ALJ/emk/jt

ORIGINAL

Decision 82 12 108 DEC 22 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SONITROL SECURITY, INC.,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, a corporation,

Defendant.

Case 10916
(Filed October 10, 1980)

Wilson, Sonsini, Goodrich & Rosati, by Charles T. C. Compton and Linda Hendrix McPharlin, Attorneys at Law, for complainant.
Margaret deB. Brown, Attorney at Law, for defendant.
Willard A. Dodge, Jr., for the Commission staff.

## O P I N I O N

Complainant Sonitrol Security, Incorporated (Sonitrol)[1/] seeks an order providing that defendant The Pacific Telephone and Telegraph Company (Pacific):

1. Stop requiring the use of extra equipment on private lines supplied for use by Sonitrol and its customers and that such extra equipment be installed, if at all, only upon Sonitrol's request.
2. Stop requiring the use of voice-grade channels by Sonitrol and its customers.

1/ As used in this decision, "Sonitrol" includes Sonitrol Security, Incorporated, Sonitrol dealers, and related subscribers.

3. Refund to Sonitrol customers the overcharges received by it as a result of its practice of requiring voice-grade lines when sub-voice lines were sufficient and as a result of its practice of charging the rate for a voice-grade line when actually supplying a sub-voice line.

4. Stop degrading the service on lines provided to Sonitrol, restore to their prior level of service the lines that have already been adversely affected by Pacific, and provide new lines with an attenuation decibel (dB) loss of no more than 10 dB.

After due notice, 11 days of hearings were held in San Francisco before Administrative Law Judge (ALJ) Myers during the period May 18, 1981 through October 21, 1981, and the matter was submitted subject to the receipt of concurrent opening briefs due on or before November 9, 1981 and concurrent reply briefs due on or before November 25, 1981. Opening and closing briefs were submitted by Sonitrol, Pacific, and the Commission staff. Testimony and exhibits were presented on behalf of Sonitrol by George Nicolino, owner and general manager-president of Sonitrol; by Robert J. Brown, assistant vice president of the business marketing staff of Pacific; by W. K. Edwards, rate analyst and consultant for Consumer Consultants, Incorporated; by Charles M. Schmidt, president and general manager of Sonitrol of Modesto; by David Oswalt, president and general manager of Sonitrol of San Jose; by David J. Kuhlman, managing general partner for Sonitrol of Sacramento; by Judy Rinaldi, assistant systems technician data installer with Pacific; by Richard J.

Etchinson, vice president of Sonitrol; by Robert K. Reed, general partner and general manager of Sonitrol of Contra Costa; by Bruce Johnson, a dealer in Sonitrol in San Leandro; by Barbara Nicolino, treasurer of Sonitrol and president-general manager of Sonitrol of Fresno; and by Jann W. Carpenter, principal in economics and regulation with J. W. Carpenter Associates.

Testimony and exhibits were presented on behalf of Pacific by Emily J. Fearn, marketing manager in health care for Pacific; by Thomas M. Stoffel, product manager for private line services of Pacific; by D. D. Rawlings, project leader of The American Telephone & Telegraph Company project to convert to a machine language; and by Burl R. Smith, administration manager of Pacific. The staff participated by cross-examination of the various witnesses and submittal of opening and closing briefs.

## I. BACKGROUND

### General

The Sonitrol alarm system is an audio surveillance system that has been marketed in the United States since 1964. There are 16 Sonitrol dealerships located in California providing service to approximately 7,500 customers. Sonitrol is a northern California independent franchiser for the equipment manufacturer, Florida-based Sonitrol corporation. The Sonitrol alarm system consists of a power supply and microphones at a customer's premises connected by dedicated telephone lines to monitoring equipment at a Sonitrol location. Sounds at a protected premises trigger the system and are heard and interpreted by a person on duty at a central station monitoring console. The conventional Sonitrol monitoring equipment, in some instances, requires

direct current (DC) continuity on its telephone lines and in some instances it can be used with lines not requiring DC continuity. Equipment used in California is identical to Sonitrol equipment used throughout the United States in all Bell System operating companies. Sonitrol equipment requires the provision of telephone circuits consisting of a pair of wires reasonably balanced with a maximum circuit attenuation loss of 10 dB or better.

Interim Decisions

Three interim decisions (D.) have been issued on this matter since the complaint was first filed: D.93268 dated July 7, 1981, D.93631 dated October 20, 1981, and D.93849 dated December 15, 1981. D.93268 provided that Pacific take no steps to increase the dB loss on any currently existing circuits provided to Sonitrol, engineer new circuits for Sonitrol not to exceed a 16 dB loss, and repair Sonitrol's circuits in a manner that maintains the dB levels ($\pm$ 1 dB) from the level which existed when the circuits were installed. D.93631 provided that Pacific (1) take no steps to increase the dB loss on any currently existing circuits provided to Sonitrol, (2) install new Type 3001 channels ordered by Sonitrol dealers at a loss of 10 dBs or better, and (3) repair all Sonitrol Type 3001 channels in a manner that maintains a dB loss level of 10 dBs or better. D.93849 further ordered that if Sonitrol requests that any Type 1009 channels with a loss in excess of 10 dBs be adjusted to guarantee a dB loss no greater than 10 dB, Pacific convert that circuit, without the imposition of any installation or other nonrecurring charge, to a Type 3001 channel adjusted to a loss not in excess of 10 dBs. D.93849 further provided that the interim decisions remain in effect until further order of the Commission.

## II. POSITION OF SONITROL

Testimony, exhibits, and argument presented on behalf of Sonitrol indicate that:

1. For the period 1970 to 1976, the existing Sonitrol dealerships have been or continue to be provided service by Pacific in accordance with the provisions of its tariff for Type 1009A channels.
2. In May 1976, Pacific announced its intention to bill all Sonitrol customers in accordance with its tariff provisions for Type 3001 channels.
3. In spite of its announced intention to prevent Sonitrol customers the use of Type 1009A channels, Pacific has applied its policy of billing them in accordance with the tariff for Type 3001 channels in a random fashion, resulting in some Sonitrol users continuing to be billed at the Type 1009 channel tariff rates while others using identical equipment being billed at the Type 3001 channel tariff rates.
4. Sonitrol dealers in Modesto, Sacramento, and Fresno report that nearly all their customers are billed at Type 1009 channel tariff rates as contrasted to Sonitrol dealers in southern Alameda and Contra Costa counties who report that only an estimated 40% of their customers are billed at the Type 1009 channel tariff rates.
5. Pacific has provided Type 1009 channels to Sonitrol customers with full knowledge of their transmission of audio signals over such circuits.

6. The maximum attenuation loss that can be tolerated by Sonitrol equipment and have it operate satisfactorily is 10 dBs.

7. This 10 dB attenuation loss level is usually achieved on Type 1009 channel lines without amplification or special conditioning.

8. Pacific's tariff for Type 1009A channels is applicable for Sonitrol customers where neither amplification nor special conditioning is required.

9. Pacific's practice of furnishing service to Sonitrol customers in accordance with the provisions of its tariff for Type 1009A channels for more than 10 years is determinative in interpreting the tariff for Type 1009A channels.

10. Tariff Schedule Cal. P.U.C. No. 104-T describes the Type 3001 channel offering as providing service at an approximate band width of 300 to 3,000 hertz with transmission characteristics similar to those of private line telephone service. Sonitrol interprets this as mandating a maximum attenuation loss of 10 dB to be compatible with the private line telephone circuits (Type 2001 channels) which are designed to provide a maximum circuit attenuation loss of 10 dB.

11. Pacific informed Sonitrol that service for voice frequency monitoring purposes was no longer available under the Type 1009A channel tariff, but that service in accordance with the Type 3001 channel tariff with a maximum attenuation of 10 dBs was, to quote Pacific, "the exact line you require".

12. Where Pacific required the use of Type 3001 channels for Sonitrol customers, it always provided service at a 10 dB attenuation loss or better until 1979.

