

ORIGINAL

Decision No. 73146

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own
motion into the service offering of
telephone monitoring equipment under
filed tariffs by telephone corporations.

Case No. 7915
(Filed June 3, 1964)
(Reopened April 5, 1966)

OPINION AND ORDER

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(Appearances as set forth in Appendix A)

O P I N I O NIntroduction

After one day of hearing on October 14, 1964, before Commissioner McKeage and Examiner Coffey, Decision No. 69447 was issued on July 27, 1965. On April 5, 1966, the proceeding was reopened and thereafter Commissioner Grover and Examiner Coffey presided at 27 additional days of hearing. After receipt of concurrent opening and closing briefs and oral argument before Commissioners Mitchell, Grover, Holoboff, Bennett and Gatov, this matter and petitions for a presiding officer's proposed report were submitted for decision on December 14, 1966. Submission was subject to response to a supplemental brief, receipt of material requested by the Commission at the oral argument and responses to said material, the last of which was due December 27, 1966. The Commission will not direct the issuance of a proposed report.

History of Proceeding

On June 3, 1964, this investigation was instituted because it appeared that:

1. Certain public utility telephone corporations in California offer their subscribers under tariffs on file with the Commission

equipment designated as "monitoring equipment," also referred to as "service observing and training equipment." This equipment, as designed, permits overhearing, surveillance and recording of communication over the telephone lines of subscribers from points on the premises and under the control of the subscribers.

2. Such equipment may have been used, or may be used, in a manner contrary to the laws of the United States, the State of California, or in a manner inimical to the maintenance of privacy of communication over the telephone network in California.

This investigation was specifically instituted into the operations, services and practices of all public utility telephone corporations in California for the following purposes:

1. To determine what equipment, services or facilities are presently offered to subscribers by telephone corporations for the purpose of permitting monitoring, overhearing, surveillance or recording of telephone communications;

2. To determine whether tariff offerings providing equipment for such practices should be cancelled, suspended or modified in any particular; and

3. To determine whether any order or orders that may be appropriate in connection with monitoring practices should issue in the lawful exercise of the Commission's jurisdiction.

After showings by respondent California public utility corporations, Decision No. 69447 was issued on July 27, 1965. It found the promotion of privacy of communications to be a reasonable condition of service in the public interest and ordered that when subscriber monitoring equipment was used notice be given of monitoring to the parties of a monitored conversation. The notice of the use of monitoring equipment was ordered to be given after February 16, 1966, either:

1. By an automatic warning device having a "beep" tone the same as that prescribed by the Federal Communications Commission for notice that a telephone conversation is being recorded; or

2. By marking each telephone instrument capable of being monitored to indicate the possibility of monitoring. This method of notice being permitted if the transmitted signals from the subscriber's instrument only were capable of being monitored.

American Airlines, Inc., and California Manufacturers Association petitioned on February 3 and 11, 1966, respectively, that this investigation be reopened. They asked that the practice of monitoring be continued without notice thereof in connection with some PBX monitoring equipment. On February 15, 1966, these petitions were denied and tariffs became effective which were filed in compliance with the order in Decision No. 69447. However, no tariffs were filed which offered equipment to monitor the subscriber's transmitted signal, solely.

On April 5, 1966, this Commission reopened this proceeding after receipt of a petition of the American Airlines, Inc., for reconsideration of the denial of its prior petition. Further, there were indications that some telephone utilities had interpreted Decision No. 69447 as not applying to their own monitoring practices, and that some public agencies were under the impression the decision did not apply to them.

The scope of the reopened proceeding was enlarged to determine whether any monitoring, "service observing," or "recording practices" of any nature should be employed by public utility telephone corporations in the conduct of business and for the purpose of further considering the need, if any, for "telephonic service observation" without the requirement of notice.

In this latter investigation, a total of 103 exhibits have been identified during the 28 hearing days and the transcript includes, in its 4240 pages, the testimony of 93 witnesses.

Definitions

For the purpose of this proceeding we will revise the definition of monitoring or "service observing" and "training equipment" (hereinafter referred to as monitoring equipment), which we set forth in our Decision No. 69447 (64 Cal. P.U.C. 528), to include public utility telephone corporations as follows:

"Telephone utility apparatus by which a public utility telephone corporation or a telephone subscriber, or any of their officers, employees or agents, may listen to or record telephone conversations on premises owned or controlled by the utility or by the subscriber (a) without any audible indication to the parties conversing that their conversation is being overheard, or (b) without connection of a device to provide two-way conversation between the listener and the parties conversing so that the listener's voice may be heard throughout any period of monitoring, or (c) without any indication to the parties conversing that their conversation is being recorded." We adopt and find reasonable the foregoing modified definition of monitoring equipment.

The use of monitoring equipment has in this proceeding been referred to as monitoring, "service observing," "official" or "administrative service observing," "supervisory monitoring" or "service observing," "PBX observations," and "special studies." "Service observing" has been defined by the telephone utilities as "the quality-control procedure applicable to the business of serving the public by telephone." We shall use the term monitoring to generally describe the use of monitoring equipment.

"Official" or "administrative service observing" is performed by utility employees with the job classification of "Service Observer." They provide the utility with an over-all evaluation or index of the quality of telephone service furnished subscribers by a telephone company office, or work group, but without reference to the performance of an individual employee, or identifying employees or subscribers. Historically this type of monitoring has been known as "official service observing," but in this proceeding the utilities have chosen to use the term "administrative observing." We shall use the term "administrative monitoring" to describe the use of monitoring equipment for this function.

"Supervisory monitoring" or "service observing" is used by telephone utilities, public agencies and business concerns to train and supervise individual employees in their performance of telephone service assignments. This includes monitoring, upon the request of any business subscriber using a PBX board, of conversations between the employees of the business subscriber and the customers of the business subscriber by employees of the telephone utility for the purpose of evaluating the grade of service of the PBX board telephone operators. We shall use the term "supervisory monitoring" to describe the use of monitoring equipment for the functions described in this paragraph.

"Special studies" by telephone utilities using monitoring may be initiated by requests of subscribers or law enforcement agencies relating to harassing or obscene calls, suspected wire-tapping, eavesdropping or other similar irregular and forbidden practices. We shall use the term "special study monitoring" to describe the use of monitoring equipment in the course of special studies as herein defined.

We do not include in the term monitoring the concepts of "wiretapping" and eavesdropping," forbidden by the Penal Code as interceptions of confidential communications, nor do we include in the term those accidental and unintentional interceptions of confidential communications, as defined in the Penal Code, by telephone utility employees engaged in their obviously normal tasks relating to the operation, maintenance and construction of telephone utility facilities. Further, we are not in this proceeding considering monitoring by law enforcement and national defense agencies, or by telephone utilities to prevent fraud or loss of revenues, when there activities are permitted under enabling laws and legal safeguards.

