

Decision No. 83971

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PAUL J. SANTORO,

Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 9750  
(Filed June 7, 1974)

PAUL J. SANTORO,

Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 9768  
(Filed July 15, 1974)

O P I N I O N

Complainant<sup>1/</sup> alleges that he owns a Phone-Mate telephone answering device, and that to avoid discontinuance of service he permitted defendant to install a utility-provided coupler. It is alleged that, after three missed appointments, defendant installed a malfunctioning device which was subsequently replaced.

Complainant asserts that the requirements of tariff Schedule No. 135-T are monopolistic, unfair, and unreasonable, and he seeks damages. He claims that the model of coupler which defendant furnishes for telephone answering devices is incompatible with the Phone-Mate and interferes with the proper functioning of the device.

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<sup>1/</sup> The complaints in both cases refer to the same problem.

Defendant admits that it required complainant to interconnect through a coupler or disconnect; it admits that it replaced the first device but avers that it was not defective. Defendant alleges that the type of coupler provided is compatible with the brand of answering device owned by complainant. It asserts that it has done nothing in violation of any statute, tariff provision, or order or rule of the Commission. It further claims that its conduct is in compliance with Decision No. 82412 (Case No. 9625), and that any challenge to the provisions of tariff Schedule No. 135-T or of that decision should not be made in a separate proceeding. It further asserts that it anticipates a new tariff rule which would dispense with the requirement for a coupler for the Phone-Mate.

Discussion

It appears that defendant has now satisfied that portion of the complaint which contends that the coupler furnished complainant malfunctioned.

The primary remaining issues concern the necessity for and the design of a coupler for the Phone-Mate answering device. Such issues are being considered generally in Case No. 9625 and related matters (generally referred to as the Interconnect Investigation). To the extent that complainant wishes to pursue those issues, proper procedure requires that they should be considered within the framework of that proceeding. It should be noted that those issues may soon become moot, insofar as Phone-Mates are concerned. Pacific has been working for some time on a tariff modification which would allow uncoupled interconnection of the Phone-Mate.

We find that defendant is at present complying with Decision No. 82412 in Case No. 9625 and related matters, insofar as it relates to the interconnection of complainant's telephone answering device to the telephone network.

We conclude that:

1. Complainant's allegations concerning defendant's tariff Schedule No. 135-T are now at issue in Case No. 9625.
2. These complaints should be dismissed without prejudice.
3. The Commission has no jurisdiction to award damages.

O R D E R

IT IS ORDERED that these complaints are dismissed without prejudice.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 7<sup>th</sup>  
day of JANUARY, 1975.

Vernon L. Stinson  
President  
William J. Symons  
Donald

Commissioners