13. Pacific's newly discovered 16 dB attenuation requirements for Type 3001 channels is self-serving and has been applied indiscriminately.

14. Of 750 Type 3001 channels used by other than Sonitrol customers, 466 were adjusted at an attenuation loss of 16 dB. (± 1 dB), 12 had attenuation losses of 17.1 dB or above, 272 had losses of 14.9 dB or better; and 217 had losses of 10 dB or better.

15. Bell System Technical Reference 41004 cannot serve as a statutory expression of Pacific's tariff obligations because it is, firstly, a reference to be used as a guide for customers and manufacturers; secondly, it discusses voice band private line channels offered under interstate tariff No. FCC 260 rather than relating specifically to intrastate operations; and, thirdly, the publication was written in October 1973 and stands at best as a possible reflection of interstate circuit design parameters nearly a decade ago.

16. Bell System Technical References are not on file with the Commission as a rule of service.

17. There is no question as to the feasibility of meeting a maximum 10 dB attenuation loss limit under existing tariffs.

18. Pacific's installation of attenuators on Type 3001 channels degrades Sonitrol's circuits and cannot be justified.

19. Pacific is not required by interstate tariff No. FCC 260 to install attenuators on Sonitrol's Type 3001 channels.

20. Pacific's threat to install voice suppression equipment on Sonitrol's Type 1009A channels should not be permitted as Pacific has not proved any real necessity for the installation of such devices on the Type 1009A channels.

21. On March 3, 1981 Pacific and Sonitrol entered into an agreement and release resolving to the satisfaction of both parties the issues raised by Sonitrol in its complaint. Such an agreement is a binding and an enforceable contract.

22. Sonitrol customers originally received service on Type 1009A channels which worked adequately for them. These Sonitrol customers have been improperly forced by Pacific to pay the higher Type 3001 channel tariff rates without any change in the telephone circuits serving them and are, therefore, entitled to reparation.

23. In attempting to reclassify Sonitrol from Type 1009A channels to Type 3001 channels in 1976 and from Type 3001 channels to a new and provisional Type 3009 channel recently, Pacific has acted arbitrarily and without required Commission approval.

24. Sonitrol is entitled to appropriate reparation for a period of three years prior to the filing of its complaint on October 10, 1980, i.e. from October 10, 1977 to present under the provisions of Public Utilities (PU) Code Section 737.

## III. POSITION OF PACIFIC

Testimony, exhibits, and argument presented on behalf of Pacific indicte that:

1. Unlike most alarm companies which monitor customers by means of a signal sent over a sub-voice grade channel, the Sonitrol system protects its customers' premises by means of interpreting voice-grade signals sent from the protected premises to Sonitrol facilities.
2. Pacific employees, familiar with the signal-type alarm systems using sub-voice grade Type 1009A channels used for most alarm systems, provided service to Sonitrol customers in accordance with the tariff for Type 1009A channels without considering the tariff implications of permitting the transmission of voice-grade signals on sub-voice grade facilities.
3. Pacific decided that its tariffs permitted alternate use of some channel facilities enabling Sonitrol to use a Type 3001 channel line for both signaling and surveillance, including the transmission of voice rather than the use of one line for signaling and one line for surveillance.

4. In May of 1976 Pacific agreed on an interim basis to supply Type 1009 channels for Sonitrol customer use, but rescinded that agreement and required the use of Type 3001 channels which would be furnished with DC continuity if the necessary facilities were available.

5. The circuit designation for such Type 3001 channels with DC continuity used by Pacific personnel was "KS" which was also the standard designation for Type 1009 channels with DC continuity.

6. In some cases, Sonitrol customers were able to persuade Pacific employees to provide Type 3001 service even when the circuit was billed as Type 1009 service.

7. On May 5, 1978 Pacific's representatives met with Sonitrol representatives to discuss the dB loss problem experienced by Sonitrol in southern California, the installation by Pacific of interface equipment on Type 3001 channels, and the possibility of a new tariff applicable to Sonitrol's circuit requirements.

8. Pacific filed an advice letter which set forth a new tariff offering for alarm companies designated as Type 3009. This offering meets Sonitrol's stated requirements by providing one-way channels either with or without DC continuity and with an overall attenuation loss of 8 dB (+ 1 dB). The Commission approved this offering by Resolution T-10467 dated October 20, 1981.

9. Sonitrol has been getting Type 3001 channels and has, in some instances, been paying Type 1009 channel tariff rates and, therefore, Pacific should be permitted to change all Sonitrol's misbilled circuits to reflect their true status as Type 3001 channels and collect the difference in rates between those two tariffs for the period of the statute of limitations.

10. The tariffs provide that series 1000 channels, in general, are not suitable for transmission of alternating current tones and that the Type 1009A channel is not represented as transmitting anything higher than 30 bauds of on-off signaling. However, the record indicates that circuits provided Sonitrol in accordance with the provisions of Type 1009A channels have enabled Sonitrol monitors to detect break-ins by interpreting noises, including voices, transmitted from the protected premises. Therefore, according to Pacific, the Type 1009A channels that Sonitrol was billed for were in effect Type 3001 voice-quality channels.

11. Sonitrol believes it was receiving satisfactory service on Type 1009A channels because that was the tariff by which it was being billed. However, according to Pacific, the Type 1009A channels as defined in the tariffs would not work for Sonitrol.

12. When a Sonitrol customer calls to order a circuit, he identifies himself as operating an alarm company and requests either a metallic circuit, an alarm circuit, or a "phone line". Pacific's clerks then write the order for the usual alarm company as a Type 1009A channel without investigating or being familiar with the purpose to which the circuit will be put.

13. Pacific sells service channels with certain transmission characteristics, not facilities. The same metallic cable pair can be used for regular exchange circuits, Type 1009 channels, or Type 3001 channels with DC continuity. The difference between these channels is described in the appropriate tariffs setting forth the transmission characteristics and proper use of the various type channels.

14. Pacific should be permitted to go ahead with its program of installing wave shapers (voice suppressors) on all Type 1009A channels, including Sonitrol subscribers, as these devices will help Pacific to maintain and repair the circuits and will protect other facilities from interference caused by sparks and arcs.

15. The installation of the wave shapers (voice suppressors) will clearly differentiate the Type 1009 channels from the Type 3001 channels, and will preclude the transmission of voice signals over a sub-voice grade channel.

16. Sonitrol is not entitled to any refunds for erroneous billing.

17. Sonitrol has failed to establish by credible evidence that it really requires an overall attenuation loss level of 10 dBs or less, or that it cannot modify its equipment to use a channel having an attenuation loss of 16 dBs.

18. Pacific's tariffs do not specifically state what the overall attenuation loss on a Type 3001 channel will be and, therefore, should be modified to precise the exact dB attenuation loss parameters.

19. The tariffs provide that for Type 3001 channels all facilities provided shall conform to the established construction standards of the utility and that in accordance with Bell System Technical Reference PUB 41004 an overall dB attenuation loss of 16 dB is such an established construction standard for the design of Type 3001 channels.

20. The majority of Sonitrol's circuits have an attenuation loss of 10 dB or less because they are nondesigned circuits of short length.

21. The Type 3009 channel tariff offering recently filed by Pacific and approved by this Commission is the proper offering for Sonitrol.

22. Because of Sonitrol's space limitations Pacific will be happy to explore the feasibility of providing a consolidated device that can terminate several channels (either Type 3001 or Type 3009) instead of just one.

23. Because of the need to protect the network, this Commission should not require the removal of 150-A channel service units (CSU).