Presentations in the Reopened Proceeding

Presentations by subscribers to monitoring equipment indicate a wide range of use of monitoring by public bodies and the business community. Among the public bodies and business organizations who made representations to the Commission were the City of Los Angeles; the County of Los Angeles; the City and County of San Francisco; the County of Ventura; the City of Burbank; the Los Angeles Times and three other newspapers on behalf of themselves and on behalf of the California Newspaper Publishers Association and the Northern California Classified Advertising Association; the Air Transport Association of America, with presentations by six major air lines; the University of California; the Southern California Rapid Transit District; the Sacramento Municipal Utility District; the Southern California Edison Company and other gas and electric utilities; Telephone Answering Services of California, the association representing telephone-answering services throughout the State; the

Automobile Club of Southern California; Creditors Service of Los Angeles; and Sears Roebuck and other business corporations.

The Pacific Telephone and Telegraph Company (Pacific), General Telephone Company of California (General) and California Water and Telephone Company (Cal Water) made presentations in support of monitoring.

Telephone employee unions made presentations in support of some aspects of monitoring but generally in opposition to monitoring.

A number of presentations were made by individuals, many opposing and some supporting monitoring.

The Commission staff did not make a direct presentation but it did assist in developing the record by comprehensive cross-examination.

Monitoring Equipment Used by Subscribers

Pacific furnishes four types of monitoring equipment for use by subscribers, with General and Cal Water furnishing similar equipment, as follows:

The Three-Position Key - This key equipment permits the subscriber to monitor conversations between employees and others on three positions or three lines. An example of subscriber application of this equipment would be an answering service which has two or three switchboard positions. With the three-position key installation, the supervisor of the answering service, by moving the key from one position to another, is able to observe a given operator's work. The monitoring equipment is wired through the operator's headset, so that whenever the operator disconnects, the supervisor is also disconnected. Another example of the use of this equipment would be a finance company with two or three employees assigned to effect collections by telephone. Through the use of the three-position key, their supervisor may listen to the conversations of each employee seriatim.

Push Button Key Equipment - This equipment is similar to the operation of the three-position key, but it is of larger capacity. A subscriber of the push button equipment could, for example, be a municipal office with multiple PBX switchboards. The chief operator would use the equipment to monitor the conversations of the switchboard operators under her charge. Depressing a button on the monitoring equipment connects the chief operator with the circuit of an operator at a given switchboard position. The circuitry is so arranged that when the operator disconnects the chief operator is also disconnected. A business subscriber application of this equipment would be the catalog order office of a retail concern. With push button monitoring equipment, an office manager or any person can monitor the telephone conversations of catalog sales clerks.

Monitoring Cabinet - This equipment operates in fundamentally the same way as the equipment above discussed, but it has greater capacity. The cabinet is cord operated and equipped with jack strips of ten jacks per strip. A maximum of ten strips permits service observing of 100 lines or positions. The jacks are used in place of keys or push buttons. A subscriber of the cabinet equipment would be a large government agency office, a large telephone answering bureau or a commercial concern such as the classified advertising department of a large newspaper with numerous PBX boards on the premises. The supervisor inserts the plug end of a cord in the jack associated with an operator at a given switchboard position. When the operator disconnects, the supervisor is also disconnected.

Automatic Call Distributing Equipment - Automatic call

distributing (ACD) equipment is used in business service applications to distribute a large volume of incoming calls in sequence, such as to air line reservation and air freight clerks, gas or electric utility clerks, mail order house catalog clerks, automobile club clerks, transit district information clerks, and similar employees of organizations which give service by handling a large volume of telephone calls. The mechanical process of the ACD equipment substitutes for the PBX operator at PBX installations. As an integral part of its operation, ACD equipment has a monitoring facility. This permits a supervisor at a console to monitor any of the attendant positions or lines on the ACD system. The monitoring facility in an ACD system also permits the supervisor to signal an attendant at a particular position during an observed conversation that the supervisor would like to talk to the attendant. Thereupon the attendant can put the calling party on hold, depress a supervisory button, and converse with the supervisor, who can come in with the attendant on the call or take over the call from the attendant. These consulting features of ACD can be provided with other monitoring equipment if desired. ACD equipment is used only in business service applications and has no operator or switchboard application since, as we said, the mechanical process of the ACD equipment substitutes for the PBX operator of PEX switchboard equipment. ACD equipment can be installed with the capability of calls being transferred between clerks, permitting outgoing as well as receiving incoming calls, permitting incoming calls only, and of monitoring trunks as well as positions.

Subscriber Use of Monitoring Equipment - Subscribers who have used monitoring equipment presented extensive testimony of their need for and use of monitoring in their operations.

Air Lines - During 1965 in excess of 22 million calls were received by air lines in California, by air reservation and air freight clerks. Substantially all of these calls were subject to monitoring. The air lines presented testimony in support of their position that monitoring equipment is the primary tool of air line reservation and freight quality control and that its use is essential to the proper performance of this function. Since only a relatively small percentage of calls are monitored, the air lines maintain it is essential that nothing be done to create an artificial situation which would distort the sample taken. Monitoring equipment is also used by air lines as a training tool, alerting management to the problems that exist and the corrective means needed. Monitoring is alleged to produce recommendations for changes that simplify procedures and increase reliability and convenience to the passenger. Many other quality control procedures are being used by air lines, a witness testified; but these serve as limited supplements to monitoring, not as adequate substitutes. Not all reservation offices employ monitoring.

Collection Agencies - Monitoring equipment is used by collection agencies because of the nature of the business and because the infraction of State of California rules of conduct by an agency or its employees subjects the agency to the revocation of its license.

Municipalities and Counties - Monitoring of municipal and county PBX operators by supervisors is used to facilitate and check the results of operator training and to insure that operators do not "listen in" on telephone calls.

The Los Angeles Fire Department emergency dispatch center uses a distant speaking telephone with the transmitter removed as a monitor to reduce the chance of error by multiple employee participation. A beep tone is presently used for this monitoring and for recording calls.

ACD monitoring equipment is also used by the City of Los Angeles in connection with the operation of a complaint board to train new police officers, to audit performance to determine public service level, to insure compliance with rules and procedures and to assist officers on difficult calls.

Newspapers - Many, but not all, newspapers use monitoring equipment in their PBX, advertising and circulation departments. Many individuals are employed to solicit or receive by telephone either subscriptions or advertising orders. These, together with bill collectors and the operators of the PBX switchboards, are subject to monitoring.

Telephone Answering Services - Telephone answering services use monitoring equipment in the training and development of employees who answer and interconnect the telephone lines of the clients of the service, accept messages for clients and deliver messages to clients.

Transit District - The Southern California Rapid Transit District in 1965 processed in excess of 2,100,000 telephone information requests regarding schedules at 28 answering positions. Incoming information request calls are distributed to clerks by ACD equipment designed to receive incoming calls only.

Utilities - Gas and electric utilities utilize ACD or PBX equipment to receive customer calls for service and information.

These calls are received by clerks in service bureaus and are subject to monitoring.

Monitoring by Telephone Utilities

Two previously defined types of monitoring called "administrative monitoring" and "supervisory monitoring" are utilized by telephone utilities as a part of their operations, differentiated primarily by function and by the organizational level of the monitor.

