

Decision No. 85487

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
The Pacific Telephone and Telegraph
Company, a corporation, for telephone
service rate increases to cover
increased costs in providing telephone
service.

Application No. 55492

Investigation on the Commission's own
motion into the rates, tolls, rules,
charges, operations, costs, separations,
inter-company settlements, contracts,
service, and facilities of THE PACIFIC
TELEPHONE AND TELEGRAPH COMPANY, a
California corporation; and of all the
telephone corporations listed in
Appendix A, attached hereto.

Case No. 10001

Milton J. Morris, Attorney at Law, for The Pacific
Telephone and Telegraph Company, applicant and
respondent.

Sylvia Siegel, for Toward Utility Rate Normalization;

David L. Wilner, for Consumers Lobby Against
Monopolies; William L. Knecht, Attorney at Law,
for California Farm Bureau Federation; James E.
Booc, for Communication Workers of America,
District 9; and Charlotte G. Hamaker, for
Santa Clara Valley Coalition; interested
parties.

Timothy E. Treacy, Attorney at Law, and James G.
Shields, for the Commission staff.

INTERIM ORDER

The sole question presented for decision at this time is: May The Pacific Telephone and Telegraph Company lawfully institute, without prior Commission approval, the use of a recording which is played when "411" directory assistance is dialed before the caller is connected to the automatic call director (ACD) which stores the call until an operator can answer? Questions regarding the advisability of the recording's use are reserved for later hearings.

In the interest of reducing the volume of directory assistance calls, Pacific has placed into service in Stockton and Sacramento a recording which is played before the "411" caller is connected to the ACD. The recorded message states:

"If you've checked your directory and are unable to find the number you wish, please stay on the line and a directory assistance operator will answer. Thank you."

Pacific's current plans call for the installation and operation of its use throughout its service area by the end of calendar year 1976. Pacific did not seek prior Commission approval before instituting its use in the areas mentioned, although it notified the Commission staff that the procedure would begin. The staff expressed no objection at that time. The company also voluntarily delayed the employment of the recording in San Francisco, scheduled for January 30, until we could consider this question.

Hearing and oral argument were held before Commissioners Ross and Symons, and Examiner Meaney in San Francisco on February 9.

The facts mentioned above are undisputed. There was disagreement over the amount of delay associated with the use of the recording, but the testimony of Pacific's witness Richard G. Morse indicated that the "very minimum" delay, under the most favorable combination of circumstances, would be 14 seconds, in addition to whatever delay would normally be encountered (that is, whatever delay a caller would face in waiting for an operator without the

recording's use). The average delay (again, in addition to what a caller would normally experience in waiting for an operator) would be in excess of 16 seconds.

In oral argument, various theories were advanced that the recording should be considered part of the rates, classifications, etc., governed by Public Utilities Code Section 491. We reject these contentions, and agree with Pacific's position that the use of various recordings, or the change in phraseology used by operators or on recordings, has never been considered to be part of the company's required tariff filings. For example, when the company changed from the word "information" to the phrase "directory assistance", we did not require our approval.^{1/}

^{1/} Under Section 451, second paragraph, we could find, in a proper case, that Pacific has failed to maintain adequate and efficient service and facilities. However, such a finding does not relate to the issue of whether Pacific may lawfully institute the service without the Commission's prior approval. Section 451's language can be used to force a utility to stop a practice found unreasonable. In other words, this section's provisions are directed to the ultimate ruling as to the use of the recording, rather than to the issue, presented here, of whether prior approval is necessary. Therefore, questions under Section 451 (and 456 as well) are reserved for later determination.

We further agree with Pacific's policy argument that to regard every change in operating procedure as falling within the ambit of Public Utilities Code Section 491,^{2/} would immerse both the utilities and the Commission in a quagmire of bureaucratic paperwork which would only be harmful to the public.

This Commission has, however, regulated via General Orders certain practices of utilities which are not "rates" or "classifications", or "rules or contracts affecting any rate, classification, or service" within the meaning of Section 491. We believe the evidence shows a violation of General Order No. 133, and therefore Pacific's practice is subject to our order.

2/ The first four sentences of Section 491 read: "Unless the commission otherwise orders, no change shall be made by any public utility in any rate or classification, or in any rule or contract relating to or affecting any rate, classification, or service, or in any privilege or facility, except after 30 days' notice to the commission and to the public. Such notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the changes to be made in the schedule or schedules then in force, and the time when the changes will go into effect. The commission, for good cause shown, may allow changes without requiring the 30 days' notice, by an order specifying the changes so to be made, the time when they shall take effect, and the manner in which they shall be filed and published. When any change is proposed in any rate or classification, or in any form of contract or agreement or in any rule or contract relating to or affecting any rate, classification, or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission, by some character to be designated by the commission, immediately preceding or following the item."

This General Order, adopted May 18, 1972, and effective October 1, 1972,^{3/} is entitled "Rules Governing Telephone Service". Its purpose is uniform service standards in the operation of telephone utilities, and it specifically covers subjects other than what is in the tariffs (Sections 1.1a and 1.1b). Under Section 3-- "Telephone Service Measures"--there is the following subsection:

"3.8 Directory Assistance Operator Answering Time.

- "a. Description. A measure of the time for the operator to answer on directory assistance calls. A sample of the answering interval is taken to obtain the percentage of directory assistance calls answered within 10 seconds.
- "b. Measurement. Sample of the answering interval on directory assistance calls that is representative of the measurement period utilizing an answering time recorder, forced administration data system (FADS), or equivalent. When FADS is used as a measurement device, measurement data of average answering time will be converted to percent answer within 10 seconds.
- "c. Standard Service Range. At or above 82% within 10 seconds.
- "d. Reporting Service Level. 78% within 10 seconds."

^{3/} Decision No. 80082, Case No. 9353 (73 CPUC 426).

If the delay of 14 seconds or more associated with the recording is included within the "measure of time" under "a", then certainly the 82% requirement under "c" is violated.

Pacific argues it is not so included because of the measurement requirements of "b". This argument is that since the measurement requirement calls for accounting for the time interval "representative of the measurement period utilizing an answering time recorder, force administration data system (FADS) or equivalent...", only the time from when the "411" call enters the ACD can be counted (i.e., since the call enters the ACD after the recording delay is completed, the recording delay is irrelevant to the application of the quoted provisions of the General Order).

Even assuming that ACD and FADS are synonymous, we reject this contention. This General Order was adopted in 1972 and did not contemplate the use of a recording which would delay a directory assistance response by at least 14 seconds in addition to the normal delay which would be encountered without it. We therefore hold that the measurement standard in General Order No. 133, Section 3.8b is inapplicable to the situation in which a recording, with its associated delay, is interposed between the placement of the "411" call and the entry of the call into the ACD, or equivalent.

Notwithstanding this holding, we find that the 10-second standard specified under Subsection 3.8a still applies. There is no inconsistency in this finding and the holding in the previous paragraph. A reading of the General Order as a whole clearly demonstrates that its purpose was to set certain minimum standards for service. A standard itself can still be in full force and effect while at the same time the technical method for measuring compliance with that standard may be inapplicable in certain situations due to technological changes.

As a matter of common sense, the General Order's Subsection 3.8a was written assuming a total time involved from the placement of the directory assistance call to the time the call is answered.

In this regard we are aware of Pacific's argument that the General Order specifies no penalty but simply requires reports to be made if the standards are not met (Section 1.3j). This argument ignores the fact that the General Order establishes both reporting and service levels and also overlooks Section 1.1a which states:

"a. Purpose. The purpose of these rules is to establish uniform standards of service to be observed in the operation of telephone utilities." (Emphasis added.)

Finally, Public Utilities Code Section 702^{4/} requires compliance with our orders. It is therefore illogical to argue that the company may commit a deliberate act which results in a delay well beyond the service standard set forth, but that the only thing the company may be required to do about it is to submit reports. We impose no "penalty" here; we simply rule that the reporting service level requirements specified in Section 1.3j were obviously intended to encompass problems of overload or service and maintenance difficulties, rather than situations in which the company makes a voluntary change in the manner of handling certain calls, resulting in substantial additional delay for 100 percent of those calls, however, well-intentioned the company may be in instituting such change.

4/ Section 702 reads:

"Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the Commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility, and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees."

On the basis of the foregoing analysis, we could simply rule that the use of the recording cease until we can consider its substantive merits. However, we may, of course, grant exceptions to our own General Orders, and we find an exception useful here.

We will be considering, later in this proceeding, whether to adopt a directory assistance charge plan. Associated with this issue is whether there are alternative methods of reducing the volume of directory assistance calls. We believe it is in the public interest to permit Pacific to continue to employ the recording in areas where it is now in use (Stockton and Sacramento), and to continue with its schedule of introducing the recording elsewhere (if it chooses to do so) pending our ultimate determination regarding the reasonableness of its use. This will allow a comparative analysis of the volume of directory assistance calls (especially of those calls for numbers in the caller's local white pages), with and without the recording. Pacific will be required to notify us of its intent to start using the recording in any area at least 30 days in advance of such commencement.

Our action here should not be taken as an invitation to disobey our General Orders in the hope of being rescued from the consequences of such disobedience by later order. We simply believe that we have, in this instance, a special circumstance which warrants this treatment.

Findings

1. Pacific has initiated the use of a recording which is played prior to the caller's being connected to the automatic call director (ACD) which stores the call until a directory assistance operator answers.

2. The recording is presently in use in Stockton and Sacramento, and Pacific wishes to implement its use throughout its entire service area during the 1976 calendar year.

3. Pacific did not seek prior approval of this Commission prior to instituting its use, although the staff was notified regarding it and did not express an objection.

4. The use of the recording causes a minimum delay of 14 seconds, and an average delay of more than 16 seconds, in addition to any other delay normally encountered while waiting for the directory assistance operator to answer.

5. The use of the recording does not require a tariff filing and does not fall within the provisions of Public Utilities Code Section 491.

6. The measurement of delay specified in General Order No. 133, Section 3.8b is inapplicable when a recording is interposed between the placement of a "411" call and the time when the call can enter the ACD (or equivalent) equipment.

7. The use of the recording, with its associated delay of at least 14 seconds, violates General Order No. 133, Section 3.8a and c.

8. Pacific should be granted a deviation from General Order No. 133 to allow it to continue the use of the recording in Stockton and Sacramento, and to allow it to institute the use of the recording elsewhere in its service area, pending further order of the Commission.

INTERIM ORDER

IT IS ORDERED that The Pacific Telephone and Telegraph Company is granted a deviation from General Order No. 133 to allow it to maintain the use of the directory assistance recording, which is the subject of this decision, in operation in its Sacramento and Stockton service areas, and to further allow it to institute its use elsewhere, upon at least thirty days' written notice to this Commission, pending our further order.

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

Dated at San Francisco, California, this 18th
day of FEBRUARY, 1976.

I dissent
Leonard Ross

[Signature]
President
William J. [Signature]
Terrence L. [Signature]
[Signature]
Commissioners