## IV. POSITION OF COMMISSION STAFF

The Commission staff's position is as set forth in the staff's briefs on this matter and may be summarized by the staff's recommended findings of fact and conclusions of law which are as follows:

Proposed Findings of Fact

1. Pacific offers communication channels to its customers, as opposed to facilities.
2. The descriptions of private line service offerings in Pacific's tariffs are imprecise in many respects.
3. Pacific considers the Bell System Technical References to be the authentic description of the technical aspects of the private line offerings.
4. Pacific's marketing practice documentation is generally consistent with the Bell System Technical References and tariff provisions, with respect to private line offerings.
5. Pacific has a procedure which calls for the use of its Form M-1021 in establishing the technical requirements for the provision of private line service to applicants.
6. Pacific's internal procedures are erratically implemented in the interpretation of customer requirements for private line services for the alarm industry.

7. Marketing personnel who prepared Form M-1021s did not elicit sufficient technical information in dealing with Sonitrol (or Sonitrol's clients, as the case may be) to result in proper handling of the requirements.

8. Sonitrol (or its clients) was furnished both Type 1009A and Type 3001 private line channels from time to time, to meet the same basic requirements.

9. Terminating networks have not been installed on some of the Type 1009A channels furnished to Sonitrol.

10. Good engineering practice requires the use of a terminating network at the customer's premises on an intrastate Type 1009A channel, although this is not a clear requirement of intrastate tariffs or regulations.

11. A Type 150-A CSU, or an equivalent device, is required at the termination of a Type 3001 intrastate private line channel to permit adjustment of the circuit levels to meet specifications, and for other network protection.

12. Bell System Technical Reference 41004 specifies a net loss of 16 dB (± 1 dB) for a Type 3001 channel. Pacific uses this value when designing Type 3001 channels.

13. CSUs and/or other equipment have from time to time been adjusted by Pacific personnel to produce net losses less than a nominal 16 dB on some Type 3001 channels furnished to Sonitrol.

14. Proper operation and maintenance of Pacific's private line services require the establishment and enforcement of uniform technical standards and specifications in the design and installation of private line channels.

15. Pacific should improve its internal procedures in the marketing, provision, and maintenance of private line channels to ensure proper, uniform, and nondiscriminatory application of tariffs and specifications.

16. For proper operation, Sonitrol equipment requires transmission of voice band signals over a channel having no more than 10 dB net loss at nominal voice band frequencies. DC continuity is required for some Sonitrol equipment and not required for others.

17. Neither the Type 1009A nor the Type 3001 private line channels, as tariffed by Pacific for intrastate use, is suitable for use by Sonitrol when such channels are configured and adjusted according to Bell System Technical Reference specifications.

18. Pacific's tariffs, Schedule Cal. P.U.C. No. 44-T, require the utility to provide suitable channels for Sonitrol's use, wherever possible, when standard tariff offerings are unsuitable.

19. Provision by Pacific of a voice-grade channel with no more than 10 dB nominal net loss, without signaling, is technically feasible, and similar to other widely used offerings.

20. Pacific has filed tariffs offering for an 8 dB ($\pm$ 1 dB) loss voice-grade channel, with optional DC continuity where facilities permit, which is suitable for Sonitrol's application. This channel is designated as Type 3009. The effective date of this tariff revision is November 13, 1981.

21. Pacific's filed rates and charges for the Type 3009 channel do not differ materially from the corresponding rates and charges for Type 3001.

22. From the effective date of this order, Pacific should furnish Type 3009 channels to Sonitrol (and its clients) in providing new service to Sonitrol for use with the current Sonitrol systems.

23. Pacific should convert all existing Sonitrol channels to Type 3009 as expeditiously as is reasonably possible, without charge for conversion.

24. Individual Sonitrol customers are generally billed directly for the private line channels serving their respective protected premises.

25. Sonitrol should cooperate with Pacific in timely identification of private line circuits used by Sonitrol and its clients, to facilitate the conversion to Type 3009.

26. Pacific should advise all Sonitrol dealers and clients of the nature of this conversion and of the schedule of rates and charges for Type 3009 channels. This can be effected through dissemination by Sonitrol or Sonitrol dealers of written notice material furnished by Pacific. Pacific should confer with Sonitrol and determine the most efficient means of giving this notice.

27. Bell System Technical References are not readily available in a uniform manner from Pacific to actual or potential users of private line services.

28. Pacific should implement procedures to assure that marketing personnel are aware of the applicability of Bell System Technical References which may be needed for proper identification of system technical characteristics by users or manufacturers. Bell System Technical References should be readily available to bona fide requesters.

29. Pacific should review all private line tariff schedules and file revisions which eliminate ambiguity and imprecision in the definitions of the various offerings.

30. Pacific has not installed or required unnecessary equipment in private line channels furnished to Sonitrol and its clients.

31. Pacific has from time to time supplied Sonitrol or its clients with channels billed at sub-voice grade rates when these channels were employed in voice-grade service.

32. These channels were not properly configured as sub-voice grade channels in accordance with Pacific's own specifications.

33. No adjustment should be made in past billing for those channels.

34. Pacific is not obligated to furnish channels with a nominal 10 dB net loss under the tariff offering of Type 3001 private line channels. Any agreement to do so would require a revision of the present tariffs.

35. Pacific's tariff Schedule Cal. P.U.C. No. 1-T prohibits unofficial modifications of tariffs.

36. Provision of a private line voice-grade channel with a nominal 10 dB net loss rather than 16 dB does not necessarily result in additional cost to Pacific.

37. Configuring a Type 1009A private line channel in accordance with Bell System Technical References and with good engineering practice does not constitute degradation of service.

38. Pacific should not modify the present configuration of any private line channel presently furnished to Sonitrol or its clients in such a manner as to render it unsuitable for Sonitrol's application, e.g. by increasing the net loss to a value in excess of 10 dB, pending the conversion of any such channel to Type 3009 in accordance with Finding 23.

Proposed Conclusions of Law

1. Bell System Technical References and Pacific's marketing practices are proper extensions and interpretations of Pacific's private line tariffs absent Commission decisions to the contrary for the purposes of this case.

2. Pacific has interpreted and enforced its private line tariffs in an inconsistent manner from time to time with respect to Sonitrol.

3. Pacific's tariffs prior to November 13, 1981 did not offer a private line channel suitable for Sonitrol's applications.

4. Pacific is obligated by its tariffs (Schedule Cal. P.U.C. No. 44-T) to provide private line channels to Sonitrol on a reasonable basis.

5. Pacific's offering on the Type 3009 private line channel will satisfy Sonitrol's requirements and meet Pacific's obligation to provide service.

6. Pacific's offering of the Type 3009 private line channel renders moot any allegation of abandonment of service to Sonitrol.

7. Pacific is under no obligation and is without authority to execute any agreement which is contrary to its tariffs, except by authority of the Commission.

8. Design and installation of private line channels by Pacific in conformance with its tariffs and with Bell System Technical References and under good engineering practice is not in violation of any rule or order of this Commission.

9. Pacific has not rendered service to Sonitrol in any discriminatory or disadvantageous manner in violation of PU Code Section 453(a).

10. No reparation or refunds are due Sonitrol, its dealers, or clients as a result of Pacific's attempts to provide service by furnishing Type 1009A and Type 3001 channels.

11. It is not in violation of any rule or order of the Commission for Pacific to require adherence by its customers to the tariff provisions defining the proper application of the various types of private line services.

12. All relief sought which is not granted in the following order should be denied.

## V. DISCUSSION

General

The primary issue to be resolved by this decision is the determination of the proper tariff for Pacific to apply to Sonitrol customers. The component parts of this primary issue are as follows:

1. Type 1009 channels
   a. Are the Type 1009A channels applicable to and appropriate for the use by Sonitrol customers?
   b. Should line terminating networks (voice suppressors) be installed on all Type 1009A channels including those serving Sonitrol?
   c. Is Sonitrol entitled to reparation for being improperly billed in accordance with the tariffs for Type 3001 channels when Type 1009A channels would suffice for its operations?
   d. Is Pacific entitled to reparation for those Sonitrol customers billed in accordance with the tariff provisions for Type 1009 channels when the voice-quality service specified in the tariffs for Type 3001 channels has been provided?

