

Decision No. 80813

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MOBILE U.S.F., INC., a California  
corporation,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 8798  
(Petition filed  
August 11, 1972)

OPINION AND ORDER ON PETITION  
FOR RECONSIDERATION AND/OR REHEARING

Defendant, The Pacific Telephone and Telegraph Company (Pacific), petitions for modification or a limited rehearing of Decision No. 80332 in the above-entitled matter. Decision No. 80332 was issued after rehearing of the original decision herein, No. 78130, issued on December 22, 1970. The original decision and the decision on rehearing rejected Pacific's contentions concerning the voice-on-signal-grade-service and extended dial-up issues. Complainant on August 24, 1972, filed a response in opposition to the sought relief.

Voice-on-Signal-Grade-Service

Decision No. 80332, based on an interpretation of defendant's tariff, held that defendant's private signal channel offering was available to those potential private line customers whose needs were not met by other classes of private line service. The decision also found that complainant's requirements were not met by the private line offering designed for complainant and others similarly situated, i.e., channels for the remote operation and control of radio telephone stations.

Pacific alleges that it is now planning to offer a new private line service designed to meet complainant's needs. When a satisfactory alternate service is available, complainant and others will no longer be able to claim the right to use signal-grade-service for voice transmission and this issue will be moot. Consequently neither reconsideration nor rehearing of this issue is warranted.

Extended Dial-up

Decision No. 80332 stated that:

"In other proceedings subsequent to the initial decision herein, the Commission determined (Decision No. 79649 in Cases Nos. 9044, 9045) that extended dial-ups generally presented '...no emergency situation', and that any different rate or service treatments were not justified, pending the completion of extended studies.

"The pleadings and decision in Cases Nos. 9044 and 9045 on their face appear to encompass complainant's extended dial-up practices. The Commission's determination in those cases that any changes in the status quo are not urgent and that any final resolution of service and revenue questions require extensive studies, are incompatible with defendant's contentions offered in justification of immediate termination of complainant's extended dial-up practices.

"Decision No. 79649 contemplated that all extended dial-up customers would continue their operations pending final resolution of those cases. No sufficient reason has been advanced to show why complainant alone, out of all of those potentially in violation of the present abuse of service rule, should be singled out for its enforcement."1/

Decision No. 80332 stayed enforcement of defendant's abuse of service rule against complainant until further order.

---

1/ It should be noted that this determination was based in part on representations by Pacific.

Pacific now contends there is no evidence in this proceeding that complainant's conduct is similar to the problems at issue in those cases. However, as a petitioner it is Pacific's burden to specify and demonstrate a distinction, since none appears on the face of the pleadings and decision in Cases Nos. 9044 and 9045.

Pacific again contends, despite the determination in Decision No. 79649 in Cases Nos. 9044 and 9045, that extended use jeopardizes network service for the general public. If Pacific wishes review of our determination that action on extended-dial up problems can safely be deferred, an appropriate motion should have been filed in Cases Nos. 9044 and 9045, rather than here.

Our stay order was intended to ensure complainant de jure the same temporary relief which Decision No. 79649 gave de facto to other extended users. Until there is a final decision in Cases Nos. 9044 and 9045 further consideration of complainant's extended use activities would be premature.

#### Other Matters

The petition also seeks noncontroversial modifications to clarify the impact of Decision No. 80332 when read in conjunction with Decision No. 78130. The requests appear reasonable and the modifications set forth in Conclusion 3 below should be made.

#### Conclusions

1. The petition's allegations of error in Decision No. 80332 are not tenable.
2. The petition does not set forth sufficient grounds to reconsider the voice on signal grade or extended dial-up issues dealt with in Decision No. 80332.
3. Rescission of Conclusions 9, 10 and 11 of Decision No. 78130 is justified.

IT IS ORDERED that:

1. Pacific's petition for rehearing of Decision No. 80332 is denied.
2. Conclusions 9, 10 and 11 of Decision No. 78130 are rescinded.
3. In all other respects Pacific's petition for modification is denied.

The effective date of this order is the date hereof.

Dated at <sup>San Francisco</sup> \_\_\_\_\_, California, this 12<sup>th</sup> day of DECEMBER, 1972.

Vernon L. Sturgeon  
President  
William J. Sturgeon  
[Signature]  
[Signature]  
Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.