

ORIGINAL

Decision No. 78363

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PHONETELE, INC., a corporation,

Complainant,

vs.

Case No. 9177

GENERAL TELEPHONE COMPANY OF CALIFORNIA, a corporation,

Defendant.

Robert L. Feiner, complainant.  
A. M. Hart and Donald J. Duckett,  
Attorney at Law, for defendant.

INTERIM ORDER ON ORDER TO SHOW CAUSE

The Commission, after consideration of the complaint of Phonetele, Inc., issued and duly served an order to show cause and an order setting hearing (Decision No. 78232, dated January 27, 1971) requiring defendant to appear and show cause why a cease and desist order should not be issued prohibiting defendant from interfering with the installation and performance of complainant's Phonemaster 1040 telephone restriction unit pending further order. Decision No. 78232 set hearing on this matter in Los Angeles on February 16, 1971 before Examiner Emerson and further ordered that hearing on the complaint shall be held immediately following the hearing on the order to show cause.<sup>1/</sup> Hearing and arguments have been held with reference to the order to show cause.

Phonetele, Inc., in its complaint, alleged it would suffer irreparable injury unless a cease and desist order was caused to be issued prohibiting defendant from interfering with the use of its unit.

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<sup>1/</sup> Complainant's further request for an immediate cease and desist order was denied.

At said hearing, defendant presented three witnesses. The first, an equipment maintenance foreman, recited that telephone trouble at the Collins Food plant was investigated by him. He found some grounded lines and noise on other lines. Bypassing complainant's equipment cleared the trouble. He therefore concluded complainant's equipment was the source of telephone malfunctioning. The second witness, defendant's engineer of equipment maintenance, described some of the trouble found at the food plant and recited that at the request of his supervisor he had made an evaluation of complainant's interface equipment at the telephone company's office. He found that complainant's equipment would not interfere with telephone system signaling and appeared to properly protect the central office. The third witness, an area general manager, recited telephone company policy regarding interconnection of customer-owned-and-maintained (COAM) equipment and stated that a telephone company-provided interface was required. No present rule so requires, but some prospective company tariff rules would require the same.

Complainant presented two technical witnesses, both employees. The first testified that the Phonemaster 1040 equipment had been operating satisfactorily at the food plant for some 12 days when the trouble recited by defendant's first witness was brought to his attention. He was present at the plant when defendant's personnel were attempting to find the source of trouble and in fact had assisted in such work. He tested his own equipment and could find no trouble in it. The only difficulties discernible to him were on telephone company equipment. The second witness recited, among other things, that the Phonemaster 1040 equipment had been under test in actual operations on the telephone network for a period

of six months and, except for a dial identification problem which was early corrected, had proved to be trouble free.

The food plant is new, having been in operation only about three months. As in any new operation "debugging" becomes necessary and certain rearrangement of facilities occurs. While no witness could be positive as to what caused telephone malfunctioning, we believe that from the evidence it may logically be concluded that of all of the possible causes the most probable is that inadvertence or carelessness on the part of some workman gave rise to the trouble. We can not find from the present record that the Phonemaster 1040 is in any way detrimental to the telephone system. Nor does it presently appear that anything beyond the simplest interface between it and the telephone network may be desirable. Further hearings will be devoted to this latter point.

We conclude that defendant, General Telephone Company of California, has not presented facts sufficient to satisfy the burden placed upon it by the order to show cause. A cease and desist order will be issued, as prayed for by complainant.

IT IS ORDERED that General Telephone Company of California shall cease and desist and hereafter refrain, pending final determination by this Commission of this proceeding, from interfering with the installation and performance of complainant's Phonemaster 1040 telephone restriction unit.

The Secretary is directed to cause a certified copy of this restraining order to be mailed to the parties to this complaint forthwith.

This order shall become effective upon receipt of service.

Dated at San Francisco, California, this 2nd day of MARCH, 1971.

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Chairman

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*Yvonne L. Sturgeon*  
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*William L. Symons, Jr.*  
Commissioners

*I dissent.* *J. L. Williams, Jr.* Chairman

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