2. Type 3001 channels
   a. Is this tariff applicable for Sonitrol operators?
   b. What is the proper overall attenuation loss applicable for service to Sonitrol?
   c. Should 150-A CSUs be installed on channels furnished to Sonitrol?
   d. Are those Sonitrol customers who have been billed in accordance with the tariffs for Type 3001 channels and have been furnished service with a 16 dB attenuation loss entitled to reparation?
3. Type 3009 channels

   Is this the appropriate tariff offering under which to serve Sonitrol customers?

Tariffs - General

It is obvious from the record in this proceeding that the tariffs describing Pacific's private line service offerings are imprecisely worded so that it is difficult, if not impossible, to precisely match a subscriber's stated requirements with the appropriate tariff offering. Type 1009A and Type 1009B channel tariffs specifically state that "this channel is not represented as transmitting anything higher than 30 bauds of on-off signaling-no electrical resistance is specified or maintained". From a reading of these tariff descriptions a potential subscriber is unable to ascertain whether or not the transmission quality for Type 1009A or Type 1009B channels is suitable for his proposed operations. The Type 3001 channel tariff states that this channel has an approximate band width of 300 to 3,000 hertz

with transmission characteristics similar to those of private line telephone service. Details of what constitutes "transmission characteristics similar to those of private line telephone service" are completely lacking in the tariff description. The Type 3009 channel tariff also states that service is provided at a band width of 300 to 3,000 hertz with transmission characteristics similar to those of private line telephone service with a similar lack of information detailing what constitutes "characteristics of private line telephone service". This tariff schedule, however, does set forth an overall attenuation loss of 8 dB (± 1 dB) and notes that it is furnished for remote voice frequency monitoring purposes which is an improvement over the Type 1009 and Type 3001 channel tariff descriptions.

Another ambiguous tariff provision that emerged during the course of this proceeding is contained on sheet 35 of tariff Schedule P.U.C. No. 135-T and states that "all facilities provided shall conform to the established construction standards of the utility" with no indication of what constitutes "established construction standards of the utility". Pacific argues that established construction standards relate to those set forth in Bell System Technical References, particularly No. 41004 prepared in October 1973 with reference to Type 3000 channels. This publication sets forth an attenuation loss of 16 dB (± 1 dB) for Type 3000 series channels. Sonitrol argues that no normal customer could ever garner from the vague words "construction standards of the utility" set forth on sheet 35 that the Type 3001 channels described in tariff Schedule Cal. P.U.C. No. 104-T have attenuation losses of

16 dB (± 1 dB). Sonitrol further argues that it is reasonable for a user to read the description of the Type 3001 channels in tariff Schedule Cal. P.U.C. No. 104-T as having "transmission characteristics of a private line telephone service" and conclude from this that Type 3001 channels incorporate the general transmission characteristics of Type 2001 channels including a 10 dB maximum attenuation loss. As with the 16 dB attenuation loss ascribed to Type 3001 channels, the 10 dB maximum attenuation loss ascribed to Type 2001 channels is set forth in Bell System Technical References rather than in the tariffs describing the service.

To resolve the ambiguities in the tariffs, a subscriber would be forced to refer to the Bell System Technical References. According to the record, not only is the availability of such publications not common knowledge, but many, if not most, of the subscribers lack the technical knowledge and training to correctly relate the Bell System Technical References circuit design parameters to their own individual needs. This problem is exacerbated, as indicated by the record, by similar lack of knowledge by many of Pacific's employees including those who write up the service orders. Pacific is placed on notice that in its next tariff filing proposing changes to the private line offerings, it will be expected to modify the tariff provisions to eliminate such ambiguities.

Type 1009 Channels

It is clear from the record that for the period 1970 to 1976 it was Pacific's practice to serve Sonitrol dealers in accordance with the tariff provisions applicable to Type 1009 channels. Pacific argues that such a practice prevailed because its employees, familiar with the general type of alarm systems and the sub-voice grade Type 1009 channels that these systems use naturally provided Type 1009 channels to Sonitrol customers even though some Pacific employees knew that the circuits were being used to actually listen in on activities at the customers' premises. According to the record, in May 1976 Pacific announced its intent to serve Sonitrol only on Type 3001 channels rather than on the less expensive Type 1009A channels that had been used. However, despite its announced intention, Pacific has apparently applied the policy in a random fashion so that some Sonitrol customers continue to be billed on Type 1009 channel tariff rates while others with the same equipment must pay Type 3001 channel tariff rates. Pacific argues that some Sonitrol customers were continued and/or placed on Type 1009 channel billing as a result of three factors:

1. When an alarm company places an order for a metallic circuit, an alarm circuit, or a phone line without any discussion of the use that is to be made of the circuit, Pacific's order clerks are likely to write the order for the Type 1009 channel which is suitable for most alarm company customers.

2. There is no physical difference between the basic facilities used to provide service for the Type 1009 channel and the Type 3001 channel, and there is generally no equipment placed on the Type 1009 channel that would restrict its use for signaling.

3. Even a properly written order for a Type 3001 channel with DC continuity might have been billed as a Type 1009 channel because the KS circuit designation is common to both Type 1009 and Type 3001 channels that have DC continuity.

In general, the Type 1009 channels perform satisfactorily for Sonitrol customers provided a line terminating network (voice suppressor) is not installed on the circuit. It is obvious that such terminating networks were not initially installed on the Type 1009 channels provided for most Sonitrol customers as evidenced by numerous witnesses' testimony indicating complete satisfaction with the service being provided on their Type 1009 channels. Pacific has lately been installing line terminating network devices on Sonitrol customers' Type 1009 channels which have effectively precluded their use as a voice frequency monitoring device and thereby has forced Sonitrol customers to seek service under the provisions of another more expensive type channel.

It is Pacific's position that the terminating network is required on Type 1009 channels in all instances to protect the plain old telephone service (POTS) networks and other sensitive private lines from noise that would be caused by a DC spark common to the usual Type 1009 operation. According to the record, the number of incidents of interference caused by

Sonitrol equipment is minimal and does not support Pacific's claim of the need for such protective devices on Sonitrol 1009 channels.

It is obvious that Type 1009 channel facilities can and do in many instances provide satisfactory service to Sonitrol dealers. It is equally obvious that the applicability clause for Type 1000 channels, however incomplete and ambiguous, makes it quite clear that Type 1009 channels are not designed to meet the requirements of Sonitrol customers which include a balanced line capable of transmitting audible sounds at a limited attenuation loss with a satisfactory signal-to-noise ratio. However, all evidence of record indicates that, in general, Sonitrol uses the same equipment, no more or no less, than other customers taking service in accordance with the tariff provisions of the Type 1009 channels. Consequently, inasmuch as Pacific's personnel is responsible for Sonitrol customers presently receiving service under the tariff provisions for Type 1009 channels and since Pacific is incurring no additional cost for serving them as compared to other Type 1009 channel subscribers, there is no basis for collecting reparation for underbilling nor for requiring that the existing Sonitrol customers presently receiving service under Type 1009 channels be transferred to other tariffs. However, the order that follows will provide that this particular tariff offering will be closed to future voice frequency monitoring customers. The order will also provide that Pacific continue to exempt Sonitrol circuits which its records show as receiving service on Type 1009 channels from its wave shaper (voice suppressor) program. We note that the tariff states: "This channel is not represented as transmitting any signal higher than 30 bauds of on-off signaling-no electrical resistance is specified or maintained" and for the Series 1000 channels "these channels are not suitable for the transmission of alternating current

tones." Moreover, the Type 1009 is a nonvoice grade channel with no guaranteed decibel loss level. We shall adhere to the principle stated in our findings and order in D.93849, the last interim order in this proceeding; should circuit loading or other factors cause deterioration in the quality of transmission of a 1009 channel to a point unsatisfactory for Sonitrol's service, the channel should be converted to a Type 3009. No installation or other nonrecurring charge should be imposed. Inasmuch as restoration of such a channel to a loss level not exceeding 10 dB may not be technically possible, we see no alternative to this. However, we shall also order that the Type 3009 channel be furnished at the same monthly rate as the Type 1009 it replaces.

