

Decision 89 02 014 FEB 8 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
Mailed

Albert A. Melkonian,)
 Complainant,)
 vs.)
 GTE California Incorporated)
 (U-1002),)
 Defendant.)

FEB 9 1989

Case 88-05-008
(Filed May 5, 1988)

Albert A. Melkonian, for himself, complainant.
James A. Garriss, Attorney at Law, for GTE
California Incorporated, defendant.

O P I N I O N

I. Background

This is a complaint by Albert A. Melkonian, residing at 726 Juanita Avenue, Santa Barbara, California, against GTE California Incorporated (GTEC).¹ In his complaint, Melkonian states that some time after purchasing a new Panasonic Model KX-T2135 telephone, in April 1987, he plugged it into his residence line jack and it would not work, as he could not receive a dial tone through it. Having a second telephone line in his residence, he tried the new phone on that line and it worked perfectly. Since it would not work at all on his regular line, and he subscribes to

1 Formerly known as General Telephone Company of California.

defective line insurance² at GTEC's rate of 95¢ per month, he called GTEC for service. GTEC's service person examined the problem and found that GTEC was using a carrier line³ to render telephone service to Melkonian.

The second telephone line at Melkonian's residence was a standard metallic pair all the way to the central office.

With this information, Melkonian called GTEC to see what could be done and GTEC agreed to remove the carrier equipment and install a second standard (metallic pair) line. After that line was installed, everything including the new Panasonic telephone worked well, and Melkonian was happy.

Then GTEC billed Melkonian \$70 for the conversion from a carrier line to the metallic pair line. Melkonian refused to pay the \$70 to GTEC, filed an informal complaint with this Commission and on July 9, 1987 deposited the \$70 with the Commission.

After various attempts to resolve the informal complaint including discussions with the parties, review of GTEC's lengthy written response, and GTEC's Tariff Schedule D & R, Rule 41, Sheet 79, Paragraph H.1., the Commission's Consumer Affairs Branch (CAB) concluded that GTEC's carrier service met FCC standards. Therefore, CAB denied Melkonian's complaint and on February 9, 1988 remitted the \$70 to GTEC.

2 Under this service known as "Lineskeeper Service" GTEC will maintain the complete line including all inside wiring at the customer's premises from the instrument jack to the telephone company central office.

3 Subscriber Line Carrier (also called "Subscriber Carrier") involves the addition of an electronic circuit to the metallic pair from the central office which establishes a radio frequency on the metallic pair over which additional single party service(s) can be provided. From one to many individual circuits can be added to a single pair of wires using carrier equipment.

On May 5, 1988, Melkonian filed this formal complaint requesting a refund of his \$70 with interest plus any additional costs incurred in processing the complaint. His request was based on four specific issues:

1. The problems were not caused by a customer provided answering machine - it was a Panasonic telephone; not an answering machine.
2. Panasonic told him that the particular (KT-T2135) telephone would work on a standard telephone line, and in fact that same instrument was featured at the GTE Phone Mart in Santa Barbara.
3. No one told him he had a carrier line before the problem occurred and he did not know why he was given one.
4. He pays 95¢ each month for defective line insurance and in his opinion, this was a defective line.

The formal complaint was initially docketed under the Expedited Complaint Procedure. However, the assigned Administrative Law Judge (ALJ) concluded that the issues raised could also impact other customers of GTEC. Therefore, on May 31, 1988, this proceeding was converted, by ALJ Ruling, to a regular formal complaint.

GTEC filed its answer to the complaint on June 13, 1988, asserting that one of its service order supervisors informed Melkonian that his request to have his service converted from a carrier line to a metallic pair could not be honored unless charges totalling \$70 were paid. Melkonian told GTEC that he would pay those charges under protest to the Commission.

GTEC contends that under its tariffs, it is not required to provide facilities that are adapted to use any and all types of customer provided equipment (CPE). It denied that its carrier line was in any way defective and further denied that any of its

representatives told Melkonian that he had a defective line. GTEC also denied that its Santa Barbara Phone Mart on or about April 1987 or any time thereafter sold Panasonic Model KX-T2135 telephones. Based on this response, GTEC asked that this complaint be dismissed.

