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Decision No. 79555

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PHONETELE, INC., a corporation,

Complainant,

vs.

GENERAL TELEPHONE COMPANY OF
CALIFORNIA, a corporation,

Defendant.

Case No. 9177
(Filed January 15, 1971)

PHONETELE, INC., a corporation,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 9265
(Filed August 26, 1971)

Robert L. Feiner and Charles Brouyette, for
complainant.

Milton J. Morris, Attorney at Law, for defendant
in Case No. 9265.

Donn E. Cassidy, Attorney at Law, for Communication
Certification Laboratory, intervenor.

John S. Fick, Attorney at Law, for the Commission
staff.

INTERIM OPINION AND ORDER

Interim Decision No. 79288, dated November 2, 1971, in these consolidated proceedings provided, among other things, for the temporary waiving by The Pacific Telephone and Telegraph Company (Pacific) of the installation charge and monthly charge for the next ten of its subscribers who request a connecting device for a Phonemaster 1040. The decision further provided that, in the event Pacific is unable to make its ZZAGM coupler work at any of the Phonemaster installations,

other temporary connecting means would be provided. A third provision was a 90-day moratorium on Pacific's 1.5-second delay requirement for diverting equipment in the case of Phonemaster 1040 installations.

Complainant, Phonetele, Inc. (Phonetele), in its third amendment, filed November 26, 1971, to its complaint in Case No. 9265, seeks the following additional interim relief:

1. That, until the final determination of this proceeding, Pacific be required to provide, with or without charge and without limitation as to the number of subscribers, temporary terminal blocks, strips, jacks or other means of connecting the Phonemaster units to Pacific's wiring.
2. That the question of the 1.5-second time delay requirement be deferred until the final determination of this proceeding.
3. That appropriate disciplinary action be taken by the Commission against Pacific for violating the interim order in Decision No. 79288.

Numerous allegations, arguments and denials are presented in the third amendment to the complaint and in the answer thereto filed by Pacific on December 6, 1971. Resolution of the arguments cannot be made without further hearing. We had hoped that, if Phonetele and Pacific approached the problem cooperatively, further hearing could be postponed until the various connecting arrangements had been in place for a fairly long test period. The tone of the recent documents filed by Phonetele and Pacific indicates, however, that there is mutual distrust between the parties. Under these circumstances, we will set the matters for hearing as soon as the present crowded calendar permits and grant at this time only part of the additional interim relief requested.

The Commission finds that:

1. Phonetele has scheduled all ten of the Phonemaster installations authorized by Paragraph 3 of the order in Decision No. 79288 and is planning additional installations in the near future.
2. Phonetele and Pacific should be permitted to introduce additional evidence before final determination of the reasonableness of Pacific's 1.5-second delay requirement for diverting equipment.

The Commission concludes that Decision No. 79288 should be modified and these proceedings should be set for further hearing.

IT IS ORDERED that:

1. The first sentence in Paragraph 3 of the order in Decision No. 79288 is modified to read as follows:

"Until further order of this Commission, Pacific is authorized and directed to deviate from its filed tariffs to the extent of temporarily waiving the installation charge and monthly charge for the next twenty of its subscribers who request a connecting device for a Phonemaster 1040."

2. Paragraph 5 of the order in Decision No. 79288 is modified to read as follows:

"Until further order of this Commission, Pacific shall not enforce its 1.5-second delay requirement for diverting equipment in the case of Phonemaster 1040 installations."

3. Parties to these proceedings shall be prepared to present their evidence at hearings commencing on or about February 14, 1972. To expedite the hearings, copies of exhibits and any prepared testimony are to be served upon all parties and the Commission by February 4, 1972.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 4th day of JANUARY, 1972.

Chairman

William F. Brown, Jr.

[Signature]

Thomas L. Sturgeon

[Signature]

Commissioners

I dissent

[Signature], Chairman

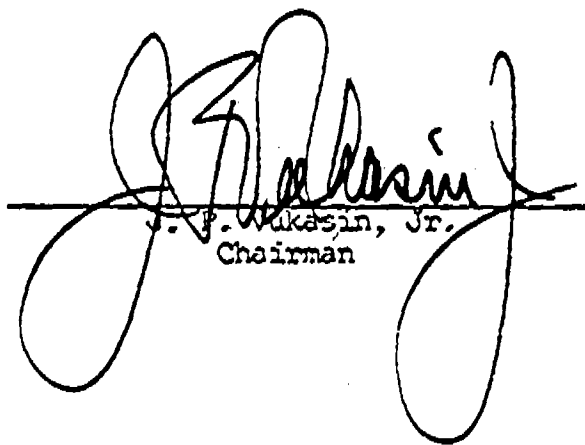
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J. P. VUKASIN, JR., CHAIRMAN, DISSENTING OPINION

I dissent.

The foregoing decision is unfair, without evidence to support it, and should not be granted.

Decision No. 79288 granting Phonetele the right to have ten connections was issued with the understanding that it would maintain the status quo as of the date of filing. Now Phonetele is asking this Commission, and the Commission is agreeing, to broaden its original order for the benefit of one party while this case is pending.



J. P. Vukasin, Jr.
Chairman

San Francisco, California

January 4, 1972