Type 3001 Channels

According to the record, when Pacific became fully cognizant of the fact that Type 1009 channels were inappropriate for Sonitrol customers to receive service for their particular type of operation, it began providing and billing for Type 3001 channels. At the onset of furnishing Type 3001 channels for Sonitrol customers, the channels were available at 10 dB net attenuation loss. In many instances the loss level was achieved by Pacific's field personnel adjusting the Type 3001 channels to 10 dB net loss rather than 16 dB at the request of the Sonitrol people. In 1979 Pacific's supervisory personnel ordered designed Type 3001 channels be set at the technical literature design level of 16 dB net attenuation loss. According to Sonitrol, such an attenuation loss is incompatible with Sonitrol equipment.

As previously stated, Pacific's tariffs do not explicitly specify the overall dB loss on Type 3001 channels. Schedule Cal. P.U.C. No. 104-T, Fifth Revised Sheet 5A, describes Type 3001 channels as having transmission qualities similar to

those of private line telephone service. Sonitrol argues that such language limits the overall attenuation loss to a maximum of 10 dBs as set forth in technical specifications relating to Type 2001 channels (voice-grade private line channels). Pacific argues that such an interpretation is inapplicable and that the attenuation loss should be 16 dB as set forth in technical specifications relating specifically to Type 3001 channels. Bell System Technical Reference 41004 (Exhibit 36) provides that:

> "The standard 1004 Hz channel loss at time of installation is 16 dB (± 1 dB). This assumes a 1004 Hz signal transmitted at 0 dBm. Hence the standard received data signal power is nominally -16 dBm."

Pacific uses these specifications as the basis for an initial setting of a 16 dB attenuation loss for Type 3001 channels. Such an attenuation loss is unacceptable to Sonitrol. The record shows that on occasion Pacific personnel have adjusted the attenuation loss on designed Type 3001 channel circuits to 10 dB in response to requests of Sonitrol customers. The record also shows that most nondesigned circuits are not adjusted for any specific attenuation and are permitted to operate with attenuation losses between 0 and 16 dB. Approximately 94% of the loops out of a single wire center are placed into service with attenuation losses of 10 dB or less. Pacific only designs those Type 3001 channels that require assignable or machine inventory equipment or facilities. Assignable equipment and facilities include most all special service equipment and inventory central office equipment. Only facilities between wire centers are inventoried. Local exchange pairs are not

inventoried in the same manner as interoffice facilities are. Pacific's witness estimated that between 70% to 75% of Sonitrol dealer circuits are out of a single wire center and are, therefore, undesigned. This factor accounts for the fact that most of the Type 3001 channels used by Sonitrol customers are performing in a satisfactory manner. However, the record clearly indicates that the number of interexchange Type 3001 channels being installed for Sonitrol customers is increasing, resulting in an increase in the number of instances of Sonitrol customer dissatisfaction with Type 3001 channels.

Both the 10 dB attenuation loss for Type 2001 channels and the 16 dB attenuation loss for Type 3001 channels are specified in Bell System Technical References rather than in the tariffs themselves. It is obvious that the differences in the technical specifications for the Type 2001 channel for voice-grade private line transmission and for the Type 3001 channels which offer transmission characteristics similar to those of the voice-grade communications is one of the ambiguities previously referred to which need clarification in the next proceeding involving the rates of these various private facility tariffs. It is equally obvious the application of the Type 3001 channel tariffs with a 16 dB attenuation loss to Sonitrol operations is inappropriate. The Type 3009 channel tariff charges are equal to or less than the Type 3001 channel tariff charges. Considering the tariff charges and the fact that the Type 3009 channel tariff specifies an attenuation loss within the Sonitrol-requested design parameters, it is appropriate to transfer those Sonitrol customers presently receiving service under the Type 3001 channel tariff to the Type 3009 channel tariff.

Type 3009 Channels

The Type 3009 channel tariff was authorized on a provisional basis by Commission Resolution T-10467 on October 20, 1981. These provisional rates and charges are equal to or less than the tariff charges for the Type 3001 channels. Furthermore, the Type 3009 channel offering is for remote voice frequency monitoring with an overall installed loss of 8 dB (± 1 dB), one-way operation from a single protected premises to a central alarm station, 2-point channel only. This tariff is available for a channel without DC continuity or with DC continuity if suitable facilities are available. Unlike other private line service and channel offerings, Type 3009 channel tariffs provide specific definitive attenuation loss specifications, together with the applicability of the tariff to certain types of operations. The tariff is suited to Sonitrol's operations and the order that follows will continue this schedule as a permanent one. All new Sonitrol customers requesting service for voice frequency monitoring purposes are to receive service under the tariff provisions of Type 3009 channels. Furthermore, those Sonitrol customers presently receiving service for Type 3001 channels will be transferred to the Type 3009 channel tariff as will be those Sonitrol customers receiving service in accordance with the Type 1009 channel tariff at such a time when the service under such tariff deteriorates to the point of unacceptability.

The 150-A Channel Service Unit

The 150-A CSU is presently used on some Type 3001 channels without DC continuity. Sonitrol argues that such units should be removed because they are unnecessary and bulky. Pacific takes the position that such devices are encouraged by the Federal Communications Commission tariffs and are desirable because of the protection they provide to the adjacent cable pair. Pacific notes that the attenuation loss caused by CSU is included in the circuit design for Type 3009 channels and is, therefore, no deterrent to Sonitrol customers' operations. With the Type 3001 channel Sonitrol customers being transferred to the Type 3009 channel tariff the attenuation loss of the 150-A CSU is obviously immaterial. With respect to the size of the unit, Pacific has indicated that it is sympathetic to Sonitrol's complaints about the space required and is willing to explore the feasibility of providing a consolidated device that can terminate several channels. We will not preclude Pacific from installing such devices, but will request it to attempt to provide CSUs that occupy much less space than the 150-A units.

Reparation

As is apparent from the discussion above, which shows that it was Pacific which decided to install the Type 1009 channel service for Sonitrol, the record in this proceeding does not support a finding that Pacific is entitled to reparation for providing Type 3001 channel service to Sonitrol while billing for Type 1009 channel service. A large number of Type 1009 channels provided Sonitrol with adequate service; construing, as we must, the ambiguity and vagueness of Pacific's tariffs against Pacific, it is proper for Sonitrol to be billed only for Type 1009 channel service. Having chosen to supply such service, Pacific is estopped from seeking to apply a different rate from a different tariff provision.

However, Sonitrol is entitled to reparation for being billed under Type 3001 channel tariffs when Type 1009 channel service would have been adequate. Again we must construe the ambiguity in Pacific's tariffs against Pacific and find that Pacific is bound by its own performance. Pacific plainly failed to deliver adequate service under Type 3001 channel service when the loss exceeded 10 dB. It plainly failed to explain to Sonitrol why Type 3001 channel service - at a generally higher rate than Type 1009 - was required. It plainly failed to differentiate the locations where it provided Type 1009 channel service from those where it provided Type 3001 channel services.

We do not have, on the present record, a precise measure of the proper amount of reparations. As Pacific alone is in possession of the relevant data, a fact which it has tried to take advantage of in this case, we deem it appropriate for Pacific to submit a list of the locations where Type 3001 channel service was provided, what the charges were for each location, and what the charges would have been for each location under Type 1009 channel service. The customers of record shall be entitled to the net difference, if any, between Type 3001 and Type 1009 channel service costs. We encourage the parties to negotiate a quick and final settlement of the reparations issue.

## VI. FINDINGS AND CONCLUSIONS

Findings of Fact

1. Pacific's tariffs describing its private line service offerings are imprecisely worded so that it is difficult, if not impossible, to precisely match a subscriber's stated requirements with the appropriate tariff offering.