"Administrative monitoring," with some exceptions, is performed by nonmanagerial employees and used to provide the utility with an office index measuring over-all quality of service afforded the subscriber. It does not measure individual performance and individual employees are not identified. On the other hand, "supervisory monitoring" is directed to the work of individuals, and is generally performed by managerial employees.

In addition to the foregoing, telephone utilities perform monitoring for the purpose of evaluating or improving the work of telephone operators at the PBX switchboards of business subscribers, to identify at subscribers' requests the originators of lewd or nuisance calls and for miscellaneous purposes such as to locate at subscribers' requests the source of line noises suspected of being caused by wire tapping.

Administrative Monitoring - This type of monitoring of calls between subscribers and between subscribers and utility employees is conducted as a part of traffic, commercial and plant operations as follows:

1. Traffic Operations. Administrative monitoring is conducted in all traffic services: Operator Handled Toll and Assistance, Information and Intercept, and Dial. The monitoring is performed from remote locations by a

separate group of employees specially trained in accordance with company-wide uniform practices. Calls monitored are selected at random in sufficient numbers to constitute a statistically valid sample. A Pacific witness testified that 400,000 to 425,000 calls were monitored in traffic operations, out of a total of 1,500,000,000 calls in 1965, or about .03% of the calls were monitored. A General witness testified that about 6,000 calls are monitored each month in its traffic operations. Monitoring is now confined to the period of time when the operator is establishing the call connection, or when signals indicate that a subscriber needs operator assistance, with there now being no monitoring after the effective start of conversations between subscribers.

A union witness testified that prior to June 1, 1966 in Pacific operations, entire subscriber conversations were monitored continuously up to ten minutes and in some cases longer. A witness for Pacific testified that up to May 15, 1966, entire subscriber conversations were monitored up to eight minutes, except in the case of coin telephones, where there was monitoring up to ten consecutive minutes if additional coin deposits were required and thereafter up to the end of the subscriber's conversation. Since May 15, 1966, the witness testified, in Pacific's operations the "Official Service Observer" monitors the call until there is a satisfactory exchange of conversation between the calling and the called parties. In the General operations, prior to July 20, 1966, the observer remained on the line until the subscriber hung up, or for ten consecutive minutes

after the called subscriber answered, whichever was the shorter period. Since July 20, 1966, General's practice is the same as Pacific's.

a. Operator Handled Toll and Assistance Service.

Toll and "assistance monitoring" is performed to determine the speed, accuracy and proficiency of telephone operators and equipment in providing operator handled telephone service. In Pacific's toll traffic operations, approximately 1,000 calls are monitored over a one-, two- or three-month period for each central office. From the record it can be estimated that as many as 1,700,000 calls were subjected to "administrative monitoring" in Pacific's operations in 1966.

The observer is connected to one of the numerous cord pairs on each switchboard position to be observed. When the operator uses the cord pair to which the monitoring circuit is connected to answer a subscriber's signal, that call can be selected by the observer for monitoring. An operator does not know which cord pair or which call is being monitored.

Having selected a call, the observer follows the progress of the placing, connection and termination of the call. The sequence of events is noted on a standard form together with the elapsed time intervals of all operations associated with the handling of a call. The data entered on the form is obtained from several sources: the exchange of information between the subscriber and the operator, a timing device, lamp signals and a digit display panel.

In following the establishment of a call, the observer watches on the display panel the digits the operator dials to determine, if a wrong number is reached, whether it resulted from operator keying or equipment trouble. The observer notes the time required to establish the connection, and special billing information, removing herself now from the circuit at the start of conversation between the calling and the called parties. The observer does not monitor the circuit further until lamp signals indicate call completion or customer flashing for operator assistance. The resumption of monitoring enables the observer to determine the proper billable time on the call and the accuracy of any coin overtime, and to note any details of customer difficulty with the connection.

The principal items of telephone operator performance reviewed for over-all evaluation or index purposes are speed of operator answer, errors and irregularities. Errors include items such as connection to wrong number or to a wrong party, giving erroneous information to a customer, quoting or collecting a wrong rate and ticket omissions that affect proper billing. Irregularities include items such as operator discourtesy, leaving the line, and ignoring customers' requests. At the end of each month, the collected data is compiled to indicate the over-all quality of service being provided by each central office, and then further summarized to indicate quality of service on a company-wide basis.

Pacific, General and Cal Water each employs essentially the same monitoring procedures on operator handled toll and assistance services.

b. Information and Intercept Service. Information and intercept "administrative monitoring" is performed to measure the over-all quality of these services. In Pacific's operations, approximately 900 to 1,000 observations are obtained over a one-, two- or three-month period for each information and intercept operating office. From the record it can be estimated that as many as 1,400,000 information calls were subjected to administrative monitoring in Pacific's operations in 1966.

For these services, the monitoring circuit is connected to a cross section of information or intercept trunks. When one of these trunks is used by a subscriber, or by an operator, the call may be connected for monitoring by an official service observer who enters on a standard form the speed of answer, details of the requested information, and the time interval the operator requires to furnish the number requested. Also noted are the operator's attention to the request, together with the interest and courtesy shown. After the observation is completed the observer checks directory information reference material to verify the accuracy of the number report. Monthly summaries are prepared which indicate the speed, accuracy and proficiency of the information or intercept service.

The record indicates that observers have been connected for monitoring prior to operator answer and that conversations at the location of the subscriber's phone have been overheard.

General employs similar procedures for "administrative monitoring" of information and intercept service; but instead of live monitoring, General tape-records without beep tone a sample of information and intercept calls observed on one to five trunks in information offices. The tapes are analyzed by service observers in a centralized bureau, thereafter being erased for re-use.

c. Dial Service. Dial "administrative monitoring" is performed to measure equipment performance and accuracy of subscriber dialing. In Pacific operations, 300 calls per dial entity are monitored monthly, a dial entity being one or more prefixes served by the same switching equipment. General monitors about 1,000 such calls per month in a central office.

In Pacific's dial "administrative monitoring," the monitoring circuit is connected to a cross section of high use customer lines which include different classes of service. Groups of lines observed are changed weekly. When a subscriber initiates a call on a line connected for monitoring, the observer follows the steps in the establishment of the call to determine whether the connection is satisfactorily established, and whether an ineffective attempt to reach a number, or the reaching of a wrong number, is due to equipment difficulty or

erroneous subscriber dialing. Monthly summaries are prepared to show how long subscribers wait for dial tone, the incidence of equipment irregularities, and the incidence of subscriber dialing irregularities.

General and Cal Water employ dial line monitoring procedures similar to the foregoing, except that they tape-record without a beep tone in place of live monitoring. The equipment is so designed that the tape recorder is automatically cut off 10 seconds after the called station answers, or about at 45 seconds when the call is routed to an operator or is not completed. The tapes are analyzed by service observers at a centralized bureau, thereafter being erased for re-use.

d. Overseas, Mobile and Marine Calls. On July 20, 1966, union witnesses testified that overseas, mobile and marine calls were regularly monitored and in some cases entire conversations were monitored. A Pacific witness testified that overseas calls by cable circuits are not monitored and that only the overseas calls by radio are monitored. He further testified that since May 15, 1966, "official service observers" do not monitor customer-to-customer conversations on radio circuits. The operator of a radio circuit does listen periodically to the conversation to check the condition of the circuit. Further, since May 15, 1966, the witness testified, mobile and marine calls have not been monitored during customer-to-customer conversations by the "official service observer," but the operator does listen to customer conversations intermittently to check the circuit.

2. Commercial Operations. The conversations of service representatives in Pacific's Commercial Department with subscribers are subject to "administrative monitoring" by employees called service analysts. Service representatives handle calls from subscribers who wish to establish, disconnect or rearrange service; to get bill explanations or adjustments; and to register complaints. A monitoring console in a room separate from the service representatives is used by the analysts to sample the calls handled by the service representatives, who, like the operators in the Traffic Department, are not identified individually. The performance of service representatives is evaluated in five categories: errors, irregularities, delays, manner of service and speed of answer. Results are summarized on an office and company-wide basis.

Prior to Decision No. 69447, General conducted "administrative monitoring" of service representatives substantially in the same manner as Pacific. Cal Water has installed equipment for such monitoring, but the equipment has not yet been used.

The record indicates that in 1965 about 186,000 calls were "administratively monitored: by Pacific in its commercial operations, 1.2% of the total calls to business. "administrative monitoring" in its commercial operations, General had made 100 observations per quarter per exchange. General plans to expand these observations to 300 per quarter per exchange if "administrative monitoring" in its commercial operations is resumed.

3. Plant Operations. Prior to about 1960, Pacific performed "administrative monitoring" of repair service calls in plant operations in essentially the same manner as in traffic and commercial operations. Presently, Pacific "administratively monitors" subscriber repair service calls by making mechanical recordings with a beep tone of a sample of the calls. The sample size is 100 calls per service center per month. These recordings are summarized by a specialized group of clerks in the form of an index which is forwarded to appropriate management levels in the plant department for their analysis of service quality trends. A Pacific witness testified that recent trials of "administrative monitoring" of repair service calls by service observers without recorder or beep tone, indicated that employees gave a better performance when a beep tone was used than when observed without notice.^{1/}

Supervisory Monitoring - this type of monitoring of calls between subscribers and utility employees and between utility employees is conducted as a part of traffic, commercial, directory and plant operations as follows:

1. Traffic Operations. "Supervisory monitoring" is conducted in operator handled toll and assistance, information and intercept and instructional PBX traffic services. In contrast to "administrative monitoring" which provides an over-all evaluation of performance of a work group without

^{1/} From this, it could be argued that service observing with notice would improve efficiency and public relations, but air line and telephone utilities maintain that notice impairs the objectivity of the index of service so obtained.

individual operator identification, "supervisory monitoring" is directed to the work of individual operators, often leading to disciplinary action, including discharge. "Supervisory monitoring" is performed to determine the progress of operators in acquiring and maintaining operating skills; to determine the over-all quality of an employee's work; and to determine the training and development needs of individual operators. "Supervisory monitoring" is used to train operators, to maintain quality of service by assuring that operators understand and follow the best available procedures; to help telephone utilities meet changing service needs of subscribers, to help determine the most capable operators for promotion, to help protect the secrecy of communications and to deter the listening by operators to customer conversations.

The following types of monitoring equipment are used by Pacific in "supervisory monitoring" in traffic operations:

- a. Key pulse display panel - This panel is located at the end of a switchboard. It can be connected to each operator position on the switchboard. When connected to an operator's position, it is possible to observe the operator-customer contact and to see a visual display of the digits keyed by the operator.
- b. Supervisor console - One or more such consoles are located on tables or desks near the switchboard. The console enables a supervisor to monitor any position of the switchboard. When an operator desires assistance, she can plug into a special jack on the switchboard which permits her to converse with the supervisor at the console.
- c. 6B observing circuit - One or more 6B observing circuits, connected to call directors (key telephones) are provided for each central office. This equipment is located on desks near the switchboard or in nearby rooms or offices of managers. The circuitry permits a supervisor to connect to an operator's position by dialing the call director.

- d. Operator's position headset jack - A double headset jack at an operator's switchboard position permits supervisory monitoring to visually check the operator's dexterity, and at the same time to check the accuracy of the operator's response to customer calling instructions.

The record indicates, but is not definitive, that modified switchboards may also be used for monitoring purposes.

In the Traffic Department, "supervisory monitoring" is performed by the following levels of management:

- a. Assistant traffic operating manager - This manager has access to all of the above modes of monitoring.
- b. Traffic operating manager - This manager has access to all of the above listed modes of monitoring and also monitors assistant traffic operating managers.
- c. District traffic manager - This manager may perform the same type of monitoring as the traffic operating manager. The calls which he monitors can be amplified so that a number of people in his office or conference room can listen. He has access to all central offices within his district and therefore can monitor as many as several hundred operators and their conversations with subscribers.
- d. Union witnesses testified that all levels of management above the district level also have access to all monitoring equipment. A company witness testified that the Division Traffic Manager and the General Traffic Manager have access to all monitoring equipment but that higher levels of management are not involved in "supervisory monitoring."

At the request or with the concurrence of business subscribers, Pacific and General traffic department personnel will do instructional monitoring of the PBX switchboards of the business subscribers. Procedures are used, similar to those employed in supervisory monitoring of the traffic work of the utilities, to evaluate and improve the work of telephone operators at the subscriber's PBX board.

A Pacific witness testified that in the year 1965, 560,000 toll calls and 480,000 information calls per month, a total of about 12,500,000 calls during the year, about 1% of the operators' work, were the subject of "supervisory monitoring." Considering the monthly quotas of 25 to 100 calls per operator prescribed to be monitored and the union testimony that as many as 100 to 150 observations per month may be made, and that during 1966 Pacific employed approximately 20,000 operators, the number of calls subjected to "supervisory monitoring" by Pacific's traffic operations may approximate 24 million a year.

2. Commercial and Directory Operations. "Supervisory monitoring" of the calls between directory sales personnel, service representatives and subscribers is conducted by the business office and directory sales supervisors. For such observations, supervisors use key telephone equipment at desks in the same room as the service representative or sales personnel, or similar equipment in a separate room. "Supervisory monitoring" of service representatives and sales personnel is done for purposes of training, assistance and supervision; for individual criticism and commendation; and to improve training techniques and office practices. Not only are conversations with subscribers monitored by supervisory personnel but directory sales personnel and service representatives are required to monitor periodically the conversations of their fellow employees with subscribers.

Prior to Decision No. 69447, General and Cal Water did "supervisory monitoring" of service representatives in substantially the same manner as Pacific. General, in addition to monitoring as do Pacific and Cal Water, also recorded without a beep tone a sample of service representative contacts.

3. Plant Operations. Repair service clerks, deskmen, toll testboardmen and service order clerks in Pacific's plant operations are subject to "supervisory monitoring" by management. This monitoring is done with key telephone equipment in the same room or in a nearby office. About 20 to 30 calls per month per plant service center are monitored for the training and assistance and supervision of the monitored employees.

General has customer service centers staffed by both business office service representatives and plant department repair service deskmen. The repair service clerks at testboard, assignment and dispatch positions are subject to "supervisory monitoring" by local foremen.

