loudspeaker. Generally, Mr. Doe testified, the outgoing message advises the calling party that there is no one in the office and that if he will leave a message it will be recorded. The calling party is advised to "please start talking after the chimos." The total period allowed from the time the machine starts to answer until it hangs up is one minute. He testified that, in practice, 20 to

25 seconds are allowed for the outgoing message and the balance of the minute for the incoming message. Mr. Doe further testified that, since Doehart Corporation has been distributing Tele-Magnets, it has sold 38 machines in California. Five of this number of machines have been sold in San Francisco, one or two in Bakersfield, one in San Diego, and the balance in Los Angeles and vicinity. He further testified that, up to the time of the hearings, maintenance has been a negligible feature and the complainant has not needed a repair man. Tele-Magnets, he said, cannot be used on party lines. When there are extension telephones, a call on one telephone will cause the Tele-Magnet placed under the other telephone to operate, and if the headset is reversed so the receiver is located where the mouthpiece is ordinarily placed the machine will not operate. Mr. Doe testified that the Tele-Magnet was designed for use with the 302-F telephone (Picture No. 6, Exhibit No. 2); but that the device could be used with all other telephones shown on the exhibit with various types of adaptation. Mr. Doe demonstrated the Tele-Magnet. On attempting to play back a message he had given to the machine, the machine failed to rewind the recording wire properly. At the request of the complainant, and with the consent of the defendant, the Commissioner and the Examiner each phoned one of two numbers at which Tele-Magnets were in operation. The messages given were reported by Mr. Doe to the Commissioner and the Examiner, and were as dictated into the telephones.

Three witnesses other than Mr. Doe were called on behalf of the complainant. None of these witnesses testified

concerning the actual working of the instrument, i.e., the mechanics of its operation, the method of its operation, whether or not it is usable with telephone service, or the effect of its use on existing telephone service. All testified that they needed an automatic telephone-answering service such as the Tele-Magnet, and that they were or had been users of the device and felt it to be reliable.

Defendant called three witnesses, experts in their field. The testimony of John A. Parrott, one of the witnesses, alone will be referred to.

Mr. Parrott is an employee of the American Telephone and Telegraph Company of New York. His education, training and experience include graduation from college, and more than thirty years of work in various phases of the telephone business as a member of the Department of Development and Research and the Operating and Engineering Department. Among other projects, he has worked on means of reducing noise and other disturbances in telephone circuits and private-line, special services and exchange transmission matters. He is presently in charge of a group formed to handle special services only. The major part of his work now requires personal familiarity with Bell System

operating companies and consultation with those companies on current problems and plans for the introduction of new types of facilities.

Mr. Parrott testified that, in the course of his activities, he received four Tele-Magnets for testing purposes. One of these was returned to the distributor as completely unusable, and the other three were tested from February 5, 1950, to December 26, 1950. The witness also participated in tests on three other Tele-Magnets. The tests participated in by the witness concerned, among other things, the characteristics of the Tele-Magnet which are important in determining the practicability of the device as a means for automatic answering and recording of messages at subscribers' premises, and for that purpose he studied the operation and performance of the starting circuit, the reliability and intelligibility of the play-out message to calling parties, and the recording of incoming messages.

As a result of his studies on the Tele-Magnet, Mr. Parrott determined that, disregarding inherent defects in the starting circuit:

(1) Using the machine with a 302-type telephone, for use with which it was designed, calls originating in the same central office circuit on which the Tele-Magnet is located will be recorded intelligibly in a high proportion of calls.

(2) Using the machine with a 302-type telephone, for use with which it was designed, calls originating on a different central office circuit from the central office circuit on which the Tele-Magnet is located will, in a substantial proportion of calls, be unintelligible or difficult to understand.

(3) During the recording of incoming messages the transmitter remains active, and room noises and outside noises are recorded and may completely mask the incoming message.

(4) The groove noise of the play-out record may prevent intelligible recording of incoming messages.

(5) The Tele-Magnet sometimes makes a false start when changed from phone-answering to playback.

(6) The play-out arm can readily catch on a stop screw on the machine so that no play-out message would be provided on all calls while the owner is absent.

(7) The recording wire broke several times in the normal recording and answering cycle during the tests.

(8) The device is subject to recycling with no external stimulus.

(9) There is no notification to the caller when the recording period is over.

Summarizing his findings concerning the defects in the Tele-Magnet itself, Mr. Parrott testified that the device involves great amplification for starting, with a consequent likelihood of variable results, such as not answering, false starting and recycling. Correspondingly, the incoming speech must be greatly amplified, and this inherently involves variations and greater noise within the amplifier and noise induction into the pickup. The machine further subjects the incoming speech recording to impairment by room noise and noise from the play-out amplifier, is inflexible in application to various types of telephone sets, and would require changes in subscribers' telephone services.

The Commission has reviewed the evidence presented by both the complainant and the defendant herein. In view of the record herein the Commission concludes that the device is not practicable, is unsuitable in connection with all types of telephones, and is susceptible of impairment or interference with normal telephone service furnished by respondent. The complaint will be dismissed.

O R D E R

Complaint having been filed with the Public Utilities Commission of the State of California, a public hearing having been held thereon, the matter having been submitted upon the record and the briefs on file and the Commission being fully advised in the premises,

IT IS HEREBY ORDERED that the complaint herein be, and the same hereby is, dismissed.

Dated at San Francisco, California, this 2nd day of October, 1951.

J. J. [Signature] President
Justin F. [Signature]
Harold [Signature]
[Signature]

Commissioners