2. The Type 3001 channel tariff refers to providing service with transmission characteristics similar to those of private line telephone service, but does not define these transmission characteristics.

3. Pacific's tariffs provide that "all facilities provided shall conform to the established construction standards of the utility". These "established construction standards" are nowhere defined in the utility's tariffs.

4. Bell System Technical Reference standards used by Pacific prescribing a 10 dB attenuation loss for Type 2001 channels and a 16 dB attenuation loss for Type 3001 channels are not unreasonable, but the ambiguity of the applicability of such design parameters should be clarified.

5. The availability of Bell System Technical Reference publications to Pacific's subscribers is not a matter of common knowledge.

6. Many, if not most, of Pacific's private line service and channel subscribers lack the technical knowledge and training to correctly relate the Bell System Technical Reference publication circuit design parameters to their own individual needs.

7. Pacific serves many Sonitrol customers in accordance with the tariff provisions applicable to Type 1009 channels.

8. Short intra-exchange Type 1009 channels generally provide satisfactory service to Sonitrol customers provided no line terminating network (voice suppressors) is installed on the circuit.

9. Pacific usually incurs the same expense providing Type 1009 channel service to Sonitrol customers as to other Type 1009 channel customers.

10. Type 1009 channels are not designed for use for remote voice frequency monitoring purposes which require a balanced line that transmits audible sounds with limited dB losses and a satisfactory signal-to-noise ratio.

11. The installation of line terminating network (voice suppressors) on Sonitrol Type 1009 channels preclude the use of such channels for their voice frequency monitoring purpose.

12. Terminating network devices (voice suppressors) are not required on Sonitrol Type 1009 channel circuits.

13. Those Sonitrol customers presently receiving service under the provision of the Type 1009 channel tariffs should be permitted to continue receiving service under the provisions of this tariff, but the offering should be frozen to existing customers and not be available to new voice frequency monitoring customers.

14. Pacific should continue to exempt Sonitrol circuits which its records show as receiving service on Type 1009 channels from its wave shaper (voice suppressors) program.

15. Pacific is not obligated to restore Sonitrol circuits served as Type 1009 channels to its former level where the quality of transmission has deteriorated to a level unsatisfactory to Sonitrol customers, but should convert these to Type 3009 at no change in monthly rate.

16. Sonitrol customers have been furnished both Type 1009 and Type 3001 private line channels to meet the same basic requirements.

17. Bell System Technical Reference 41004 specifies a net attenuation loss of 16 dB (± 1 dB) for a Type 3001 channel. Pacific uses this specification in designing Type 3001 channels.

18. Pacific only designs those Type 3001 channels that require assignable or machine inventory equipment or facilities.

19. Pacific personnel adjust designed Type 3001 channel facilities to an attenuation loss of 16 dB at time of installation, but do not adjust the attenuation loss on undesigned circuits. Such undesigned circuits are placed in operation with an attenuation loss that ranges from 0 to 16 dB.

20. Approximately 94% of loops out of a single wire center would have an attenuation loss of 10 dB or less.

21. The proper operation of Sonitrol equipment requires transmission of voice band signals over a channel having no more than 10 dB net loss at nominal voice band frequencies. DC continuity is required for some Sonitrol equipment and not required for others.

22. Sonitrol customers presently receiving service under the provisions of Type 3001 channel tariff should be transferred to the Type 3009 channel tariff.

23. The presently effective provisional tariff for Type 3009 channel service offers voice-grade transmission with an 8 dB

(± 1 dB) attenuation and with optional DC continuity where facilities permit which is suitable for Sonitrol customer use.

24. The tariff for Type 3009 channels should be made permanent.

25. Bell System Technical References are not readily available in a uniform manner from Pacific to actual or potential users of private line service.

26. Many actual or potential users of private line service lack the technical knowledge to properly interpret and apply the design parameters contained in the Bell System Technical Reference publications.

27. Pacific should review all private line tariff schedules and file revisions which will eliminate ambiguity and imprecision in the definitions of the various offerings the next time rate change proposals for private line offerings are made.

28. Pacific should not be precluded from installing CSUs on Sonitrol customers' circuits taking service from Type 3009 channels.

29. Attenuation losses associated with CSUs are included as a circuit design factor for Type 3009 channels and, therefore, do not decrease the quality of transmission for Sonitrol customers.

30. Pacific should explore the feasibility of installing CSUs that occupy much less space than the Type 150-A units.

31. Pacific is not entitled to any reparation for providing channels for voice frequency monitoring purposes under the provisions of the tariff for Type 1009 channels.

32. Pacific could in many instances have provided and accordingly did provide Type 1009 channel service to Sonitrol which was adequate for Sonitrol's purposes and satisfactory to Sonitrol. Pacific chose to require Sonitrol customers to accept Type 3001 channel service without adequate explanation and without adequate justification. Pacific's Type 3001 channel service was not adequate for Sonitrol's purposes or satisfactory to Sonitrol when the loss exceeded 10 dB.

33. A precise figure for the proper amount of reparations is not available from the present record.

34. Provision of a private line voice grade channel with a nominal 10 dB net loss rather than 16 dB net loss does not necessarily result in additional cost to Pacific.

Conclusions of Law

1. Absent Commission decision to the contrary Pacific should be permitted to use Bell System Technical References as a guide in interpretation of its private line tariffs.

2. Pacific has interpreted and enforced its private line tariffs in an inconsistent manner from time to time with respect to Sonitrol.

3. Sonitrol customers presently receiving service in accordance with the provisions of the tariffs for Type 1009 channels should be permitted to continue to receive service on that tariff, but the offering should be frozen to existing customers.

4. Existing voice frequency monitoring customers receiving service under the provisions of Pacific's tariffs for Type 3001 channels should be transferred to the tariff for Type 3009 channels.

5. All new voice frequency monitoring customers should receive service in accordance with the provisions of the tariff for Type 3009 channels.

6. Pacific's offering on the Type 3009 private line channels will satisfy Sonitrol customers' requirements and meet Pacific's obligation to provide service.

7. The design and installation of private line channels by Pacific in accordance with its tariffs and with Bell System Technical References and good engineering practice requirements are not in violation of any rule or order of this Commission.

8. Sonitrol is entitled to reparation for its subscribers who were provided voice frequency monitoring service under the provisions of Type 3001 channels when Type 1009 channel service with acceptable transmission loss was available at a lesser rate.

9. The ambiguity in Pacific's tariffs identified in Findings of Fact 4, 5, 6, 25, 26 and 27 must be construed against Pacific.

10. Pacific should be ordered to compute the proper amount of reparations due Sonitrol.

11. No reparation or refunds are due to Pacific as the result of furnishing service to voice frequency monitoring devices in accordance with the provisions of the tariffs for Type 1009 channels.

12. Except as granted below, the relief requested should be denied.

## O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company (Pacific) shall continue to furnish service to the Sonitrol Security, Incorporated (Sonitrol) customers who presently receive service in accordance with the tariffs for Type 1009 channels on that tariff. The tariff shall not be available for new voice frequency monitoring customers.

2. Pacific shall not install network terminating devices (voice suppressors) on the circuits of Sonitrol customers receiving service in accordance with the provisions of the Type 1009 channel tariff.

3. The provisional tariff for Type 3009 channels shall be continued in effect as a permanent tariff.

4. Pacific shall transfer those Sonitrol customers who are receiving service in accordance with the tariff provisions for Type 3001 channels to the tariffs for Type 3009 channels. No installation charge or other nonrecurring charge shall be imposed for this conversion.

5. At such time as the transmission quality of a Sonitrol Type 1009 channel deteriorates to an unsatisfactory level, Pacific shall convert the channel to Type 3009 without imposition of an installation charge or other nonrecurring charge. Service shall be furnished at the same monthly rate as the Type 1009 service it replaces, to the same customer in the same location, until such time as Pacific's private line rates are revised pursuant to A.59849 or in a subsequent proceeding.