II. Evidentiary Hearings

A one-day hearing was held in Santa Barbara, California on August 10, 1988. This hearing was unavoidably unreported due to the unavailability of a reporter. However, the parties did agree to proceed with the hearing, with the understanding that their exhibits along with the ALJ's notes would be used in preparing any draft decision in this matter.

Mr. Melkonian appeared and presented two exhibits. Defendant (GTEC) presented four witnesses and seven exhibits.

Melkonian, in his testimony, confirmed the developments that led to this complaint. In addition, he emphasized that when he purchases a phone, he checks that it meets FCC standards and that is all that he as a customer of GTEC service can determine. He also asserted that, "GTEC has never sent me a letter telling me what equipment I should not buy. Finally, he remarked that everything works fine now."⁴

Mr. Melkonian then requested the opportunity to submit the original of a letter dated August 5, 1988 from the manufacturer of Panasonic telephones confirming that the Model KX-T2135 also meets Electronics Industries Association and Bell standards. The letter was received as late filed Exhibit 1 on August 15, 1988.

⁴ Three pieces of equipment were connected to the line after May 8, 1987, namely: a GE Model 29260A memory telephone, a Panasonic Model KX-T2135 speaker telephone, and a Panasonic Model KX-T1421 automatic telephone answering machine.

Mr. Melkonian also introduced an undated GTEC interoffice memorandum prepared by Gary Williams, who now lives in Odessa, Texas and is an independent installation and maintenance contractor. From review of that memo, it appears that Williams was the first repairperson sent by GTEC to Melkonian's premises on or about April 29, 1987 and that he mistakenly recognized the Panasonic speaker telephone, with automatic dialer as a telephone answering machine, of which the parties made significant mention, as part of their discussions and pleadings herein. In other respects, Williams' memorandum merely confirmed that one of the two lines to Melkonian's residence was a carrier line.

Mr. Feildon Cook, a 25-year employee of GTEC who is currently a Senior Transmission and Protection Engineer in its Standards Support Group presented testimony on behalf of GTEC. Cook explained that his group provides assistance to persons in the field regarding any thing that is connected to or goes on GTEC lines. He was able to describe the specific differences between metallic and carrier lines. Cook introduced four exhibits describing standards for telephone lines and CPE.

Cook's first exhibit (Exhibit 3) included diagrams with resistance, voltage and current levels shown for both metallic pair and carrier lines.

With the aid of Exhibit 3, Cook explained that, on a metallic pair line, the central office 48 volt direct current (D.C.) power (battery) is available, limited only by the total resistance of the central office mainframe, the distribution cable pair and the customer's inside wire, to serve the customer. However, on a subscriber carrier line that same 48 volt central office power supply serves three functions:

1. It supplies power to the metallic pair to the first individual line (one-party) customer on that pair of wires.

2. It supplies the necessary power to operate the electronic equipment of the subscriber carrier to develop a 76 kilohertz carrier signal used to derive a second individual line (one-party) service for another customer.
3. It supplies a minimum of 20 milliamps of D.C. power at 8 volts to the individual line (one-party) customer served off the carrier line.

Cook further explained that prior to deregulation telephone utilities were required to supply a minimum of 20 milliamps across 350 ohms resistance to customers served off of subscriber carrier equipment. This yielded 7.2 volts D.C. measured at the carrier unit and as little as 4 volts D.C. across 200 ohms resistance at the customer's CPE.

After deregulation, a greater resistance (400 ohms) has been used as the specific resistance standard for CPE requirements. Therefore 12 volts D.C. is made available at the output of the subscriber carrier equipment, Cook explained. This will allow the CPE to receive 20 milliamperes D.C. at a total circuit (cable, inside wire and CPE) resistance of 600 ohms. (Exhibit 3.)

For Melkonian's carrier line, Cook computed that the Panasonic speakerphone would have 9.6 volts across its terminals if it had 400 ohms internal resistance. However, he believed that the speakerphone had in excess of 600 ohms internal resistance and needed 20 milliamps to operate, this means that it needs over 12 volts at its terminals to operate, and because of the loop resistance from the carrier unit to the telephone set, that voltage

was not available. Therefore, the Panasonic KX-T2135 speakerphone would not operate on the carrier line.⁵

The extra current⁶ and voltage needed to operate the speakerphone are apparently required for the memory dialer and the amplifier for the speaker. A plain telephone set does not have these features and devices, and therefore would operate properly on the carrier line.

