

Decision No. 86594

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Application No. 55492  
(Filed February 13, 1975;  
amended January 16, 1976)

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

Case No. 10001  
(Filed November 12, 1975)

(Appearances listed in Appendix A)

FOURTH INTERIM OPINION

The Pacific Telephone and Telegraph Company (Pacific) seeks rate relief of \$119.6 million in the application which is part of this proceeding. Because certain problems need our immediate attention we wish to issue an interim opinion and order on the following subjects:

1. Single message rate timing (SMRT) for residential telephone service; and
2. Monitoring of telephone conversations between two or more customers.

Regarding the second subject, issues relating to administrative or supervisory monitoring of conversations between customers and telephone company personnel are reserved for later determination.

Hearings on these subjects were held in various cities on various dates from March through July of 1976.

### I. SINGLE MESSAGE RATE TIMING

In this section we deal with the issue of whether single message rate timing (SMRT) for residential service should be continued in its present form, modified, or abolished. Questions relative to SMRT for business service are deferred.

SMRT is a system by which local calls are timed in five-minute intervals. It was first authorized for Pacific by Decision No. 83162, having been jointly proposed by Pacific and the staff.<sup>1/</sup> We stated in that decision (mimeo. p. 78):

"The reason for instituting the timing of local messages is that the present rate structure fails to make any allowance for the fact that a customer who makes a five-minute call is charged one message unit at 4.5 cents whereas another customer who makes a six-hour call over the same route is also charged one message unit at 4.5 cents. Business customers holding times on a single call may in some cases last for an entire business day. Some residence customers also have extremely long duration calls. Under present pricing arrangements long duration calls cost only 4.5 cents on message rate service."<sup>2/</sup>

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<sup>1/</sup> It should be noted that the staff's proposal in that proceeding differed from Pacific's, in that the staff recommended five-minute unit timing for on-peak (8 a.m. to 5 p.m.) calls only, while the company advocated 24-hour timing. We adopted the company recommendation.

<sup>2/</sup> Message units are now charged at 5 cents.

After reviewing certain alternate proposals, we adopted the five-minute interval SMRT, commenting (mimeo. p. 80):

"The proposal of Pacific and the staff preserves existing rate relationships and message allowances while at the same time eliminates the abuses to which local message service has been subjected. We recognize that when rates are increased or new concepts are introduced some users will be financially harmed more than others, but we see no way to avoid this when dealing with millions of ratepayers."

Because we ordered Pacific to install SMRT equipment which would be capable of off-peak pricing (should we later decide to institute it) Pacific had to enter into extensive planning before any such equipment could be installed. This, in turn, resulted in a long delay in its installation. Exhibit 80 in this proceeding shows Pacific's currently planned installation schedule is as follows:

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY  
SINGLE MESSAGE RATE TIMING  
IMPLEMENTATION SCHEDULE

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| <u>Subarea</u>   | <u>Effective Date</u> |
|--|-----------------------|
| Orange County  | 3-29-76               |
| East Bay portion of San Francisco-<br>East Bay Extended Area         | 3-29-76               |
| San Diego  | 6-28-76               |
| West Bay portion of San Francisco-<br>East Bay Extended Area         | 8-22-76               |
| Outlying portions of Los Angeles<br>Extended Area (Subareas 2 and 3) | 10-4-76               |
| Central portion of Los Angeles<br>Extended Area (Subarea 1)          | 4-4-77                |

It should also be remembered that our order required SMRT in the specific metropolitan areas mentioned above, and other metropolitan specific areas,<sup>3/</sup> for (1) all business service, and (2) 30-message unit (MU) per month ("lifeline") and 60MU per month residential service. We did not order the discontinuance, either now or later, of flat-rate residential service. The problems associated with any attempt at installing universal SMRT (i.e., elimination of all flat-rate residential service) will be discussed hereafter.

Our prior interim order in this proceeding (Decision No. 86248, dated August 17, 1976) temporarily prohibited any new installation of residential SMRT pending this order.

Position of Consumer Groups

Many public witnesses in areas where SMRT is to go into effect for 30 message unit (MU) and 60MU service testified that in their opinion, because of their calling usage, they would constantly exceed their message allowance (at least in the case of 30MU or "lifeline" service) and would be forced to pay extra on that basis or else switch to higher service, thereby paying a higher monthly bill.<sup>4/</sup>

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<sup>3/</sup> Decision No. 83162 specified eventual installation of 30MU and 60MU service in Sacramento and six other urban areas besides those listed above, on an SMRT basis.

