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Decision No. 83096

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBERT D. MANTELL,
DBA R.D.M. SALES,

Complainant,

vs.

CASE NO. 9758

GENERAL TELEPHONE COMPANY
OF CALIFORNIA,

Defendant.

ORDER DENYING INTERIM RELIEF

Complainant alleges that he manufactures and sells to telephone answering services a device (the "TPB") that "provides fully supervised cross-connect service for two separate conversations." The TPB has been in use in the Pacific Telephone and Telegraph Company (Pacific) service areas. Pacific does not require a protective connecting device other than a battery to power the TPB, for which it makes a one-time charge of \$10.00.

Complainant further alleges that defendant refuses to use a battery power connection such as Pacific's, but rather demands use of a protective connecting arrangement. The installation charge for this arrangement is \$96.00, plus a monthly service charge of \$13.50.

Complainant asserts that the TPB is a "passive device" that does not produce harmful voltage.

Complainant states that defendant also provides a supervised cross-connection service with charges similar to those of complainant. The addition of installation and monthly charges of the protective connecting arrangement demanded by defendant make it impossible for complainant's product to be sold in defendant's service area.

Complainant characterizes this as a "clear restriction of trade".

Complainant prays for an order which would permit the TPB to be used in defendant's service area with a power supply similar to that permitted in Pacific's area or with a customer provided power supply approved by Underwriter's Laboratory. He also asks this relief be granted immediately pending hearing.


Complainant's request for interim relief would require a special exemption from the defendant's tariffs for the TPB. The Commission has previously refused such exemptions in its Interim Opinion and Order in Case No. 9625 (D. 82412, dated January 29, 1974). In that decision the Commission acknowledged the temporary hardship that may be imposed on companies attempting to connect their devices to the telephone networks, and balanced this hardship against the potential harm to the telephone utilities and their customers. Telephone utilities were ordered to continue enforcing their tariff provisions, although charges for the connecting arrangements were made subject to refund pending a final decision in Case No. 9625. No good cause has been shown by complainant to place him in a more advantageous position than that of the telephone equipment suppliers in Case No. 9625.^{fn/} Complainant's request for interim relief must be denied. No ruling is made on any other request in this complaint.

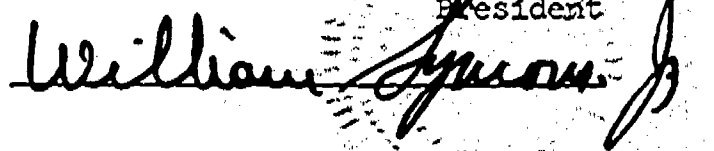
^{fn/} We note that a Motion to Partition Issues, dated June 19, 1974, was filed by the staff of the Commission in Case No. 9625. This Motion urges a certification program for other than data, private branch exchange (PBX), and key telephone station (KTS) equipment prior to resolution of all issues in the proceeding. If granted, such procedure would apply to complainant.

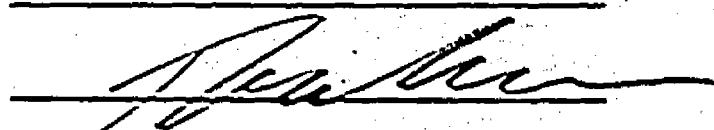
IT IS ORDERED that complainant's request for immediate interim relief is denied.


The effective date of this order is the date hereof.

Dated at San Francisco, California, this 2nd day of JULY, 1974.



President





Commissioners

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