Melkonian first challenged Cook with the contents of the manufacturer's letter (Exhibit 1), but then agreed that there may be some minor discrepancies in that letter. However, Melkonian then asked if anyone actually measured the voltage and current available at his premises? Cook responded no, GTEC repairpersons never measured the voltage or current at his premises.

Cook also opined that it would be impossible to recreate the same conditions that existed on May 29, 1987, for a test today. Since the carrier equipment was removed, even if that same equipment were installed today the connections may have a slightly different resistance, and the battery in the carrier unit could be either run down or have a better charge. These differences would result in different readings today rendering the results meaningless.

Melkonian then asked Cook if the carrier unit could have had a defective or weak battery? Cook answered yes.

5 The manufacturer's letter (Exhibit 1) confirms the need for 20 milliamps of D.C. current for the speakerphone unit to operate, but assumes a lower internal resistance thus claiming that it would work on 8 volts D.C. or more at its terminals.

6 One fact that the parties appear to have overlooked is that Melkonian also had a GE Model 29260A memory telephone connected to the carrier line, which also required an undisclosed and unknown amount of central office power to operate its memory.

Melkonian asked how long do those batteries last? Cook answered that he didn't know exactly.

Melkonian asked when was the carrier serving his line installed? Cook replied that he didn't know.

Melkonian asked how could you know for sure that the carrier unit was providing the right voltage without measuring the voltage? Cook responded that you would not know.

Melkonian asked if GTEC tells its customers when they are served by carrier systems? Cook replied no.

Cook was also asked, by the ALJ, to assume that he was an electronic engineer not working for GTEC and he went to purchase a telephone and saw the Panasonic KX-T2135 speakerphone with automatic dialer at a good price and liked it. Would he buy it? Cook said yes.

Would it have worked on a GTEC carrier line like Melkonian's? Cook said no.

Would he have expected the GTEC to fix it? Cook said that he would have expected that the phone company would fix the problem.

What about the \$70 charge for conversion? Cook responded that if the tariff mandated it, he would "unhappily" pay it.

GTEC then called Edward R. Duffy, a Regulatory Compliance Manager, with 22 years of experience with GTEC to testify on the requirements of GTEC's tariffs relative to this matter.

Duffy explained that under its Rule #1, Sheet 14, Tariff Schedule D & R (Exhibit 7), GTEC provides exchange telephone service under its standards. To provide exchange telephone service, you must provide dial tone and that is provided under GTEC's standards, according to Duffy. However, he conceded that the specific standards GTEC uses in providing dial tone are not set forth in its tariffs.

Duffy then explained that under GTEC's Tariff Schedule D & R Rule No. 41 (Exhibit 8), GTEC is not responsible for the

installation, operation or maintenance of any customer provided equipment. Duffy also explained that when a customer requests conversion of a carrier line to hard wire, certain specific tariff charges, which total \$70, apply as set forth in GTEC's Tariff Schedule A-41 (Exhibit 9 late filed).

Melkonian asked Duffy what GTEC would have done for a customer who purchased an instrument similar to his Panasonic KX-T2135 from its Phone Mart and later found it would not operate on the customer's line? Duffy replied that the Phone Mart would have offered to buy back the phone. However, if a conversion of a line from carrier to hard wire was made at the customer's request, the same \$70 charge would apply.

The ALJ asked Duffy what percentage of GTEC's customers could, in his opinion, merely buy a similar speakerphone to the Panasonic KX-T2135, take it home, plug it into their telephone jack and use it. He opined that 99% of GTEC's customers could do so.

When asked if he felt that there might therefore be some minor discrimination against customers served by subscriber carrier facilities, Duffy said no because their other telephone equipment still worked.

Duffy then agreed to prepare two late filed exhibits. The first (Exhibit 10) was to estimate the annual costs to GTEC if it waived the \$70 charge for conversion of subscriber carrier equipped lines to hard wire when performed at the customer's request. The second (Exhibit 11) was to determine what charges Pacific Bell and Contel of California assessed their customers in such instances. The results of his efforts were contained in GTEC's August 30, and September 9, 1988 letters, as discussed earlier.