<sup>4/</sup> At present, one-party residence service monthly charges are: \$5.70 for flat rate; \$3.75 for 60MU, and \$2.50 for 30MU ("lifeline").

Senior citizens in particular, but others as well, argue that residential calls made to such locations as hospitals, doctor's offices, Social Security Administration and other government agencies frequently consume much more time than five minutes because the caller is placed on "hold" - sometimes for 10 or 15 minutes. Some public witnesses question the need for off-peak (evening) timing at five-minute intervals, pointing out that residential service ought to be available for longer social telephone calls during such hours, particularly for elderly persons, shut-ins, etc.

Toward Utility Rate Normalization (TURN), essentially supported by other consumer groups, argues, based upon such testimony, that SMRT will make lifeline service an unacceptable alternative to flat-rate for most persons.

TURN also questions how it can be assumed that those who make overly long telephone calls are necessarily those who use measured service. TURN states (brief, p. 15):

"TURN is not opposed to the theory of usage-sensitive pricing. However, the implementation of SMRT on measured-rate residential customers is not usage-sensitive pricing. Flat-rate residential subscribers, the residential subscribers who may abuse the system the most (Transcript 3246) and who would thereby contribute the most to higher costs, will not be timed."

TURN points out that Pacific has proposed no plan to time all residential service, and Pacific's witness on rate design (Sullivan) would not recommend such a plan (Transcript 3200).

Lastly, TURN challenges Pacific's cost assumptions concerning residential service generally (cf. Pacific's estimates and our findings in Decision No. 83162) and argues that no such plan should be instituted without more solid cost studies.

TURN argues that SMRT for residential service should be abolished.

Pacific's presentation

The company does not claim that its present rate form for residential SMRT is necessarily the final answer, but contends (1) it is too early to make modifications at this time because there is insignificant data to warrant a change at this time, and (2) if any change is made, at least the basic concept should be retained. The company opposes returning to a totally untimed 30MU and 60MU residential service.

Pacific points out that full implementation of SMRT will not be accomplished until the first quarter of 1977 and that, at present, there is insufficient data to judge whether SMRT for residential service should be modified. Pacific agrees that the members of the public who testified regarding their concerns of increased billing had not actually experienced billing under SMRT. Exhibit 131 shows the billing results for a representative sampling of approximately one thousand customers per month for the East Bay (Oakland and vicinity) area and another sampling of one thousand for the Orange County area. The exhibit shows a breakdown of how many customers were billed more than their basic monthly rate (i.e., how many customers exceeded their allowable 30MU), first, for the last three months before SMRT, and, second, for the first three months of SMRT, as follows:

BILLING COMPARISONS - LIFELINE (30MU) CUSTOMERS - 1976

|                  | Before SMRT       | After SMRT |       |       |
|------------------|-------------------|------------|-------|-------|
|                  | (Feb.-Mar.-April) | May        | June  | July  |
| No Addl. Billing | 64.8%             | 51.6%      | 51.5% | 53.4% |
| \$1.00 or less   | 19.4              | 19.5       | 20.7  | 20.9  |
| \$1.01 to \$1.50 | 5.1               | 7.4        | 6.8   | 4.5   |
| \$1.51 to \$2.00 | 3.6               | 4.2        | 6.6   | 3.8   |
| \$2.01 to \$3.00 | 3.7               | 7.4        | 6.0   | 7.3   |
| \$3.01 to \$4.00 | 1.7               | 3.4        | 2.6   | 3.0   |
| \$4.01 to \$5.00 | 0.6               | 2.5        | 1.7   | 2.4   |
| \$5.00 and over  | 1.1               | 4.0        | 4.1   | 4.7   |

A development identical in format, and in sampling technique, for 60MU customers (Exhibit 132) shows the following pattern of additional billings:

BILLING COMPARISONS - 60MU CUSTOMERS - 1976

|                  | Before SMRT       | After SMRT |       |       |
|------------------|-------------------|------------|-------|-------|
|                  | (Feb.-Mar.-April) | May        | June  | July  |
| No Addl. Billing | 76.2%             | 57.7%      | 58.9% | 59.3% |
| \$1.00 or less   | 10.6              | 14.6       | 16.1  | 16.4  |
| \$1.01 to \$1.50 | 3.8               | 6.6        | 3.8   | 3.8   |
| \$1.51 to \$2.00 | 1.8               | 4.8        | 3.4   | 5.0   |
| \$2.01 to \$3.00 | 3.1               | 4.3        | 6.6   | 5.0   |
| \$3.01 to \$4.00 | 2.2               | 2.0        | 4.6   | 3.8   |
| \$4.01 to \$5.00 | .9                | 3.1        | 1.6   | 2.2   |
| \$5.00 and over  | 1.4               | 6.9        | 5.0   | 4.5   |

The company's opinion, based upon the above results, is that fears on the part of some consumer witnesses of a pronounced increase in additional billing are unwarranted, and that as for the small minority experiencing a heavy increase in additional billings as a result of institution of SMRT, these subscribers are not those for whom 30MU or 60MU limited service was intended.<sup>5/</sup> Pacific's witness on the subject, Mr. Glenn J. Sullivan, pointed out that the Commission originally designed lifeline for low-income persons but since the only limitation is that there can only be one such service per residence, Pacific has found that the service is "spread over all kinds of customers, rich and poor and young and old." (Transcript 3080.) The company therefore considers it appropriate that the economic crossover between lifeline and flat-rate service be such that fewer customers who can afford flat-rate service will choose limited service.<sup>6/</sup>

Pacific points out that there is a recent growing trend toward increased use of 30MU and 60MU service in preference to flat-rate service, and argues that if this trend continues, the

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<sup>5/</sup> Pacific is currently making no service charge for customer requests for a regrade from limited to flat service, or from 30MU to 60MU service.

<sup>6/</sup> When the Commission had a \$7,500/year income limitation in effect (abolished by D.83540 dated 10/1/74), for the first two months after the establishment of this limitation, Pacific experienced approximately 94,000 regresses out of lifeline to other service classifications. (Transcript 3109)



present residential rate form flat rate (6OMU and 3OMU) will produce even less revenue than is presently the case and the result will be a necessary request for a rate increase in this area.

Exhibit 113 shows the company's present view of residential service as a subsidized rate form. Pacific estimates monthly fixed costs per telephone as \$11.59. The exhibit shows that even if all the revenues from toll and long distance calls, and from optional equipment are counted, there is still a monthly net deficit as follows: 3OMU: \$7.41/month; 6OMU: \$6.14/month, and flat rate: \$5.83/month. This is admittedly a rough estimate, and the staff has not analyzed this exhibit yet or presented its view of any presently existing deficit, but we have, in the past, regarded this service as being subsidized. In Decision No. 83162, we found that residential service was subsidized (see Findings 18, 20, and 21). Pacific does not now seek, and has not in the past sought, residential rates which would make the service compensatory, believing that value of service concepts weigh heavily in setting residential monthly base rates at the lowest reasonable level (cf. Mr. Sullivan's testimony, Transcript 3282). Pacific's argument here is that unless 3OMU and 6OMU service is a somewhat narrower rate form than it was before SMRT, the growing use of such service will unreasonably increase the existing deficit.

The company did not offer as an alternative a residential rate form which would eliminate all flat-rate service because of the enormous plant costs which would be associated with installation of enough timing equipment to accomplish such a thing. Company stations are presently divided very roughly to include about 1.5 million business lines and over 6 million residential lines, only 20 percent of which are either 30MU or 60MU (Sullivan, Transcript 4273).

Because of the comparatively large number of flat-rate stations, the company's preliminary rough estimate for capital investment to time all such service is \$200 million to \$250 million, and the cost could even run considerably higher if present #5x-Bar equipment cannot be modified to accept the additional timing equipment (see Exhibit 133). The time estimate for such a conversion is five to seven years.

#### The Staff's View

The staff supports continuation of residential SMRT but proposes establishing a new class of lifeline (30MU) service for those subscribers who are age 65 and over which would have no SMRT (i.e., the original form of lifeline would be available to such persons). Pacific's surveys show that about one-third of the lifeline subscribers are 65 or over.

