

Decision No. 86960

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of TELEPHONE ELECTRONICS, INC., a corporation for approval that the applicant's SOFT-TOUCHE Tone Generator be certifiable as an Ancillary Device under General Order No. 138.

Application No. 56846
(Filed November 4, 1976)

O P I N I O N

Telephone Electronics, Inc., hereinafter referred to as applicant, is a corporation engaged in the manufacture of electronics equipment. By this application, applicant seeks authority to have its Soft-Touch tone generator be certified as an ancillary device under this Commission's General Order No. 138.

The Soft-Touch tone generator is designed to replace the transmitter button and cap on standard telephone instruments provided by public utilities. This device operates both as a transmitter button, replacing the normal function of the utility's transmitter button, and also as a tone generator for the purpose of transmitting multi-frequency signals over the telephone line. Among other uses, it may be used as a computer terminal to generate tone signals for data input to a computer, as a generator to send tone signals into radio paging terminals, to access central dictation terminals, and in bank funds transfer electronic applications systems. The Soft-Touch generator can also be used for tone address signaling (dialing) if the customer is connected to a telephone central office line with tone address capabilities.

In support of its application, applicant alleges that its device is a secondary function within the definition of ancillary equipment as set forth in Section 1.3 of General Order No. 138, and

that the device will not cause harm to the telecommunications network. Applicant contends that replacing the utility's transmitter button provides an appropriate means of connecting the device to the telephone network. Applicant cites HUSH-A-PHONE (HUSH-A-PHONE CORP. v. U.S. 238 F. 2d 266 (1956)) to the effect that "a subscriber has a right to use his telephone in ways which are privately beneficial without being publicly detrimental". Applicant claims his device is similar to the HUSH-A-PHONE device reviewed by the court.

Protests to this application were filed by The Pacific Telephone and Telegraph Company on November 23, 1976 and by General Telephone Company of California on November 24, 1976. No reply to these protests has been filed by applicant.

General Telephone's protest is predicated upon the following allegations:

- a. The applicant's device is not "ancillary equipment" and is therefore, not eligible for certification.
- b. Section 1.4 of General Order No. 138 provides that customer-provided equipment shall not require changes in or alterations of the equipment or other facilities of the utility. Applicant's device fails to meet this requirement as it requires removal of utility parts from the utility-provided handset and substitution of applicant's device therefor.
- c. There is no clear line of demarcation between applicant's device and utility-provided equipment as required by Section 3.4 of General Order No. 138.
- d. Applicant's device is not capable of accepting a utility-provided connecting device.
- e. There is no easy and immediate method to disconnect the device as required by Section 3.5 of General Order No. 138.

f. Removal of the device would cause a customer of General to violate tariff provisions of its Rule No. 20.

g. The application contains factual errors, such as applicant's allegation that the device cannot be utilized by a subscriber unless the utility has provided a loop with tone address capability. General alleges that all its services provided in the 213 area code are equipped to accept tone signals. The protests of Pacific sets forth grounds for opposition generally parallel with those stated by General.

Discussion

While several of the reasons cited by protestants would constitute valid grounds for denying this application, in our view the key objection is the requirement that the transmitter unit of the utility's telephone be removed and replaced with a Soft-Touch device. This method of operation constitutes, in fact, a change or alteration of the utility's equipment in violation of Section 1.4 of General Order No. 138. In our opinion, the constant replacing of the utility's transmitter with the Soft-Touch device could result in damage to the transmitter's metallic contacts that are essential to proper operation of the telephone. In its brochure the manufacturer states that when removed, the utility's transmitter should be put in a safe place. By design, however, the safest place for the transmitter is in the handset. Damage to the transmitter due to inadvertent dropping or other abuse constitutes a real physical harm to the utility's property. It is the potential for damage to either the metallic contacts and/or the utility's transmitter that necessitates a definite demarcation between utility and customer equipment. If the situation was reversed and the utility felt the need to change or alter a customer's equipment, our view would also reject this. Section 1.4 is necessary to maintain the responsibility of the respective parties for their portions of the telecommunications system.

We also note from correspondence in our files that the FCC has refused to accept the Soft-Touch for registration under its rules. The basis for non-acceptance cited by the FCC was that, "Section 68.104(A) requires all connections to the network shall be made through jacks as detailed in Subpart F." The FCC requirement for jacks is comparable to a similar requirement in Section 5.1a of General Order No. 138.

Findings and Conclusions

Based upon a review of the documents filed herein, it is clear that use of the Soft-Touch device would require a change or alteration of the utility's equipment. We find that this would create a potential for harm to the utility's equipment and would be in violation of Section 1.4 of General Order No. 138. Accordingly, we conclude that the application should be denied. A public hearing is not necessary.

O R D E R

IT IS HEREBY ORDERED that authority sought by Telephone Electronics, Inc., is denied.

The effective date of this order is 20 days after the date hereof.

Dated at San Francisco, California, this 5th day of FEBRUARY, 1977.

Robert Palmer
President

William S. Lyons, Jr.

Leonard Ross

Arthur W. Chavalle
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.