In his closing statement, counsel for GTEC argued that GTEC believes that:

1. It met all post divestiture requirements by providing a D.C. voltage on Melkonian's line that would produce 20 milliamps of

D.C. current to any CPE which had a D.C. resistance of 400 ohms or less, and,

2. Melkonian's instrument apparently had a D.C. resistance higher than 600 ohms and thus it would not operate on GTEC's carrier line.

Beyond that he argued that it was Melkonian's obligation to provide CPE to meet GTEC's service standards or pay GTEC's \$70 conversion cost.

In his closing argument, Melkonian asserted that the 630 ohms resistance of his Panasonic telephone was subject to speculation, and the fact is that no one actually tested what D.C. current was available at the instrument on his carrier line. He also contended that all parties agreed that it would be impossible today to reestablish the exact conditions that were present on April 29, 1987 to carry out such a test.

III. Post Hearing Developments

The matter was scheduled to be submitted on or before December 15, 1988, upon receipt of two late filed exhibits, requested by the ALJ, from GTEC. The two requested exhibits were to provide the following details:

1. The annual cost to GTEC of waiving the \$70 of charges for all conversions from subscriber carrier to metallic lines, at customers' request, and,
2. The current practices of Pacific Bell and Contel of California, Inc., relative to charges to customers for conversion from subscriber carrier to metallic pairs (where available).

On August 30, 1988, GTEC wrote a letter to the ALJ stating that it had reviewed its records and determined that at the end of June 1986 it had 42,953 single-line subscriber carrier units

in service.⁷ Eighteen months later it had reduced that number by 939 units. If every unit had been converted at the customer's request,⁸ and GTEC's charge of \$70 were applied, the revenue involved for the 19-month period would have been \$65,730.

The equivalent annual amount would be \$43,820. Under the general assumption that most of these conversions are performed at GTEC's own operating convenience and not at the customer's request, the cost to GTEC to waive the conversion charge would be substantially less than \$40,000 (rounded) a year.

GTEC also explained, in its letter, that it:
"...has spoken to representatives of Pacific Bell and Continental Telephone and have been advised that both Pacific Bell and Continental view subscriber carrier facilities as temporary service and will convert to hard wire at no charge if the customer has customer-provided equipment that will not function as a result of being served by subscriber carrier facilities. GTEC is willing to conform its practices in this area to those of Pacific Bell and Continental."

With this information at hand GTEC changed its procedures so that customers similarly situated to complainant will have their subscriber carrier facilities converted to hard wire at no cost.

GTEC's counsel also called Melkonian and advised him that GTEC would credit his account for \$70, plus interest to resolve this complaint. After considering GTEC's offer for several days, Melkonian advised GTEC that he wasn't interested in GTEC's offer.

7 GTEC, according to its 1987 Annual Report to the Commission, filed April 2, 1988, serves over 3 million access lines in California. Therefore, the subscriber carrier lines represent just over 1% of GTEC's total lines in service.

8 GTEC makes no charge for conversions of subscriber carrier to metallic pairs when the conversion is done for its own operating convenience.

Melkonian, by letter dated August 30, 1988, confirmed to GTEC that he would prefer to await a ruling from the PUC since his complaint asked for costs which GTE did not offer to pay.

On September 9, 1988, GTEC wrote to the ALJ confirming that its August 30, 1988 letter contained the information which was to be included in late filed Exhibits 10 and 11. This proceeding was then submitted on September 12, 1988 upon receipt of GTEC's September 9, 1988 letter.

IV. Discussion

Prior to mid-1975,⁹ California telephone utilities furnished nearly all telephone equipment to their customers, and when a customer wanted an automatic dialer or a speakerphone, the utility furnished and maintained it at tariff rates and charges, and the utility also made sure that basic service lines were properly conditioned to operate that equipment. For approximately three years, the Commission certified CPE to be used on telephone utility lines. On June 27, 1978, our Resolution T-9826 recognized adoption by the Federal Communications Commission (FCC) of that agency's Third Report and Order in Docket 19528, effective June 1, 1978. That action broadened the FCC's Customer-Provided Equipment Registration program under Part 68 of the FCC rules entitled "Connection of Terminal Equipment to the Telephone Network," to cover all classes of terminal equipment including PBX and key telephone systems.

Since the FCC assumed authority for registration of all CPE, processing of new applications for registration by this

⁹ By D.84364, dated April 22, 1975, this Commission issued General Order (GO) No. 138 which established Rules for connection of CPE effective May 20, 1975.

Commission was terminated effective June 30, 1978, by Resolution T-9826.

FCC certification of CPE is even more significant because telephone equipment is now manufactured and available from hundreds of companies worldwide.

GTEC's Tariff Schedule D & R Rule No. 41 Section H. titled "Responsibility of the Utility" in Paragraph 2 states:

"The Utility shall not be responsible to the customer or otherwise if changes in the criteria contained in the tariffs or if any of the facilities, operations or procedures of the Utility render any customer-provided facilities obsolete or require modification or alteration of such facilities or otherwise affect their use or performance, except as provided in Paragraph 3.9 of General Order No. 138 of the Public Utilities Commission of the State of California, or in accordance with the provisions of Part 68 of the Federal Communications Commission's Rules and Regulations." (See Appendix A for balance of Rule No. 41-H.)

Because this Commission's GO 138 has not been used for new equipment registered after June 30, 1978, it does not apply to telephone equipment registered after that date such as Melkonian's Panasonic Model KX-T2135. Therefore, the waiver of responsibility exception noted in Rule No. 41-H.2. above applies to equipment that is "... in accordance with the provisions of Part 68 of the Federal Communications Commission's Rules and Regulations." Melkonian's Panasonic Model KX-T2135 bore an easily identifiable and firmly attached registration label which certified to any potential purchaser that it complied with Part 68, FCC Rules, "FCC Reg. No. ACJ96N-71467-MT-E REN 1.0B." The Panasonic KX-T2135 appeared to meet every necessary requirement for proper operation on GTEC's lines.

Even GTEC's Senior Transmission and Protection Fieldon Cook, when asked to assume that he was an electronic engineer not

working for GTEC and as a prospective purchaser viewing the Panasonic Model KX-T2135 instrument with the FCC registration label on it, would have expected it to work on a GTEC line. If it did not work, he would have expected GTEC to repair the line.

In determining the resolution of this complaint we too, are compelled with the facts before us to rule in favor of Melkonian, especially since his first test was to try the Panasonic Model KX-T2135 on another GTEC line and noted that it worked "fine" prior to calling GTEC for repair assistance.

Further, Melkonian had "Lineskeeper Service" from GTEC and with that service it is logical to assume that he would expect that any service problem on his line would be repaired without cost to him.

Therefore, we are pleased that, as set forth in its August 30, 1988 letter, GTEC will make future conversions, at customers' request, from carrier lines to hard wired metallic lines at no charge to the customer as is the current practice of Contel of California, Inc. and Pacific Bell.

We do recognize that subscriber carrier lines serve a very useful function at times when one or more added main (single party) line(s) is/are needed to serve a location where no additional metallic pairs are available for such service. Under these circumstances, GTEC does and should, at its own operating convenience, continue to use carrier systems to provide the necessary service(s) until metallic cable pairs become available or until conversion is requested by the customer.

We will direct GTEC to reimburse Melkonian for the \$70 conversion charge previously assessed to him, plus interest at the average three-month commercial paper rate as published in the Federal Reserve Bulletin for the period from February 9, 1988 to the date of issuance of that check.

Melkonian also requested that the costs he incurred to process this complaint be reimbursed. Initially he listed his

costs as \$10, based on his efforts to the time of formally filing this complaint. Presumably the amount today would be greater.

That portion of Melkonian's request will be denied for the same reasons as set forth in D.79468 dated December 14, 1971 in Case 9087 (Mak v. PT&T, 72 CPUC 735.) In that proceeding Mak, among other things, sought damages including rental for a portion of her apartment house roof (where PT&T had attached a terminal); cost of repairing roof; hospital expenses; post-hospital care and general expenses involved in prosecuting the complaint. The Commission denied the damages Mak requested stating that it had no jurisdiction to award damages.

Findings of Fact

1. On or before April 29, 1987, Melkonian had one metallic pair and one subscriber carrier line from GTEC serving his premises at 726 Juanita Avenue, Santa Barbara, California.

2. Melkonian on-or-about April 29, 1987 attempted to use a Panasonic KX-T2135 speakerphone with automatic dialer, which he had recently purchased, on the subscriber carrier line and it would not work on that line for lack of dial tone.

3. Melkonian connected the Panasonic KX-T2135 speakerphone on the other (metallic pair) line within his home and it worked perfectly.

4. Melkonian at that time subscribed to GTEC's "Lineskeeper Service" on the subscriber carrier equipped line and therefore, on the assumption that the line was defective, he called GTEC to fix it.

5. GTEC's repairperson upon discovery that it was serving Melkonian with a carrier line, advised Melkonian that certain telephone equipment does not work on such lines; thereafter, Melkonian asked that the carrier line be converted to a regular (metallic pair) line, and GTEC made the requested conversion.

6. After conversion to a metallic pair line, all of Melkonian's telephone equipment worked perfectly including the

Panasonic KX-T2135 speakerphone and two other pieces of telephone equipment, and Melkonian was satisfied.

7. When GTEC billed Melkonian \$70 for the conversion of the line from subscriber carrier to a metallic pair, Melkonian complained about that charge, first informally and ultimately via this complaint.

8. GTEC's tariff Rule No. 41 provides that it shall not be responsible to provide facilities which will operate with all CPE. However, that rule excepts customer facilities that are in accordance with the provisions of Part 68 of the FCC's Rules and Regulations.

9. Melkonian's Panasonic KX-T2135 speakerphone with automatic dialer did bear an easily identifiable and firmly attached registration label which certified that it complied with Part 68 of the FCC Rules ("FCC Reg. No. ACS96N-71467-MT-E REN. 1.0B.").

10. GTEC uses approximately 42,000 subscriber carrier lines to render single line basic telephone service to a small number of its customers, representing slightly more than 1% of its over 3 million access lines in California.

11. GTEC estimates that nearly 99% of its customers would not encounter the problem that Melkonian experienced and which is the subject of this complaint.

12. GTEC, based on an analysis of the installed equipment and the specific wiring of that equipment serving Melkonian, believes that it was delivering the minimum allowable 20 milliamps of current to a theoretical 400 ohms resistive load at the subscriber carrier line telephone jack in Melkonian's residence. However, it made no tests to be sure that the 20 milliamps D.C. current was actually available to a 400 ohm load on that jack.

13. The manufacturer of the Panasonic KX-T2135 contended in a letter dated August 5, 1988 that the speakerphone in question would work when 20 milliamps of D.C. current was available to it.

However, there is some concern regarding the internal resistance of the speakerphone being over 600 rather than 400 ohms which when plugged into GTEC's subscriber carrier line may have drawn less than 20 milliamps.

14. GTEC's metallic pair lines are connected to its 48 volt central office D.C. power and those lines will understandably provide higher currents than 20 milliamps to CPE even if that CPE has an internal resistance well in excess of 600 ohms.

15. Melkonian never requested to be served by a subscriber carrier line, and no one ever told him that he had such service until this problem arose.

16. GTEC's practice at the time (May 1987) was to levy various charges as set forth in its tariffs totalling \$70 for conversion (at a customer's request) from carrier to metallic pair lines where available.

17. Pacific Bell and Contel of California, Inc. on and before August 30, 1988 did not levy a charge to convert a customer's service from a subscriber carrier to a metallic pair where available, when requested by the customer.

18. GTEC has recently adopted the same practice, as Pacific Bell and Contel of California, of not charging for conversions of subscriber carrier to metallic pair lines where available, for customer requests placed on or after August 30, 1988, according to GTEC's Counsel's letter of that date.

19. GTEC, by letter of Counsel dated August 30, 1988, has expressed its willingness to credit the previously collected conversion charge of \$70 to Melkonian's account with interest to resolve this complaint. Melkonian, by letter of the same date, declined the offer and stated that he would prefer to wait for a Commission ruling.

20. Melkonian has asked that he also be awarded costs he has incurred in prosecuting this complaint, but has failed to

demonstrate any basis under Sections 734, 735 or 736 of P.U. Code whereby such an award could be justified.

Conclusions of Law

1. GTEC, occasionally, at its own operating convenience, utilizes subscriber carrier equipment to derive additional main (one-party) lines without the need to add metallic cable pairs in order to promptly render basic telephone service. GTEC should be allowed to continue this necessary practice.

2. GTEC's tariff rules should, and, liberally interpreted, do permit the use of any CPE that complies with Part 68 of the FCC's Rules and Regulations, with the proviso that the CPE must bear a registration label certifying such compliance.

3. Certain types of CPE such as Melkonian's speakerphone are equipped with electronic memory dialers and speaker amplifiers, and/or other devices that require some central office battery, D.C. power for their operation. For such nonpassive equipment, GTEC should only be required to provide adequate voltage and current levels over such resistances and under the conditions prescribed in Part 68 of the FCC's Rules and Regulations.

4. Whenever, GTEC expresses to its customers that their properly registered CPE will not operate on its system, it should first be certain by a physical measurement of voltage, current and resistance, and frequencies, if applicable, that its own facilities are operating properly and are fully within specifications. No such physical measurement was made on Melkonian's carrier line.

5. GTEC's newly revised practice of not charging its customers for conversion of subscriber carrier to any available metallic pair lines, at the customers' requests is reasonable and should be continued.

6. GTEC's offer to return to Melkonian the previously collected conversion charge of \$70 with accrued interest is reasonable, and should be adopted, except that a refund check should be issued, in contrast to a credit on his bill, unless for

unknown reasons there are outstanding balances on his account which equal or exceed the amount of the refund.

7. Melkonian's request for reparations to recover his costs of prosecuting this complaint is beyond the scope of P.U. Code Sections 734, 735 and 736 and, therefore, should be denied.

ORDER

IT IS ORDERED that:

1. GTE California Incorporated (GTEC) shall, within 10 days after the effective date of this order, issue a check to Albert A. Melkonian (complainant) in the amount of \$70 plus interest computed at the average three-month commercial paper rate as published in the Federal Reserve Bulletin for the period from February 9, 1988 to the date of issuance. In the event that complainant's telephone service account(s) with GTEC is/are past due, GTEC may in such instance, alternatively, credit his account for a similar amount in lieu of issuing a check.

2. GTEC shall continue its revised practice of not levying a charge for conversions at customers' request from subscriber carrier to metallic pair lines, when the latter are available.

3. GTEC shall not be required to modify or maintain its facilities in a manner necessary to accommodate the operation of any Customer Provided Equipment which does not bear a registration label certifying its compliance with Part 68 of the Federal Communications Commission's Rules and Regulations, and/or equivalent successor rules and regulations promulgated by competent regulatory agencies having jurisdiction over GTEC.

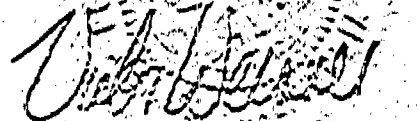
4. Except as set forth in Ordering Paragraphs 1 though 3 above, the complaint is denied.

This order becomes effective 30 days from today.

Dated FEB 8 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. CHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


Victor Weissac, Executive Director

RULE NO. 41

CUSTOMER-PROVIDED FACILITIES CONNECTED TO UTILITY EXCHANGE FACILITIES -
Continued

E. RESPONSIBILITY OF THE UTILITY

1. The Utility shall not be responsible for the installation, operation or maintenance of any customer-provided facilities. The facilities of the Utility are not represented as adapted to the use of customer-provided facilities, and where such facilities are connected to the Utility's facilities the responsibility of the Utility shall be limited to the furnishing of facilities suitable for exchange and message toll service or private line service and to the maintenance and operation of such facilities in a manner proper for the service furnished; subject to this responsibility the Utility shall not be responsible for (1) the through transmission of signals generated by the customer-provided facilities or for the quality of, or defects in, such transmission, or (2) the reception of signals by the customer-provided facilities.

2. The Utility shall not be responsible to the customer or otherwise if changes in the criteria contained in the tariffs or if any of the facilities, operations or procedures of the Utility render any customer-provided facilities obsolete or require modification or alteration of such facilities or otherwise affect their use or performance, except as provided in Paragraph 3.9 of General Order No. 138 of the Public Utilities Commission of the State of California, or in accordance with the provisions of Part 68 of the Federal Communications Commission's Rules and Regulations.

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I. LIABILITY AND ALLOWANCES

For liability and allowance for interruptions of service see Rule No. 26.

Continued

(To be inserted by utility)

Advice Letter No. 4833

Issued by

SPENCER C. HERZBERGER

Vice President, Revenue Requirements
(SIC OF APPENDIX A)

Decision No.

(To be inserted by Cal. P.U.C.)

Date Filed OCT 25 1983

Effective NOV 26 1983

Resolution No