The staff's position is also that if the Commission wishes to make any further alteration to SMRT for residential customers at this time, that an off-peak plan be adopted so that such customers be metered in five-minute units from 8 a.m. to 5 p.m. weekdays, and in ten-minute units at other times.

In support of its argument for a "senior citizen" non-SMRT lifeline rate the staff argues (1) that Pacific's witness admitted its costs for a certification-by-mail program for identifying subscribers over 65 would not be significant; (2) that the estimated \$965,000 revenue loss if the staff's suggestion is adopted will be more than made up by a \$1.2 million annual increase for the SG-1 PBX granted in Decision No. 85790, Application No. 55527 (May 11, 1976); and (3) that the California Franchise Tax Board, as well as various transit districts and banks recognize that many persons 65 or older live on fixed incomes. The staff suggests that if evidence in the future justified it, the Commission might contemplate broadening this classification to include handicapped persons or those under 65 who receive social security pensions.

Regarding off-peak pricing, the staff notes that its rate spread exhibit recommends 10-minute off-peak units for business as well as residential SMRT, but that the primary beneficiaries will be residential users since they use the telephone more in off-peak periods than business customers.

Discussion

We agree with the consumer parties that, at least for the present, we should return to the rate form for 3OMU and 6OMU service which was in effect prior to the institution of SMRT for these services.

Our original reason for establishing residential service costing less than flat rate was so that low income persons could have essential telephone service at the lowest possible rate. We believe the public testimony shows that many persons for whom lifeline service was intended will be unable to remain on this service without paying surcharges each month.

Further, we question whether it is reasonable to apply timing strictures to two out of three classes of residential service. There is no showing that there is any abuse of the system (i.e., overly long calls) by 3OMU and 6OMU customers; in fact, the service which is most susceptible of abuse by way of too many long calls or heavier than normal traffic is the flat rate residential service, since there is no timing at all.

We will order an end to residential SMRT. At some time in the future it will be technically feasible to measure the time of calls for all residential customers, rather than simply for lifeline customers. In anticipation of that time, we intend to restudy the entire basis for charging for local telephone service. At present, charges for flat-rate customers are based largely on the distance of local calls--in the Bay Area and Los Angeles metropolitan regions, for example, many calls within such areas are billed at three or more message units. We should consider whether the duration of calls, and the time at which they are made, should have more to do with the pricing of telephone service, and distance less. Pending such a study, however, we see no justification for imposing timed-rate service on lifeline and 6OMU customers only.

Because of the changes ordered herein in 30MU and 60MU service, we will order Pacific to waive its regrade charges from one residential classification to another through June 30, 1977.

## II. MONITORING

As stated in the beginning of this opinion, for purposes of this interim decision we are considering only problems related to monitoring of customer-to-customer conversations by telephone company personnel.

Regarding this issue, we must keep our objectives clear. First, we should identify the legitimate purposes of such monitoring. Second, we should issue orders which will help restrict monitoring to such purposes. And in framing such orders, we should keep in mind that no amount of rules or orders on our part will stop a clever and unscrupulous employee from unlawfully eavesdropping on conversations if he is determined to do so, since such an employee can clandestinely rig equipment to suit his purposes. The law is already crystal clear on when Pacific can monitor customer-to-customer conversations without notice (1) when "required by law enforcement and national defense agencies; (2) to identify the source of lewd or obscene phone calls; (3) to prevent the perpetration of fraud upon or loss of revenues to the telephone corporation; and (4):

"Interception of communications by telephone corporation employees who are engaged in the actual operation, maintenance and construction of the communications circuitry . . . when performed without any written notation and any records of the substance, purpose, effect or meaning of any communication which may have been intercepted."  
(67 CPUC 528, p. 553 (1967).)

We are concerned here with (4) above.

If employees wrongfully monitor without notice under other circumstances, they are already doing so illegally, and outright illegal activity is best eliminated by (1) proper screening of

prospective employees; (2) proper supervision; (3) proper discipline against violators, including criminal prosecution, when appropriate. Nevertheless, because of the importance of the problems, we should investigate the facts to determine if any action on our part may be helpful. We believe that two problems present themselves for consideration:

- (1) Should lawful monitoring for maintenance purposes (see the quotation from 67 CPUC 528, p. 553, above) be regulated by use of a beep-tone or other device?
- (2) Would unlawful monitoring be curtailed by any order on our part regulating the use of loudspeakers by maintenance personnel?