6. Pacific shall provide service for all new voice frequency monitoring customers in accordance with the provisions of the tariff for Type 3009 channels.

7. In its next advice letter or application regarding rates for private line services and channels, Pacific shall file revisions to its private line service tariffs which explicitly present the various offerings of the different services.

8. Within 120 days of the effective date of this order, Pacific shall submit for Commission staff review the results of its study on the feasibility of installing line channel service units on Sonitrol customers' facilities that occupy less space than the presently used 150-A units.

9. Pacific shall compute and report to the Commission within 90 days of the effective date of this order, with copy furnished at that time to Sonitrol, the proper amount of reparations

due Sonitrol as described in the text of this decision. Sonitrol shall either accept Pacific's computation or provide comments to the Commission within 15 days of the filing of the report.

10. Except as granted above, the relief requested is denied.

This order becomes effective 30 days from today.

Dated December 22, 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

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

Joseph E. Bodovitz, Executive Director

tones." Moreover, the Type 1009 is a nonvoice grade channel with no guaranteed decibel loss level. We shall adhere to the principle stated in our findings and order in D.93849, the last interim order in this proceeding; should circuit loading or other factors cause deterioration in the quality of transmission of a 1009 channel to a point unsatisfactory for Sonitrol's service, the channel should be converted to a Type 3009. No installation or other nonrecurring charge should be imposed. Inasmuch as restoration of such a channel to a loss level not exceeding 10 dB may not be technically possible, we see no alternative to this. However, we shall also order that the Type 3009 channel be furnished at the same monthly rate as the Type 1009 it replaces.

Type 3001 Channels

According to the record, when Pacific became fully cognizant of the fact that Type 1009 channels were inappropriate for Sonitrol customers to receive service for their particular type of operation, it began providing and billing for Type 3001 channels. At the onset of furnishing Type 3001 channels for Sonitrol customers, the channels were available at 10 dB net attenuation loss. In many instances the loss level was achieved by Pacific's field personnel adjusting the Type 3001 channels to 10 dB net loss rather than 16 dB at the request of the Sonitrol people. In 1979 Pacific's supervisory personnel ordered designed Type 3001 channels be set at the technical literature design level of 16 dB net attenuation loss. According to Sonitrol, such an attenuation loss is incompatible with Sonitrol equipment.

As previously stated, Pacific's tariffs do not specifically specify the overall dB loss on Type 3001 channels. Schedule Cal. P.U.C. No. 104-T, Fifth Revised Sheet 5A, describes Type 3001 channels as having transmission qualities similar to

The 150-A Channel Service Unit

The 150-A CSU is presently used on some Type 3001 channels without DC continuity. Sonitrol argues that such units should be removed because they are unnecessary and bulky. Pacific takes the position that such devices are encouraged by the Federal Communications Commission tariffs and are desirable because of the protection they provide to the adjacent cable pair. Pacific notes that the attenuation loss caused by CSU is included in the circuit design for Type 3009 channels and is, therefore, no deterrent to Sonitrol customers' operations. With the Type 3001 channel Sonitrol customers being transferred to the Type 3009 channel tariff the attenuation loss of the 150-A CSU is obviously immaterial. With respect to the size of the unit, Pacific has indicated that it is sympathetic to Sonitrol's complaints about the space required and is willing to explore the feasibility of providing a consolidated device that can terminate several channels. We will not preclude Pacific from installing such devices, but will request it to attempt to provide CSUs that occupy much less space than the 150-A units.

Reparation

As is apparent from the discussion above, which shows that it was Pacific which decided to install the Type 1009 channel service for Sonitrol, the record in this proceeding does not support a finding that Pacific is entitled to reparation for providing Type 3001 channel service to Sonitrol while billing for Type 1009 channel service. Type 1009 channel service provided Sonitrol with adequate service; construing, as we must, the ambiguity and vagueness of Pacific's tariffs against Pacific, it is proper for Sonitrol to be billed only for Type 1009 channel service. Having chosen to supply such service, Pacific is estopped from seeking to apply a different rate from a different tariff provision.

However, Sonitrol is entitled to reparation for being billed under Type 3001 channel tariffs when Type 1009 channel service would have been adequate. Again we must construe the ambiguity in Pacific's tariffs against Pacific and find that Pacific is bound by its own performance. Pacific plainly failed to deliver adequate service under Type 3001 channel service. It plainly failed to explain to Sonitrol why Type 3001 channel service - at a generally higher rate than Type 1009 - was required. It plainly failed to differentiate the locations where it provided Type 1009 channel service from those where it provided Type 3001 channel services. In the circumstances, we can only find that Pacific sought to obtain higher revenues under the pretext that Type 1009 channel service was inappropriate or was inadequate. In fact, the exact opposite was true - Type 3001 channel service was inadequate.

We do not have, on the present record, a precise measure of the proper amount of reparations. As Pacific alone is in possession of the relevant data, a fact which it has tried to take advantage of in this case, we deem it appropriate for Pacific to submit a new exhibit listing the locations where Type 3001 channel service was provided, what the charges were for each location, and what the charges would have been for each location under Type 1009 channel service. Sonitrol shall be entitled to the net difference, if any, between Type 3001 and Type 1009 channel service costs. If Sonitrol believes it is necessary to examine these figures in further hearings, it shall be entitled to do so. We encourage the parties to negotiate a quick and final settlement of the reparations issue.

We note that failure to require reparations in this situation would simply encourage Pacific to move customers to higher tariff charges without explanation and justification.

## VI. FINDINGS AND CONCLUSIONS

Findings of Fact

1. Pacific's tariffs describing its private line service offerings are imprecisely worded so that it is difficult, if not impossible, to precisely match a subscriber's stated requirements with the appropriate tariff offering.

2. The Type 3001 channel tariff refers to providing service with transmission characteristics similar to those of private line telephone service, but does not define these transmission characteristics.

3. Pacific's tariffs provide that "all facilities provided shall conform to the established construction standards of the utility". These "established construction standards" are nowhere defined in the utility's tariffs.

4. Bell System Technical Reference standards used by Pacific prescribing a 10 dB attenuation loss for Type 2001 channels and a 16 dB attenuation loss for Type 3001 channels are not unreasonable, but the ambiguity of the applicability of such design parameters should be clarified.

5. The availability of Bell System Technical Reference publications to Pacific's subscribers is not a matter of common knowledge.

6. Many, if not most, of Pacific's private line service and channel subscribers lack the technical knowledge and training to correctly relate the Bell System Technical Reference publication circuit design parameters to their own individual needs.

7. Pacific serves many Sonitrol customers in accordance with the tariff provisions applicable to Type 1009 channels.

8. Short intra-exchange Type 1009 channels generally provide satisfactory service to Sonitrol customers provided no line terminating network (voice suppressors) is installed on the circuit.

9. Pacific usually incurs the same expense providing Type 1009 channel service to Sonitrol customers as to other Type 1009 channel customers.

10. Type 1009 channels are not designed for use for remote voice frequency monitoring purposes which require a balanced line that transmits audible sounds with limited dB losses and a satisfactory signal-to-noise ratio.

11. The installation of line terminating network (voice suppressors) on Sonitrol Type 1009 channels preclude the use of such channels for their voice frequency monitoring purpose.

12. Terminating network devices (voice suppressors) are not required on Sonitrol Type 1009 channel circuits.

13. Those Sonitrol customers presently receiving service under the provision of the Type 1009 channel tariffs should be permitted to continue receiving service under the provisions of this tariff, but the offering should be frozen to existing customers and not be available to new voice frequency monitoring customers.

14. Pacific should continue to exempt Sonitrol circuits which its records show as receiving service on Type 1009 channels from its wave shaper (voice suppressors) program.

