

L/WHK:sm

Decision 83 10 090 OCT 19 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation by rulemaking )  
 instituted on the Commission's )  
 own motion concerning monitoring )  
 of telephone conversations by )  
 persons or organizations providing )  
 their own terminal equipment. )

OII-Rulemaking 103  
 (Filed December 15, 1981)

ORDER MODIFYING  
DECISION (D.) 83-06-021 AND  
DENYING REHEARING AND  
FURTHER MODIFICATION THEREOF

Applications for rehearing of D.83-06-021 have been filed by Air Transport Association of America (ATA), Pacific Telephone and Telegraph Company (Pacific) and General Telephone Company of California (General). Southern California Edison Company (Edison) has filed a petition to modify D.83-06-021 in certain respects. California Teamsters Public Affairs Council has filed a response to the applications for rehearing, asking that they be denied.

We have carefully considered each and every allegation of error and request for modification in these filings and are of the opinion that good cause for granting rehearing has not been shown. However, D.83-06-021 and Appendix A thereto should be modified to more clearly set forth the basis for our jurisdiction in these matters and to establish an enforcement program consistent with others we have mandated wherein a customer's use of utility service is of concern.

As to Edison's petition, during the comment period of this rulemaking procedure Edison recommended that the exception to audible warning requirements, previously made in favor of

telephone utilities, be extended to cover all utilities. This recommendation was not adopted for the reasons set forth in D.83-06-021.

Edison's petition for modification renews this request and sets forth its proposal in more detail (especially as to how customers should be notified of such monitoring). However, it raises no substantial new matter. As for the greater detail of its proposal, Edison fails to show why such material could not have been put forward during the comment period. We find that no good cause for the modification Edison requests has been shown and its petition should be denied. No further issues need be discussed. Therefore, good cause appearing,

IT IS ORDERED that,

1. D.83-06-021 is modified as follows:

- (a) The last paragraph beginning at the bottom on page 13, mimeo and the first two paragraphs on page 14, mimeo are deleted.
- (b) Parts II B.1, II B.2 and II B.3 of Appendix A are deleted in full. In their places, the following language is added:

"1. That any customer in California which provides its own terminal equipment and which monitors or records conversations between its employees and its customers, and others engaging in conversations, where such conversations make use of the public telephone network, shall provide notice of the monitoring or recording by use of one of the methods authorized for equipment provided by the telephone utility;

"2. The telephone utility shall notify the customer when it has learned of monitoring or recording which does not use one of the authorized methods of providing notice and, unless the customer will discontinue such use, Section 3 below shall apply;

"3. The telephone utility shall discontinue service to a customer for noncompliance with this rule if, after written notice of at least five days, the customer has not initiated compliance with such notice. Service will be restored after the customer establishes compliance with the rule and pays the reconnection charge."

"4. Appeals Procedure. In the event of a dispute between the Company and a customer as to whether the customer is in fact in violation of provisions of Paragraph No. 1, above, or if a customer desires special relief from those provisions by reason of special hardship or impossibility of compliance, the customer may file a formal complaint with the California Public Utilities Commission in the manner provided under the Commission's Rules of Practice and Procedure. During the period the complaint is pending before the Commission the Company shall not terminate service for noncompliance."

"5. Liability of Company. The Company shall not, by taking action pursuant to this rule, be liable for any loss, damage, or injury, established or alleged, which may result or be claimed to result therefrom."

2. Rehearing of D.83-06-021, as modified herein, is denied.
  3. The stay of D.83-06-021 is terminated.
  4. The effective date of G.O. 107-B, as modified herein, is the date of this order.
  5. Edison's petition for modification is denied.
- This order is effective today.

Dated OCT 19 1983, at San Francisco, California.

I dissent.

LEONARD M. GRIMES, Jr. Commissioner

VICTOR CALVO

FRISCILLA C. CREW

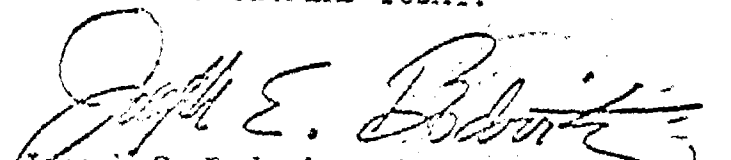
RONALD VIAL

Commissioners

I dissent.

WILLIAM T. BAGLEY Commissioner

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

  
Joseph E. Bodovitz, Executive Director