Notification to the Customer of Lawful  
Monitoring for Maintenance Purposes

Pacific has various methods, such as test tones, for locating line trouble. But the testimony of maintenance employees, introduced by TURN, indicates that as a last resort, (i.e., upon repeated complaints from a customer that his line still has trouble) a maintenance person will, with the customer's permission, listen while a conversation is in progress to locate the difficulty (there is no evidence that this ever involves lengthy monitoring).

No party to this proceeding advocates that this should be forbidden, but rather that the party or parties to the conversation other than the customer making the request should be apprised of the monitoring in some manner. Even Pacific, in effect, concedes the situation could be improved and states that monitoring calls at the customer's request should be permitted with actual notice. The method Pacific proposes is (Pacific's brief, p. 11):

"...to require the customer to orally announce over the telephone circuit at the beginning of the call involved that telephone personnel would be listening to the call (Tr. 3981-82). That notice would be the surest and least ambiguous possible. It would be superior to the use of a beep-tone, which could easily be misunderstood in the situation involved."

TURN recommends the use of either an intermittent toning signal (beep-tone) or that all personnel engaged in plant department monitoring use scramblers. The staff recommends a beep-tone.

We disagree with Pacific that it is appropriate to delegate to the customers the responsibility to notify others of possible maintenance monitoring. Customers will vary in their willingness to carry out their responsibility in this regard. We believe a beep-tone is preferable to a scrambler, because the customer is definitely placed on notice that an interception is being made, and also because the cost of having enough scramblers to make them available for all line testing might be as much as \$5 million. (Transcript 3955.) We reject Pacific's argument that a beep-tone in this situation is "easily misunderstood" (see quotation from Pacific's brief, above). Any such misunderstanding can be clarified by the customer who requested the monitoring explaining to the other party the purpose of such interception.

We believe that this requirement must apply uniformly to Pacific and all telephone corporations which are respondents in Case No. 10001. We will revise that paragraph in our monitoring rules (67 CPUC 528, p. 553) dealing with the subject so that the exemption from notification applies only to the interception of computer data transmission (the revised paragraph is set forth in the order).

Such notification shall, in the future, be required by way of automatic tone signal, at least every fifteen seconds, and no monitoring for the purpose of maintenance or repair shall be commenced without approval of the customer experiencing difficulty with his line.

#### Use of Loudspeakers by Maintenance Personnel

Four witnesses testified concerning misconduct of Pacific's employees in using loudspeakers associated with maintenance equipment

unlawfully, for the purpose of amplifying intercepted customer-to-customer conversations. TURN requests that we adopt rules requiring the use of earphone headsets for all necessary maintenance monitoring, with certain narrow exceptions.

Before reviewing the evidence of unlawful conduct, it is necessary to explain the intended use of the loudspeakers.

Walter I. Mahoney, Pacific's district switching manager of the Ocean District (Marin County and certain other northern coastal counties) testified on this subject, and explained that the basic uses of loudspeakers all had to do with equipment testing by maintenance personnel, by means other than monitoring of actual conversation.

When asked whether some or all of this testing could be accomplished by way of headsets, he answered in the negative in the cases of radio circuitry<sup>7/</sup> and private telephone lines used for high-speed data transmission. Regarding other current uses for loudspeakers,<sup>8/</sup> the witness stated that any testing, from a technical standpoint, could be accomplished as easily with headsets. He pointed out, however, that none of the loudspeakers, as wired, have access to the exchange network. While the maintenance employees would have the technical knowledge to re-wire a speaker (contrary to company rules) into the exchange network, supervisory personnel could readily detect this by visual inspection.

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7/ Which the evidence shows are not really "private" circuitry, since communications over radio circuits can be intercepted by anyone with the proper equipment, and since some of such circuits must be monitored by the telephone company under certain circumstances to comply with FCC regulations.

8/ (1) Intercom circuits which assist maintenance employees in communicating with each other while working, (2) automatic trunk test equipment, and (3) patch bays, which are used to patch off a circuit found to be a bad message carrier and replace it with a properly functioning circuit.