15. Pacific is not obligated to restore Sonitrol circuits served as Type 1009 channels to its former level where the quality of transmission has deteriorated to a level unsatisfactory to Sonitrol customers, but should convert these to Type 3009 at no change in monthly rate.

16. Sonitrol customers have been furnished both Type 1009 and Type 3001 private line channels to meet the same basic requirements.

17. Bell System Technical Reference 41004 specifies a net attenuation loss of 16 dB (± 1 dB) for a Type 3001 channel. Pacific uses this specification in designing Type 3001 channels.

18. Pacific only designs those Type 3001 channels that require assignable or machine inventory equipment or facilities.

19. Pacific personnel adjust designed Type 3001 channel facilities to an attenuation loss of 16 dB at time of installation, but do not adjust the attenuation loss on undesigned circuits. Such undesigned circuits are placed in operation with an attenuation loss that ranges from 0 to 16 dB.

20. Approximately 94% of loops out of a single wire center would have an attenuation loss of 10 dB or less.

21. The proper operation of Sonitrol equipment requires transmission of voice band signals over a channel having no more than 10 dB net loss at nominal voice band frequencies. DC continuity is required for some Sonitrol equipment and not required for others.

22. Sonitrol customers presently receiving service under the provisions of Type 3001 channel tariff should be transferred to the Type 3009 channel tariff.

23. The presently effective provisional tariff for Type 3009 channel service offers voice-grade transmission with an 8 dB

(± 1 dB) attenuation and with optional DC continuity where facilities permit which is suitable for Sonitrol customer use.

24. The tariff for Type 3009 channels should be made permanent.

25. Bell System Technical References are not readily available in a uniform manner from Pacific to actual or potential users of private line service.

26. Many actual or potential users of private line service lack the technical knowledge to properly interpret and apply the design parameters contained in the Bell System Technical Reference publications.

27. Pacific should review all private line tariff schedules and file revisions which will eliminate ambiguity and imprecision in the definitions of the various offerings the next time rate change proposals for private line offerings are made.

28. Pacific should not be precluded from installing CSUs on Sonitrol customers' circuits taking service from Type 3009 channels.

29. Attenuation losses associated with CSUs are included as a circuit design factor for Type 3009 channels and, therefore, do not decrease the quality of transmission for Sonitrol customers.

30. Pacific should explore the feasibility of installing CSUs that occupy much less space than the Type 150-A units.

31. Pacific is not entitled to any reparation for providing channels for voice frequency monitoring purposes under the provisions of the tariff for Type 1009 channels.

32. Pacific could have provided and did provide Type 1009 channel service to Sonitrol which was adequate for Sonitrol's purposes and satisfactory to Sonitrol. Pacific chose to require Sonitrol customers to accept Type 3001 channel service without adequate explanation and without adequate justification. Pacific's Type 3001 channel service was not adequate for Sonitrol's purposes or satisfactory to Sonitrol.

33. A precise figure for the proper amount of reparations is not available from the present record.

34. Provision of a private line voice grade channel with a nominal 10 dB net loss rather than 16 dB net loss does not necessarily result in additional cost to Pacific.

Conclusions of Law

1. Absent Commission decision to the contrary Pacific should be permitted to use Bell System Technical References as a guide in interpretation of its private line tariffs.

2. Pacific has interpreted and enforced its private line tariffs in an inconsistent manner from time to time with respect to Sonitrol.

3. Sonitrol customers presently receiving service in accordance with the provisions of the tariffs for Type 1009 channels should be permitted to continue to receive service on that tariff, but the offering should be frozen to existing customers.

4. Existing voice frequency monitoring customers receiving service under the provisions of Pacific's tariffs for Type 3001 channels should be transferred to the tariff for Type 3009 channels.

5. All new voice frequency monitoring customers should receive service in accordance with the provisions of the tariff for Type 3009 channels.

6. Pacific's offering on the Type 3009 private line channels will satisfy Sonitrol customers' requirements and meet Pacific's obligation to provide service.

7. The design and installation of private line channels by Pacific in accordance with its tariffs and with Bell System Technical References and good engineering practice requirements are not in violation of any rule or order of this Commission.

8. No reparation or refunds are due Sonitrol, its dealers, or clients as the result of Pacific's attempt to provide service by furnishing Type 1009 and Type 3001 channels.

9. No reparation or refunds are due to Pacific as the result of furnishing service to voice frequency monitoring devices in accordance with the provisions of the tariffs for Type 1009 channels.

10. The relief requested should be denied.

## O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company (Pacific) shall continue to furnish service to the Sonitrol Security, Incorporated (Sonitrol) customers who presently receive service in accordance with the tariffs for Type 1009 channels on that tariff. The tariff shall not be available for new voice frequency monitoring customers.

2. Pacific shall not install network terminating devices (voice suppressors) on the circuits of Sonitrol customers receiving service in accordance with the provisions of the Type 1009 channel tariff.

3. The provisional tariff for Type 3009 channels shall be continued in effect as a permanent tariff.

4. Pacific shall transfer those Sonitrol customers who are receiving service in accordance with the tariff provisions for Type 3001 channels to the tariffs for Type 3009 channels. No installation charge or other nonrecurring charge shall be imposed for this conversion.

39
-38- cut + paste
file from 5 copy

7. The design and installation of private line channels by Pacific in accordance with its tariffs and with Bell System Technical References and good engineering practice requirements are not in violation of any rule or order of this Commission.

8. Sonitrol is entitled to reparation for its subscribers who were provided voice frequency monitoring service under the provisions of Type 3001 channels when Type 1009 channel service was available at a lesser rate.

9. The ambiguity in Pacific's tariffs identified in Findings of Fact 4, 5, 6, 25, 26 and 27 must be construed against Pacific.

10. Pacific should be ordered to compute the proper amount of reparations due Sonitrol.

11. No reparation or refunds are due to Pacific as the result of furnishing service to voice frequency monitoring devices in accordance with the provisions of the tariffs for Type 1009 channels.

12. Except as granted below, the relief requested should be denied.

## O R D E R

IT IS ORDERED that:

1. The Pacific Telephone and Telegraph Company (Pacific) shall continue to furnish satisfactory service to the Sonitrol Security, Incorporated (Sonitrol) customers who presently receive service in accordance with the tariffs for Type 1009 channels on that tariff. The tariff shall not be available for new voice frequency monitoring customers.

2. Pacific shall not install network terminating devices (voice suppressors) on the circuits of Sonitrol customers receiving service in accordance with the provisions of the Type 1009 channel tariff.

3. The provisional tariff for Type 3009 channels shall be continued in effect as a permanent tariff.



39

cut + paste

5. At such time as the transmission quality of a Sonitrol Type 1009 channel deteriorates to an unsatisfactory level, Pacific shall convert the channel to Type 3009 without imposition of an installation charge or other nonrecurring charge. Service shall be furnished at the same monthly rate as the Type 1009 service it replaces, to the same customer in the same location, until such time as Pacific's private line rates are revised pursuant to A.59849 or in a subsequent proceeding.

6. Pacific shall provide service for all new voice frequency monitoring customers in accordance with the provisions of the tariff for Type 3009 channels.

7. In its next advice letter or application regarding rates for private line services and channels, Pacific shall file revisions to its private line service tariffs which explicitly present the various offerings of the different services.

8. Within 120 days of the effective date of this order, Pacific shall submit for Commission staff review the results of its study on the feasibility of installing line channel service units on Sonitrol customers' facilities that occupy less space than the presently used 150-A units.

9. Pacific shall compute and report to the Commission within ~~60~~ 90 days of the effective date of this order, with copy furnished at that time to Sonitrol, the proper amount of reparations due Sonitrol as described in the text of this decision. Sonitrol shall either accept Pacific's computation or provide comments to the Commission within 15 days of the filing of the report.

10. Except as granted above, the relief requested is denied.

This order becomes effective 30 days from today.

Dated DEC 22 1982 at San Francisco, California



JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners