

L/WHK:sm

Decision 83 09 061 SEP 7 1983**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CAUSE (Campaign Against Utility
Service Exploitation),
Complainant,

v.

PACIFIC TELEPHONE AND TELEGRAPH
COMPANY,
Defendant.

LOUIS SAMUEL, individually and
in a representative capacity,
Complainant,

v.

PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,
Defendant.

CARY D. LOWE,

Complainant,

v.

PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, INC., and DOES 1
through X, Inclusive,

Defendants.

Investigation on the Commission's
own motion into the rules,
practices and procedures of all
telephone corporations, as listed
in Appendix A attached to the
OII, concerning disclosure of
nonpublished telephone numbers,
credit and other subscriber
information.

Case 10107
(Filed May 28, 1976)

Case 10142
(Filed July 16, 1976)

Case 10204
(Filed November 12, 1976)

Case 10206
(Filed November 16, 1976)

ORDER MODIFYING
DECISION (D.) 83-06-066
AND DENYING REHEARING

An application for rehearing of D.83-06-066 has been filed by General Telephone Company of California (General). We have carefully considered each and every allegation of error

therein and are of the opinion that good cause for granting rehearing has not been shown. However, upon reconsideration we are of the opinion that certain notice requirements in D.93361 are now unnecessary because of the Legislature's recent amendment of Section 1985.3 of the Code of Civil Procedure. Therefore, good cause appearing,

IT IS ORDERED that,

1. D.82-06-066 is modified as follows:
 - (a) The discussion beginning with the last paragraph on page 6, mimeo and extending through the first full paragraph on page 11, mimeo is deleted in full and replaced with the following:

"We required the utilities to notify subscribers when it has been served with a civil subpoena for credit information or calling records because, at that time, there was no statutory requirement that subscribers be served with a copy of the subpoena. Inasmuch as the Legislature has amended CCP Sec. 1985.3 to make such service mandatory, there is no good reason to continue with our requirement. The amendments to Rule B(2) and the deletion of Rules C(1) and C(2) suggested by General recognize the change in the law. They are reasonable and will be adopted herein."
 - (2) Finding of Fact No. 2, 3 and 4 on page 14, mimeo are modified to read in full as follows:

"2. Subsequent to our adopting Rules B(2) through B(4) and Rules C(1) and C(2), the Legislature has amended CCP Sec. 1095.3 to require service on the subscriber when his telephone credit information or calling records are subpoenaed."

"3. Requirements that the utility notify subscribers when personal records are subpoenaed, are unnecessary and duplicative of the service requirements in CCP Sec. 1985.3 as amended."

"4. The modifications to Rules B(2) through B(4) and the deletions of Rules C(1) and C(2) requested by General will remove the duplicate notice requirements, and are therefore reasonable."

(3) Findings of Fact No. 5 through 11 are deleted in full.

(4) Finding of Fact No. 12 is renumbered as No. 5.

(5) Conclusion of Law No. 2 is modified to read in full as follows:

"2. Rules B(2) through B(4) should be amended and Rules C(4) and C(2) should be deleted as requested by General."

(6) Ordering Paragraphs 3 and 4 are modified to read in full as follows:

"3. Rule B(2) of Appendix B to D.93360 is amended to read,

'Upon making return to a subpoena or subpoena duces tecum, when it reasonably appears to the telephone utility that the procedures set out in Code of Civil Procedure Section 1985.3, or successor provisions, as they then exist, have been followed. The utility shall not produce the records if there has not been compliance with CCP Section 1985.3. The utility shall abide by all orders to quash, protective orders and similar court orders which may be issued with regard to the subpoenaed credit information and calling records.'"

"4. Rule B(3) of said Appendix is deleted, Rule B(4) is renumbered as Rule B(3) and Rules C(1) and (2) of said Appendix are deleted in full."

2. Rehearing of D.83-06-066 as modified herein is denied. This order is effective today.

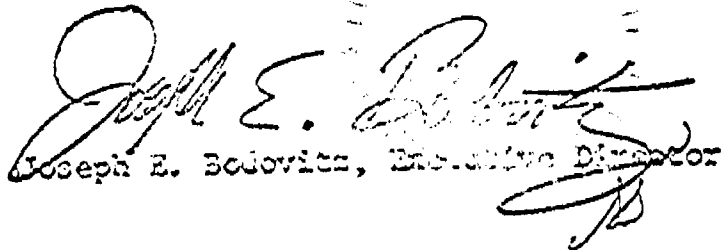
Dated SEP 7 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

Commissioner William T. Begley
being necessarily absent, did
not participate.

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


Joseph E. Bolovitz, Executive Director