In the witness's opinion, the proper way to stop such wrongful activity is by making employees aware of company rules, and by proper supervision. In most cases there is a supervisor working with employees who test equipment. He stated that if it came to his attention that an employee had wired a speaker to the exchange network "I would fire the individual." (Transcript 3946).

The witness's position (and Pacific's position on brief) is that it is pointless to replace loudspeakers with headsets because an unscrupulous employee could still eavesdrop just as easily, and that if loudspeakers, except those for use with radio and high-speed data private lines, were replaced with headsets, the flexibility and speed of performance of maintenance personnel would be substantially curtailed, resulting in slower service (or, in the alternative, forcing the company to substantially increase its test-board maintenance personnel).

Regarding whether substitution of earphones would have any major effect in preventing unlawful eavesdropping, Mr. Mahoney testified (Transcript 3976):

"Q Now, with respect to the use of loudspeakers to monitor customer-to-customer conversations; could an employee who wished to monitor such a conversation just as easily use a headset?

"A Surely.

"Q Now, let's assume that an employee did that improperly and he wanted to have another craftsman who was working with him hear the same conversation, could they both listen over headsets?

"A Surely, just bridge on."

The witness also pointed out that an unscrupulous employee who was determined to have a loudspeaker device for unlawful purposes could fashion one from a small radio, or radio parts.

Regarding reduction in flexibility and speed of work, the witness pointed out that there are many situations in which a maintenance employee can monitor a line<sup>9/</sup> with a loudspeaker while working on other items in the immediate vicinity, instead of having to stand in one place with earphones on (Transcript 3977). A "headset only" policy, according to Mr. Mahoney, would particularly inconvenience a repair person trying to test a private line, since often he has to talk to the private-line customer by use of a headset on one line, while checking out the other line over the loudspeaker. In this situation there would seem to be no reasonable alternative to the use of a loudspeaker since an employee can hardly wear two headsets at once.

Pacific emphasizes that the loudspeakers most susceptible to abuse were those attached to the exchange network which had the capability of misuse without rewiring, and that because of certain allegations of misuse, this type of speaker has been removed from all offices.

TURN strenuously argues that Pacific's position on this issue overlooks the evidence of abuses. TURN presented four witnesses who testified to violations of existing Commission monitoring rules. The testimony revealed, among other things, one aggravated, if isolated case in Marin County in which apparently more than one employee satisfied his or her vulgarian instincts by locating suggestive customer-to-customer calls and placing them on a loudspeaker which several persons could hear.<sup>10/</sup>

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9/ Not necessarily by intercepting a customer-to-customer call.

10/ While testifying that he would discharge employees guilty of such misconduct, Mr. Mahoney said his investigation of the matter was inconclusive. We believe that the testimony of TURN's witnesses established that the incident did in fact occur.

TURN, in summary, argues that the record amply demonstrates a lack of proper management and supervision of maintenance personnel, and that the problem can only be properly curtailed by restricting the availability of loudspeakers to personnel who must work with radio circuitry, or private lines used for high speed data transmission.

Discussion

We are extremely concerned with the abuses of test-board equipment brought to our attention. We believe the evidence shows that at least in certain offices there is a lack of supervision and discipline of maintenance personnel. We reject as unrealistic Pacific's assertions that there is no proper evidence that such abuses sometimes occur.

We disagree with TURN that, at least for the present, we should order TURN's suggested curtailment of loudspeaker equipment, because: (1) the loudspeakers most susceptible of abuse, i.e., those connected to the exchange network have been removed; (2) unscrupulous employees could still eavesdrop by using headsets and could still have other employees join them by patching into the call; and (3) inflexibility resulting from a "headsets only" policy would result in either slower repair service or the necessity for an increase in maintenance personnel. While Mr. Mahoney's estimate of a one-third increase may be high, it stands to reason that some increase would be necessary. We warn Pacific, however, that if the problem persists, we may find it necessary to adopt a policy strictly limiting the use of loudspeakers in the future.

But it is plain that we should require Pacific to maintain a program of strict accountability for loudspeaker equipment. We will order (1) that Pacific be required to continue its recently instituted policy of installing no loudspeaker equipment which can be connected to the exchange network without easily detectible (i.e., by visual inspection) rewiring, and (2) that Pacific be required to have appropriate supervisory personnel make inspections of all loudspeaker equipment at least once a day, and (3) that managerial personnel make general inspections of maintenance areas with reasonable frequency, with emphasis upon inspecting equipment capable of being misused to unlawfully intercept customer-to-customer conversations.

Other Monitoring Matters

We stated in the beginning of this opinion that issues related to supervisory and administrative monitoring are deferred until our final decision. TURN urges us on brief to order installation automatic cutoff devices to insure customer-to-customer privacy during administrative monitoring. We believe this question is part of the "administrative monitoring" issue, and we will not deal with this problem in this interim order.

III. EFFECTIVE DATE OF THIS DECISION

Because we wish 60MU and 30MU service to be uniform in all areas (due to Decision No. 86248, supra, SMRT is in effect in some areas only), and because we believe our orders regarding held orders and customer-to-customer monitoring are of vital importance for the benefit of Pacific's subscribers, we will make our order in this decision effective the date hereof.

Findings

1. It is unreasonable at this time to continue with SMRT for 3OMU (lifeline) and 6OMU residential service.
2. An automatic toning device which warns a participant in a customer-to-customer conversation that a line is being monitored for maintenance purposes should be employed at any time such monitoring is in progress. Such maintenance monitoring should only be conducted at the request of the subscriber with the line which needs to be tested, and a telephone corporation should make reasonable efforts to locate the source of trouble by other means before commencing such monitoring. The provisions in our order on this subject should apply to Pacific and all telephone corporations which are parties to Case No. 10001.
3. Pacific's supervision and inspection of maintenance loudspeaker equipment has been, at times and in certain locations, inadequate, and Pacific should be ordered to upgrade such supervision and inspection as set out in the order.
4. Pacific should be ordered not to permanently connect or reconnect loudspeakers to the exchange network, and should not employ loudspeaker equipment which can be connected to the exchange network without such connection being easily detectible by visual inspection.
5. It is not reasonable at this time to adopt a "headsets only" policy for inspecting certain types of lines, for the reasons set forth in the opinion; however, if in the future it is demonstrated that our orders herein and action by Pacific is not sufficient to control abuse of loudspeaker equipment, we should reconsider this position.

FOURTH INTERIM ORDER

IT IS ORDERED that:

1. The motion by CAUSE for further Los Angeles hearings on residential SMRT is denied.
2. Our order in Decision No. 86248 dated August 17, 1976 is vacated. Pacific shall terminate all residential (3OMU and 6OMU)

SMRT within five days of the date hereof. Existing SMRT customers shall be notified by bill insert of such termination.

3. Pacific shall waive all \$11 residential regrade charges through June 30, 1977.

4. Ordering Paragraph 2.C(6) (67 CPUC 528, p.553), which grants an exception from the requirement of notice to all parties that a communication is being monitored, is revised to read as follows:

"(6) Interception of computer data transmissions by telephone corporation employees who are engaged in the actual operation, maintenance, and construction of the communication circuitry of the telephone corporation when performed without any written notation and any record of the contents, substance, purport, effect, or meaning of any communication which may have been intercepted." 11/

Upon request of a customer, a conversation on his telephone line may be monitored by a telephone corporation for repair and maintenance. When such monitoring is in progress, an automatic toning device, producing an audible tone at least once every 15 seconds, shall be used. A telephone corporation shall make reasonable attempts to repair the line by other means before resorting to the monitoring of customer-to-customer calls.

5. Pacific shall not install loudspeaker equipment which is permanently connected to the exchange network, or which can be connected to the exchange network without such connection being detectible by visual observation.

6. Supervisory personnel shall inspect loudspeaker equipment at least once daily.

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11/ The underlined words replace the word "communications".

A.55492, C.10001 kw-4

7. Managerial personnel shall inspect maintenance areas with emphasis upon inspecting equipment capable of being misused to unlawfully intercept customer-to-customer conversations.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 29 day of NOVEMBER, 1976.

I will file a dissent.  
William Gueros Jr.

I will file a  
written dissent -

Ed Hol - Commissioner

President

Richard L. Sturgeon

Leonard Ross

Robert Betts  
Commissioners

APPENDIX A

LIST OF APPEARANCES  
(Interim Issues)

Applicant: Milton Morris and B. Haven Walling, Attorneys at Law,  
for The Pacific Telephone and Telegraph Company.

Interested Parties: Leonard Snaider, Attorney at Law, and Manuel Kroman, for the City of Los Angeles; William Shaffran, Attorney at Law, for the City of San Diego; Ann Murphy, Attorney at Law, and Sylvia Siegel, for Toward Utility Rate Normalization; Herman Mulman, for Consumers Against Utility Service Exploitation; William L. Knecht, Attorney at Law, for California Farm Bureau Federation; Robert Laughead, for the City of San Francisco; Charlotte G. Hamaker, for the Santa Clara Valley Coalition; David L. Wilner, for Consumers Lobby Against Monopolies; and Lorin H. Albeck, Attorney at Law, for General Telephone Company of California.

Commission Staff: Ira R. Alderson, Attorney at Law, and James G. Shields.



Dec. No. \_\_\_\_\_  
A 55492, C 10001 ga

10001 D, 10001 A

COMMISSIONERS HOLMES AND SYMONS, Dissenting:

We concur with this decision's treatment of the monitoring issues and dissent from the result reached on single message rate timing (SMRT).

The decision fails to evaluate long-range considerations regarding 30-message unit (30 MU or "lifeline") service and 60 MU service. Our fellow Commissioners have allowed themselves to be influenced by groundless fears of consumer witnesses that their bills would be materially higher under any form of timing. As a result, the decision on this subject is not supported by a preponderance of the evidence, and, as will be shown, the action of the Commission can only result in an ultimate substantial rate increase for lifeline and 60 MU customers.

Lifeline was conceived as a rate form which would furnish residential service, at the lowest possible monthly bill, to those who are of limited means and who need limited service for minimum

usage. Lifeline was not designed for the purpose of simply furnishing low-cost residential service to persons of any income strata who didn't happen to use their telephones very much. Neither was

available,<sup>2/</sup> only 10% are on lifeline (30 MU) and another 10% are on 60 MU. Thus, 80% of such metropolitan customers pay \$5.70 per month, while only 20% pay either \$3.75 (60 MU) or \$2.50 (30 MU). If, for example, we reach the level where 20% of these customers are on lifeline and 20% are on 60 MU, there would be a negative revenue impact (Application No. 55492 test year) of roughly \$25 million. This issue is, therefore, hardly a tempest in a teapot, as one Commissioner erroneously stated.

This state of affairs will trigger an inevitable and substantial upward adjustment in 30 MU and 60 MU basic rates when the Commission finds itself unable to make up the revenue loss by additionally and unfairly overcharging the business customer or employing some other time-worn rate design reshuffle.

In considering this issue, we should also remember that none of the consumer witnesses on this subject had yet actually been billed under SMRT on the dates of their testimony. They were testifying regarding their fear of future results, rather than concerning their actual billings. We do not criticize them for this

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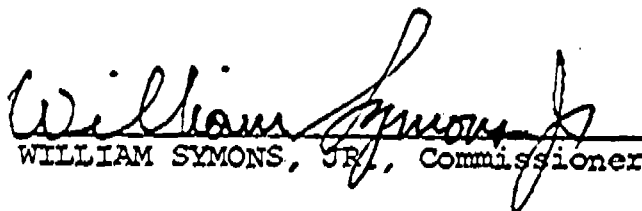
<sup>2/</sup> When these rate forms are available in all five metropolitan areas, this will mean availability of such service to about 4.1 million customers. This could accentuate the revenue effect of any shift from flat rate.

We strongly believe the Commission has taken a backward step for another reason. The decision contains a statement to the effect that it may be desirable, when electronic switching equipment has replaced mechanical equipment, to consider whether any form of flat rate service should be continued or whether it will eventually be more reasonable to have usage-sensitive pricing for everyone. If this is the Commission's desire, then message rate residential service already equipped for local timing should continue on this basis, regardless of how liberal the "units" might be, as the first step in this program. The logic of announcing a desire to proceed, in the long run, to 100% usage-sensitive rates, while at the same time terminating existing residential SMRT, escapes us.

The Commission's decision today will not help us hold life-line and 60 MU monthly rates down. For this reason, and the reasons discussed above, we dissent on this issue.



D. W. HOLMES, President

  
WILLIAM SYMONS, JR., Commissioner

Dated at San Francisco, California  
November 2, 1976