Notice and Equipment Limitations

Since the essence of Decision No. 69447 was to permit monitoring only after notice, or after equipment modification to limit monitoring to one side only of a conversation when the giving of notice was not desired, the problems of notice and equipment modification were reviewed during this proceeding.

1. Beep Tone. Subscribers to monitoring equipment and telephone utility personnel testified that the beep tone on monitored calls is unsatisfactory because (a) it puts the observed employee on notice that the particular call is being monitored and thus creates an artificial situation; (b) it is annoying to both observed employees and calling customers to have the tone sound every 15 seconds and may interfere with the message; (c) it is misleading to customers, because the 1400 cycle beep tone is the same as that used for recording and, hence, falsely suggests that the call is being recorded; (d) it absorbs the time of both caller and employee in discussion of what is the tone; and (e) if used in switchboard application, it is seriously misleading because it suggests that the caller-to-called party conversation is observed, whereas only the caller and switchboard operator conversation may be observed.

As previously recited, the standard beep tone has been utilized by Pacific for a number of years in its measurement of plant department quality of service. A Pacific witness testified that about 10% of the subscribers ask what is the beep tone, and in some of those instances, the customer will request that the call not be recorded or that the recording be destroyed.

2. Observation of One Side of Conversation. This alternative, permitted by Decision No. 69447, was rejected by the telephone

utilities and was not offered to subscribers on the basis that it would render service observing useless and would be technically difficult and expensive from an equipment standpoint. Witnesses for subscribers and utilities opposed the monitoring of only the employee side of a conversation on the ground that such a procedure makes it impossible to evaluate the service to the customer, that both sides of a conversation must be heard.

3. Beep Tone Heard by One Party Only. This suggestion is that the circuitry be so arranged that a beep tone be heard only by the outside party or nonemployee on observed calls. The concept was to relieve the employee, having other notice of possible monitoring, from the annoyance of listening to the beep tone and to prevent the employee from knowing which calls were monitored while giving notice to an outside caller that a call is being monitored. The objection of the parties to this suggestion was that an employee either would hear a residual beep tone or be advised that a particular call was being monitored by caller comment, thus defeating the purpose of monitoring to provide an objective measure of employee telephone performance.

4. Zip Tone. Without advocating its use, General suggested that a zip-tone arrangement would remedy some of the shortcomings of the beep-tone arrangement. A zip tone is a 500 or 700 cycle tone applied once (zip-zip) at an interval of a few seconds after the start of every call subject to monitoring. The single application of the tone would eliminate the annoyance of a repetitive tone throughout the call. The 500 or 700 cycle tone would differentiate the call as being monitored from one being recorded. The application of the tone to all calls subject to monitoring, not just those actually monitored, would avoid indication of the specific calls monitored and, hence, would avoid artificial performance by employees on monitored calls. While the use of a zip tone would be less objectionable to telephone utilities than the beep tone, they do not favor it since it might cause operational interference with prospective touch-tone dialing, would require explanation of the tone to many callers, and other utility measures for information are deemed more appropriate.

5. Observing on Incoming Calls Only. It was suggested that limiting monitoring to incoming calls only on ACD equipment would further guarantee that calls of a personal nature would not be monitored. The call handling by PEX operators of large switchboards is similar to the random pattern of an ACD installation. Parties argued against this suggestion on the grounds that attendants at ACD positions do not make personal calls in any consequential degree, that operators at switchboard positions are not permitted to make personal calls, that this limitation is unnecessary, and that the equipment arrangements necessary to effect such a limitation at key telephone positions would be difficult and costly.

Air lines view the capability to observe only incoming ACD calls as better than no monitoring at all and would pay for equipment so limited.

6. Transmitter on Line. This suggestion was to require a transmitter in the monitoring circuit to provide notice to customers of monitoring through room noise and other indications. The major objection to this suggestion was essentially the same as to the beep tone, that in order for monitoring to provide objective service evaluations, employees must not be aware that specific calls are observed.

7. Console With Open Key Indicator. This suggestion contemplated development of a service observing console with an indicator lamp associated with each switchboard position monitored. A lamp would light to indicate when an operator's key at a switchboard position was in an open or listening position "longer than necessary". This suggestion was opposed as impractical because a good switchboard operator always has a key open ready to handle a signal and because there is no "average time" an operator's key should be open.

8. Additional Line of Information in Telephone Directories. It was suggested that business subscribers who use monitoring equipment be required to insert an additional line of information below listed telephone numbers at which calls are subject to monitoring. This suggestion was opposed as creating erroneous inferences in the mind of the public, such that all customer-to-customer conversations were being monitored.

9. Automatic Cut-off of Official Service Observer. This suggestion is that equipment be arranged to automatically remove the official service observer from the circuit after a predetermined interval of 60 to 90 seconds from the start of observation of an operator handled toll call. The suggestion was opposed by the utilities because it would prevent adequate observation of operator handling of collect and person-to-person calls.

A second suggestion was made that the official service observer be automatically removed from the circuit ten seconds after the called party answers a dial call. General and Cal Water use a recording arrangement with a 10-second timing cycle in their operations, but Pacific opposed the suggestion as interfering with needed observations and being technically limited to use with step-by-step facilities.

Pacific is presently installing nonlocking keys on monitoring equipment used by official service observers. When the observer has noted the required data, she removes herself from the circuit at the effective start of customer-to-customer conversations by pushing the key. The observer then cannot re-enter the connection until the device automatically cuts the observer back in when the customer conversation has ended or when the customer signals for the operator.

10. Recorded Announcement. The substitution for the beep tone of a recorded announcement to the effect that some calls are monitored for quality control purposes was rejected by subscribers on the grounds that the communications systems would be burdened and the service to the public substantially delayed.

11. Additional Information on Monitoring. Believing that the public may not fully understand monitoring and that some of the public may have been misled by articles dealing with monitoring and eavesdropping, the telephone utilities support additional measures to provide information on monitoring to the public. Means of implementing this suggestion include a statement in the information pages of telephone directories, a notice on the inside of the cover of telephone directories, a bill insert mailed to all telephone subscribers describing the nature and purpose of monitoring, and upon request the furnishing by the telephone utilities of the names of business subscribers who employ monitoring equipment.

Air lines do not object to notice of monitoring in the form of a statement in the timetables and other literature published by the airlines for public use.

12. Additional Tariff Provisions. Telephone utilities are agreeable to revision of tariff provisions for added protection against possible abuse of monitoring procedures by defining as precisely as possible how monitoring equipment should and should not be used. The principal provisions of these tariff revisions are:

1. Monitoring equipment is for use only by subscribers in connection with their business telephone calls, and not to observe personal conversations of employees or anyone else.
2. Monitoring equipment is furnished to permit evaluation and training and supervision only of those telephone service employees whose job assignment is (a) telephone operator work - connecting telephone calls to or from other employees, or (b) other telephone work - furnishing or receiving by telephone information incident to the business of their employer.
3. The subscriber must sign a statement of the use to be made of the equipment, and an agreement setting forth the tariff conditions on its use.
4. The subscriber is required to keep employees subject to observation advised of that fact.
5. Each employee who uses the monitoring equipment must sign a statement that he has read the tariff conditions and the Federal and State statutes on secrecy of communications.
6. The telephone company is required to review annually use of monitoring equipment with each subscriber to assure understanding of tariff requirements.
7. The telephone company must file an annual report with this Commission of the number and type of equipment furnished and the application of such equipment in the business operations of each subscriber.

13. Notice to Employees of Telephone Utilities. Union and utility testimony conflicts on the notice given employees of the monitoring practices used in utility operations. The utility's use

of monitoring is covered by departmental training practices. The utilities have indicated their willingness to review their practices to assure the completeness of explanation of their monitoring procedures and to supplement their training practices where appropriate.

Position of Parties

The basic positions of the parties set forth in their presentations and briefs are generally summarized as follows:

Air Lines - Monitoring is an essential tool of reservation quality control and training, that it is not in any sense incompatible with the right to privacy of either party to the business transaction monitored, and that monitoring is not adverse to the public interest. The air lines desire that Decision No. 69447 be modified to permit retention of the service benefits which result from monitoring. Specifically, United Air Lines urged that monitoring be permitted on both outgoing and incoming calls over ACD facilities, using equipment furnished under telephone company tariffs, with notice to the general public of such monitoring accomplished solely by notices in local telephone directories.

American Civil Liberties Union - The American Civil Liberties Union of Southern California submitted that this Commission should decide that no monitoring or recording facilities of any nature should be employed by public utility telephone corporations in the conduct of their business and that there is no need or right to telephone monitoring even with a notice device.

Collection Agencies - Collection agencies desire that Decision No. 69447 be modified to permit the use of monitoring equipment without the requirement of a beep tone.

Municipalities and Counties - The City of Los Angeles

believes that the present requirement of notice fails to protect the privacy of personal confidential communications over a public utility telephone system in that the operator of a communications system is unable to properly supervise and train employees operating the communications system. Further, it is contended that emergency calls placed by members of the public to public safety service departments should not be regarded as personal confidential communications and that a public need exists for monitoring equipment in fire and police departments. The City of Burbank, the County of Los Angeles, and the County of Ventura generally support the foregoing position of the City of Los Angeles. However, the City and County of San Francisco indicated that, while it desired the use of monitoring equipment without a beep tone, it had no objection to the use of live transmitters by chief operators when monitoring.

Newspapers - In order to maintain the efficiency and courtesy of its employees, insuring a high standard to the public, newspapers desire to monitor business calls without a beep tone. Such monitoring is considered not to be an invasion of the right to privacy.

Telephone Answering Services - Since the type of telephone call monitored by telephone answering bureaus is not considered to be a personal and private communication, telephone answering services desire to be permitted to monitor on a position basis without the application of a tone to the telephone line, with notice being accomplished by a notice in the telephone directory.

Transit District - The district considers that an advertisement, a notice in the timetables, or a notice in the telephone directory would give adequate notice to third parties of monitoring without the use of a beep tone. The district desires to monitor without a beep tone notice.

Unions - The Order of Repeatermen and Toll Testboardmen, Local 1011, International Brotherhood of Electrical Workers, AFL-CIO, and International Brotherhood of Electrical Workers, Local 1269, submitted that the order against the use of undetected monitoring equipment should be maintained in effect as to telephone subscribers and that the order should expressly be extended to cover the telephone utilities. International Brotherhood of Electrical Workers, Local 1245, took the position that Decision No. 69447 is based on sound principles, that the basic concepts therein are proper, and should be maintained, but that the union is not opposed to modification of the mechanics of decision implementation providing its basic concepts are maintained. The Communications Workers of America, AFL-CIO, and the Federation of Women Telephone Workers of Southern California submit that all types or kinds of monitoring, and except for "Official Service Observing," should be prohibited.

Utilities, Gas and Electric - Gas and electric utilities take the position that their utilization of monitoring equipment is in furtherance of a proper business purpose which in no way conflicts with the concept of privacy of telephone communications. These subscribers urge that Decision No. 69447 be modified to remove the requirement that an audible tone warning device be attached to monitoring equipment.

Utilities, Telephone - Telephone utilities conclude that monitoring is a quality-control procedure absolutely essential to the maintenance and improvement of high-quality telephone service, that monitoring does not invade personal privacy of members of the public or of employees. These utilities submit that it is vital to the quality of telephone service that monitoring be permitted without its value being destroyed by unreasonable restrictions being imposed on its use.

Substitutes for Monitoring

The record indicates that the efficiencies sought may be pursued through means other than monitoring such as:

1. Hiring programs which carefully screen potential new employees.
2. Orientation, initial training, incidental training and supplemental training, including discussion, drill and practice at simulated problems.
3. Teaching, assisting and instructing by supervisors.
4. Visual progress observation.
5. Adequate numbers of supervisors.
6. Customer complaints.
7. Customer surveys.
8. Simulated problem calls by supervisors.

Witnesses for parties desiring monitoring generally indicated they already used some or many of such techniques in conjunction with monitoring, but claimed a superior effectiveness only with monitoring. Witnesses for the unions testified that service quality can be satisfactorily maintained by use of the alternate procedures.

Staff Recommendations

The staff made the following recommendations to the Commission in its brief regarding monitoring by subscribers and telephone companies:

Subscribers to Monitoring Equipment

1. Monitoring be permitted under the two alternatives contained within Decision No. 69447.
2. Additionally, permit monitoring with a beep tone to be heard by the outside party only. The interval between tones could be increased from 15 seconds to a maximum of 30 seconds as there are no Federal Communications Commission regulations with regard to notice of monitoring as distinct from recording.

3. In the event the Commission considers the "zip" tone notice appropriate, this tone should be heard by both sides to the conversation at three time intervals of 5, 20, and 35 seconds after the called party has answered.
4. If one-sided beep-tone monitoring is adopted, there should be notice placed on each employee's telephone instrument that calls are subject to monitoring.

Monitoring by Telephone Utilities

1. The same alternatives as enumerated above for subscribers to monitoring equipment, but with the exception, however, that where "Dial Service Observing" is performed, no notice is required if observation automatically terminates 10 seconds after the called party answers.
2. In the alternative, because telephone utilities are under the jurisdiction of the Commission and subject to close supervision of their operations, it is suggested that the Commission might find it advisable to permit "administrative monitoring" without notice to the public except for general notice in the telephone directory.
3. If "administrative monitoring" by telephone utilities is permitted, a restriction should be placed upon telephone utilities so as to prevent their commencing monitoring prior to the time that an operator answers an incoming call, thus eliminating the overhearing of conversations at the premises of the caller.
4. Since Pacific has proposed that the observer of toll traffic operators be provided with a manual lockout arrangement to be actuated when subscriber-to-subscriber conversation commences, all telephone companies should be required to implement this modification over a reasonable period of time. In addition, it is recommended that an automatic time-out feature be incorporated in this arrangement to lockout the observer 90 seconds after the toll operator answers, if the observer has not already manually locked herself out.
5. Whenever a telephone operator attempts to verify that a line is in use, her transmitter shall be activated.
6. All PBX switchboards that permit operator listening without a live transmitter should be modified over a period of time, at no expense to subscribers, to prevent such listening. The least expensive method, namely, rewiring of the attendant jack position, should be considered acceptable.

7. Telephone Answering Service switchboards should be modified over a period of time at no expense to subscribers to prevent operator listening without a live transmitter. The electronic sensing arrangement should be required.
8. Since the California Supreme Court in the Sokol (Sokol v. Public Utilities Commission, S.F. No. 22187, Sept. 29, 1966, 65 AC 241) decision found that due process was violated by a procedure which did not afford a subscriber the benefit of an impartial tribunal to determine that there was probable cause to terminate telephone service, this Commission should consider ordering telephone utilities to follow such procedures as may be set forth in the final decision in Case No. 4930 before the release of unlisted telephone numbers, addresses of said numbers and toll information by telephone utilities to law enforcement agencies.

Findings and Conclusions

We find that:

1. Monitoring by telephone utilities and business subscribers is useful in the training of employees, assists in promoting the efficiency of operations and helps to improve the quality of service to the public.
2. Notice of monitoring by a beep tone tends to destroy the usefulness of monitoring and decreases the use of monitoring equipment.
3. Adequate means other than monitoring are available for the purposes of training employees, promoting efficiency of operations and improving the quality of service to the public.
4. This record contains no quantitative and convincing evidence that substantial decreases in efficiency of operations or of quality of service to the public have occurred since February 16, 1966.
5. The use of monitoring equipment has not been permitted since February 16, 1966.

6. Some monitoring equipment was used without prescribed notice by business subscribers as late as April 15, 1966, and was in place and capable of being operated as late as June 24, 1966.

7. Public utility telephone corporations are unable to insure, or are unwilling to insure, that monitoring equipment will be used by subscribers in accordance with prescribed tariff conditions.

8. Monitoring equipment as herein defined gives no notice to any party of a communication that the communication may be or is being monitored.

9. The use of monitoring equipment without an audible warning tone is advocated generally by executives, managers, some employees of telephone corporations and of business subscribers to telephone corporation services, and by some members of the public.

10. The use of monitoring equipment is resisted generally by the telephone industry labor unions, employees represented by such labor unions and by some members of the public.

11. All parties to a communication should be advised of all persons who monitor, record, or otherwise intercept such communication so that each of such parties may determine the degree of communication privacy desired.

12. No telephone corporation or subscriber to the service thereof or any governmental agency can determine for a party to a communication the degree of privacy such party desires.

13. The privacy desired by a party to a communication can only be determined by giving appropriate notice to such party that the communication is being monitored, recorded, or otherwise intercepted.

14. This record contains no convincing evidence to change the findings and conclusions of Decision No. 69447.

15. It is a reasonable condition of service, and it is in the public interest in promoting the privacy of communication to require that all monitoring equipment (as herein defined), which is used to monitor any communication over any part of a public utility network, shall give appropriate notice of monitoring to all parties to such communication unless such monitoring is essential to the actual operation, maintenance and construction of the communication circuitry or to national defense or to law enforcement or to the health and safety of the public and individuals.

16. Such notice of monitoring by recording of communications should be given by the "beep" tone prescribed by the Federal Communications Commission or by marking telephone instruments from which communications may be recorded as hereinafter prescribed.

17. Notice of the monitoring or otherwise intercepting, except recording, of communications should be given as hereinafter prescribed.

18. Exceptions to the requirements of notice of monitoring and the limitations on monitoring, as hereinafter prescribed, are reasonable.

19. It is reasonable to require telephone corporations to promote the privacy of communication by forbidding the divulgence of information pertaining to a monitored communication or the benefiting by those not entitled thereto from such information.

20. The rules, practices, equipment, appliances, facilities and service of telephone corporations in California are unreasonable and improper in that they do not adequately or sufficiently insure the privacy of communications over the public utility networks of such corporations.

21. Section 7906 of the Public Utilities Code, set forth in Decision No. 69447, indicates that it is the policy of the legislature that communications over public utility telephone systems be private.

We conclude that, under Section 761 of the Public Utilities Code, Decision No. 69447 should be affirmed and the rules, practices, equipment, appliances, facilities and service of telephone corporations in California should promote the privacy of communications as ordered herein.

O R D E R

IT IS ORDERED that:

1. Decision No. 69447 is affirmed.
2. No telephone corporation shall permit any officer, employee or agent thereof to intentionally monitor, record or otherwise intercept any communication over any part of the public utility network of the telephone corporation without notice as herein provided of said monitoring, recording or interception to all parties to said communication. The provisions of this paragraph apply to communications between users of the service of the telephone corporation; between said service users and officers, employees and/or agents of the telephone corporation; and between officers, employees and/or agents of the telephone corporation.

A. Notice to all parties to a communication being recorded shall be given either:

- (1) By an automatic tone warning device which shall automatically produce the distinct tone warning signal known as a "beep tone" which is audible to all parties to a communication and which is repeated at regular intervals during the course of said communication whenever said communication is being recorded; or
- (2) By clearly, prominently and permanently marking each telephone instrument for company use from

which communications may be recorded to indicate that a communication of the user of said instrument may be recorded without notice; provided that this method of giving notice of recording may be used only if said automatic tone warning signal is audible to all parties to the communication using telephone instruments not so marked.

B. Notice to all parties to a communication being monitored or otherwise intercepted, except recorded, shall be given by either:

- (1) By an automatic tone warning device which shall automatically produce a distinct tone warning signal audible to all parties to a communication and which is repeated at regular intervals during the course of said communication whenever said communication is being monitored or intercepted. The distinct tone warning signal required by this subparagraph shall have those characteristics specified by the Federal Communications Commission for automatic tone warning of recording or shall have such characteristics as may be approved by this Commission after industry-wide consultation and request by the telephone corporations in California; or
- (2) By clearly, prominently and permanently marking each telephone instrument for company use from which communications may be monitored or otherwise intercepted to indicate that a communication of the user of said instrument may be monitored or otherwise intercepted without notice; provided that this method of giving notice of monitoring or interception may be used only if an automatic tone warning signal is audible to all parties to the communication using telephone instruments not so marked; or
- (3) By verbal announcement by the operator of monitoring equipment to the parties to a communication that their communication is being monitored; or
- (4) By a telephone instrument transmitter which is operationally connected to the communication circuit being monitored, and which acoustically, mechanically electrically or otherwise has not been designed, modified, desensitized or located with the intent of eliminating notice of monitoring or interception, with the exception that minimization of transmission losses will be permitted.

C. The provisions of this paragraph shall not apply to the following:

- (1) Monitoring, recording, and interception of communications by telephone corporations when required by law enforcement and national defense agencies under enabling laws and legal safeguards.
- (2) Monitoring, recording, and interception of communications by telephone corporations when any of said activities may be required to identify and eliminate the source of lewd or harassing calls of which a subscriber has complained to the telephone corporation.
- (3) "Administrative monitoring" when performed by telephone corporation employees to provide the utility with an over-all evaluation or index of the quality of telephone corporation service furnished by a telephone corporation office or work group to subscribers without reference to the performance of individual employees; without identifying individual employees or subscribers; and without the making of any notation or any written record of the contents, substance, purport, effect, or meaning of any conversations which may have been heard during said administrative monitoring, except as specifically required for administrative monitoring.
- (4) "Supervisory monitoring" of telephone traffic and plant operations when performed without the making of any written notation or any record of the contents, substance, purport, effect, or meaning of any conversation which may have been heard during said supervisory monitoring.
- (5) Monitoring, recording and interception of communications when performed by telephone corporation employees to prevent the perpetration of fraud upon or loss of revenue by the telephone corporation when performed without the making of any notation or any record of the contents, substance, purport, effect, or meaning of any of said communications, except as absolutely necessary to prevent such fraud or loss of revenues.

- (6) Interception of communications by telephone corporation employees who are engaged in the actual operation, maintenance, and construction of the communication circuitry of the telephone corporation when performed without any written notation and any record of the contents, substance, purport, effect, or meaning of any communication which may have been intercepted.

3. Each telephone corporation shall require any officer, employee or agent thereof who is engaged in the actual operation, maintenance or construction of the physical plant of said corporation and who intentionally or unintentionally monitors, records or otherwise intercepts any communication, as defined in this order, over any part of the public utility network of the said corporation, without notice as provided in this order, to immediately identify himself to all parties to said communication.

4. Except as herein provided, no telephone corporation shall permit any officer, employee or agent thereof to divulge to any person, or to publish, the existence, contents, substance, purport, effect, or meaning of any communication, or part thereof, as defined in this order, which was intentionally or unintentionally monitored, recorded, or otherwise intercepted. The provisions of this paragraph shall not apply to communications disclosing threats or danger to the public or individual health and safety, or to lewd, harassing and other nuisance calls.

5. No telephone corporation shall permit any officer, employee or agent thereof to use for his own benefit, for the benefit of the telephone corporation, or for the benefit of another not entitled thereto, any communication as defined in this order, or the information therein contained, which was intentionally or unintentionally monitored, recorded, or otherwise intercepted.

6. Each telephone corporation, within one year after the effective date of this order, shall file with this Commission a schedule for modifying all PBX switchboards and all telephone answering service switchboards before January 1, 1973 so that operators may not listen without a live transmitter being connected to the circuit being observed, or shall apply to this Commission within such time for permission to deviate from this ordering paragraph.

7. California telephone corporations shall effect compliance with this order, except Ordering Paragraph 6, on or before January 1, 1968.

8. The request for a proposed report is denied.

The effective date of this order shall be twenty-five days after the date hereof.

Dated at Los Angeles, California, this 3rd day of OCTOBER, 1967.

[Signature]
President

[Signature]
[Signature]
[Signature]
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A
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LIST OF APPEARANCES

RESPONDENTS: Pillsbury, Madison & Sutro, John A. Sutro, George A. Sears, John A. Sutro, Jr. and Arthur T. George, by George A. Sears and John A. Sutro, Jr., for The Pacific Telephone and Telegraph Company; Claude N. Rosenberg of Bacigalupi, Elkus & Salinger, for California Water & Telephone Company; A. M. Hart and H. Ralph Snyder, Jr., for General Telephone Co. of California.

INTERESTED PARTIES: F. T. Searls and John C. Morrissey, by John C. Morrissey, and John C. Lambert, for Pacific Gas and Electric Company; William L. Knecht, for the California Farm Bureau Federation; Neal C. Hasbrook, for California Independent Telephone Association; John W. Burnham, for the City of Los Angeles, Los Angeles Fire Department, Los Angeles Police Department; John E. Stephen, Joseph F. Healy, Jr., George S. Lapham, Jr., for Air Transport Association of America; Frank F. Rox and R. S. Maurer, for Delta Air Lines, Inc.; Gene E. Overbeck, for American Airlines, Inc.; Robert R. Wieland, for United Air Lines, Inc.; H. L. Goth, William H. Owens and Eric W. Martens, for Southern California Gas Co. and Southern Counties Gas Co.; Reed H. Bement, for Northern California Chapter of the American Civil Liberties' Union; Michael B. Dorais, for California Newspaper Publishers Assoc.; Carl R. Lehman, Jr., for Independent-Journal; Alan L. Irish, for Northern California Classified Assoc. and The Advance Star; Bennetta Wixom, for Hayward Daily Review; George Borden, for The Daily Review and CNPA; Leigh Athearn, for Pan American World Airways, Inc.; James J. Mollenkamp, for Trans World Airlines, Inc.; Carl L. Richey, for Sacramento Municipal Utility District; Roger Arnebergh, by Charles E. Mattson, for the City of Los Angeles; Donald E. Truman, for The Permanente Medical Group Northern California; McMorris M. Dow and Robert R. Laughead, for the City and County of San Francisco; James A. Pike, for himself; Doctor C. B. Fry, for himself; Stanley Sackin, for Telephone Answering Services of California, Inc.; George S. Anderson, for Automobile Club of Southern California; Donald K. Byrne, for County of Los Angeles; George W. Elder, for The Doctors Business Bureau of Southern California; Merrill E. Blau, for Sears, Roebuck and Company; Sol Hirschhorn, for Creditors Service of Los Angeles; L. O. Frith, for Northrop Corporation; Neil E. Campbell, for Credit Bureau of Torrance, Inc.; Milton McKay, for Southern California Rapid Transit District; Allen L. Lams and R. E. Woodbury, by R. E. Woodbury, for Southern California Edison Company; Robert E. Burt, for

APPENDIX A
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LIST OF APPEARANCES

California Manufacturers Association; Edgar T. Pitman, for Air France; Robert C. Lobdell, for Times Mirror Company; Samuel Gorlick, for City of Burbank; Priscilla E. Rodriguez, for Accurate Answering Service; C. P. Fry, M.D., for herself and on behalf of customers; Belva J. Roberts, for himself; Mrs. Julia W. Sherman, for Women for Legislative Action; Duane W. Anderson, for Communications Workers of America, AFL-CIO, Federation of Women Telephone Workers of Southern California; Duane B. Beeson, for Order of Repeatermen and Toll Testboardmen, AFL-CIO and Local 1011, and International Brotherhood of Electrical Workers, Local 1269; Reuben A. Isberg, for The Regents of the University of California; Dale H. Champion, for Fred D. Fletcher of San Francisco-Oakland Newspaper Guild; George Slaff, for American Civil Liberties Union of Southern California; Martin M. Shapiro, for Brooks Fry, M.D.; Mrs. Maurice S. Klein, for herself; Mrs. Rosa R. Hill, for herself; Eva Korn, for herself and her friends; Alex Davidson, for Pacific Southwest Airlines; Sherman Chickering, C. Hayden Ames, Stanley Jewell and Donald J. Richardson, for San Diego Gas & Electric Company; Merton A. Walters, for Local Union 1245, International Brotherhood of Electrical Workers; Stephen Adams, for himself.

COMMISSION STAFF: Elinore C. Morgan, Counsel, and Ermet J. Macario