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Decision No. 79878

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 TELE-  
GRAPH COMPANY, a corporation,

defendant.

Case No. 9265  
(Filed August 26, 1971)

Robert L. Feiner and Charles Brouyette, for  
complainant.

A. M. Hart and Donald J. Duckett, Attorneys at  
Law, for defendant in Case No. 9177.

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

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

John S. Fick, Attorney at Law, and Paul Popenoe, Jr.,  
for the Commission staff.

INTERIM OPINION

The rehearing of Case No. 9177 and the original hearing of Case No. 9265 were submitted on a consolidated record on February 28, 1972, subject to the receipt of transcripts and the subsequent filing of opening briefs and reply briefs. There are some issues of sufficient urgency, however, that they should not await the final decision in these proceedings. These matters are discussed hereinafter.

Initial Phonemaster Installations in Pacific's Area

Decision No. 79225, dated October 5, 1971, among other things, restrained The Pacific Telephone and Telegraph Company (Pacific) from interfering with the operation and performance of complainant's then existing installations of toll device and equipment known as the Phonemaster 1040.

Although the record showed that complainant violated Pacific's tariffs (Cal. P.U.C. Nos. 36-T and 135-T) by modifying Pacific's wiring, interim Decision No. 79288, dated November 2, 1971, continued until further order the restraint as to the three initial Phonemaster installations in Pacific's area. This was for test purposes to permit observation of the combined functioning of the Phonemaster unit and Pacific's system with direct connection.

On January 28, 1972, Pacific filed a petition to modify, among other things, the orders requiring that the three initial Phonetele installations in Pacific's area remain connected temporarily without a utility-provided protective connection device. Exhibits F, G and H to the petition are copies of correspondence between the Federal Communications Commission (FCC) and American Telephone and Telegraph Company (American) on the subject of the three direct-connected Phonetele installations. The lack of utility-provided protective connection devices at those three installations is held by the FCC to be a violation of American's tariff F.C.C. No. 263. A tariff modification proposed by American (to exempt from the restrictions in F.C.C. No. 263 any direct connections authorized by state regulatory commissions) was rejected by FCC. Suitable alternative tariff changes have not yet been worked out between FCC and American.

Pacific, in response to other provisions of interim orders herein, has developed means of making its ZZAGM coupler function with the Phonemaster 1040 at various installations made subsequent to the original direct-connected units. Under these circumstances, similar ZZAGM units presumably could be provided by

Pacific at the three presently direct-connected Phonemaster installations, thus postponing consideration of FCC tariff changes until a final decision herein is rendered. The order which follows permits Pacific to install the three ZZAGM units under the same conditions as the other ZZAGM-Phonetele connections installed pursuant to previous interim orders herein.

Subsequent Phonemaster Installations in Pacific's Area

Interim Decision No. 79288 required Pacific to deviate from its filed tariffs to the extent of temporarily waiving the installation charge and monthly charge for the first ten of its subscribers who request a connecting device for a Phonemaster 1040. After the first ten installations had been scheduled and a final decision herein was not imminent, charges for an additional ten customers were ordered waived by interim Decision No. 79555, dated January 4, 1972.

Although these matters are nearing conclusion, the additional ten installations are scheduled and may be completed prior to a final decision. Phonetele asks that Pacific be prohibited from installing protective connection arrangements for any future Phonemaster installations in Pacific's area until a final decision is reached in these matters. On the other hand, Pacific requests that the moratorium be lifted and that tariff charges be collected subject to refund if the final order herein declares the protective connection devices to be unnecessary. A more consistent approach is to extend the moratorium to another ten customers to give additional time for filing of briefs and issuance of a final order herein. The order which follows so provides.

Phonemaster Installations in General's Area

At the time of filing of Case No. 9177, General Telephone Company of California (General) did not have a protective inter-connecting arrangement suitable for use with the Phonemaster 1040. In General's answer to the complaint, filed February 8, 1971, General estimated that it would develop such an arrangement by March 15, 1971.

Decision No. 78363, dated March 2, 1971, cites that, at that time, none of General's rules required a utility-provided interface for connection of equipment such as the Phonemaster but that some prospective tariffs would have that requirement. The decision ordered General to cease and desist and thereafter refrain from interfering with the installation and performance of Phonetele's Phonemaster 1040 telephone restriction unit, pending final determination by the Commission of the complaint case. At that time only one Phonemaster 1040 installation was involved in General's territory.

Decision No. 78894, dated July 13, 1971, points out that the initial protective interconnection device proposed by General was of considerable size and weight and reputedly would be costly. The decision notes that, apparently, criticism of the unit displayed at one of the early hearings engendered revisions by General, that still a third version was under development and almost completed, and that General's tariffs made no provision for connection devices for equipment such as the Phonemaster. The temporary restraining order previously issued was made permanent.

General petitioned for rehearing of Decision No. 78894. Rehearing was granted by Decision No. 79194, dated September 28, 1971. The Phonetele complaints against Pacific and General were consolidated. The restraining order against General's interference with the installation and performance of the Phonemaster was continued and still is in effect.

The terms of Decision No. 79288, dated November 2, 1971, permitted Pacific to gain some experience in adopting its ZZAGM coupler so that it would function with the Phonemaster 1040. Provision was made for temporary terminal strips or other non-protective connections only if Pacific was unable to make the ZZAGM coupler function with the Phonemaster. The decision recognized that General was not being provided a comparable opportunity to develop its protective interconnection device by actual installations. At that time, it appeared from the record that no additional Phonemaster

installations were imminent in General's area. This assumption later proved to be incorrect and at least two additional Phonemaster installations were made without any protective connection device provided by General.

The development work permitted to be done by Pacific has been useful in identifying and correcting situations where the Phonetele 1040 and the ZZAGM might be incompatible. General's protective connection device and even its network may differ somewhat from Pacific's. Although Pacific's experiences in correcting various problems encountered in development of Pacific's connecting arrangements as discussed by various witnesses should be helpful to General in anticipating and overcoming interconnection problems with the Phonemaster 1040, actual field tests of the compatibility of General's protective connection device and the Phonemaster 1040 would be beneficial in perfecting the arrangements.

At the hearing on February 14, 1972, General requested that it be given the same developmental opportunities which have been afforded Pacific. This also may permit postponement of resolution of the Federal-State conflict in General's tariffs until a final decision on the complaints. General's request appears reasonable and is granted by the order which follows.

#### Findings and Conclusions

The Commission finds that:

1. Phonetele has scheduled all twenty of the Phonemaster installations authorized by Decision No. 79555 and is planning additional installations.
2. Authorizing Pacific to install protective connecting devices at the three initial Phonemaster installations in Pacific's area, on the same basis as at subsequent locations, is reasonable.
3. General has not been provided the same opportunity that has been afforded Pacific to develop a suitable protective connection device compatible with the Phonemaster 1040.

The Commission concludes that, pending final resolution of these complaints, the interim relief provided by previous orders herein should be modified as hereinbefore discussed.

INTERIM ORDER

IT IS ORDERED that:

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

"Until further order of the 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 thirty of its subscribers who request a connecting device for a Phonemaster 1040 and for the three subscribers originally having Phonemaster 1040 units direct-connected to Pacific's wiring."

2. Pacific is hereby relieved of the restriction in paragraph 1 of the order in Decision No. 79288 which prohibited the installation of a connecting device at the three locations of the initial Phonemaster direct-connected installations.

3. Until further order of the Commission, General Telephone Company of California (General) is authorized to install on a trial basis, without charge to its subscribers, protective connection devices for the next thirty subscribers who have Phonemaster 1040 units installed and for those subscribers who already have Phonemaster 1040 units direct-connected to General's wiring.

4. In the event General is unable to make its coupler function with the Phonemaster 1040 at any of the installations made pursuant

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to the foregoing paragraph 3, General shall install, without charge, temporary terminal blocks, strips, jacks or other means of connecting the Phonemaster units to General's wiring.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 14th  
day of APRIL, 1972.

Chairman

William J. Lyons - D.  
John W. [unclear]

William J. Lyons  
I abstain

[Signature]  
Commissioners

I abstain  
Vernon L. Sturgeon