

ORIGINAL

Decision 93268 JUL 7 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SONITROL SECURITY, INC.,)
)
 Complainant,)
)
 v.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY, a corporation,)
)
 Defendant.)

Case 10916
(Filed October 10, 1980)

Linda Hendrix McPharlin, Attorney at Law, for
 Sonitrol Security, Inc., complainant.
Margaret deB. Brown, Attorney at Law,
 for The Pacific Telephone and Telegraph
 Company, defendant.

INTERIM ORDER

On October 10, 1980, Sonitrol Security, Inc. (Sonitrol), a private alarm business, filed this complaint requesting the Commission to order The Pacific Telephone and Telegraph Company (Pacific) to refrain from the following:

1. Requiring the installation of extra equipment on private lines supplied to Sonitrol and its customers, except when Sonitrol requests such installation.
2. Requiring the use of voice-grade channels by Sonitrol and its customers.
3. Degrading the service on lines provided to Sonitrol.

Sonitrol also asks that certain existing lines be restored to their prior level of service and that new lines be provided with a decibel loss of no more than -10 decibels (dB). Further, Sonitrol seeks a

refund of overcharges resulting from voice-grade lines being required when sub-voice lines were sufficient and voice-grade line rates being charged for sub-voice line service.

On December 15, 1980, Pacific answered Sonitrol's complaint denying that Sonitrol was entitled to any relief and requesting dismissal of the complaint. A hearing in this matter was subsequently held on May 18, 1981, before the presiding Administrative Law Judge.

During hearing Sonitrol stated that a settlement of the complaint had been signed. Pacific, however, indicated that it was presently unable to honor the agreement having discovered that the settlement was allegedly violative of the applicable tariffs. As a result, both parties asked that the matter be continued. The failed settlement was read into the record, and further hearings were set for July 27, 1981.

On May 19, 1981, Sonitrol filed an "Ex Parte Motion for Temporary Cease and Desist Order." A response to this motion was filed by Pacific on May 22, 1981, to which Sonitrol replied on May 29, 1981.

Discussion

One of the primary issues in this complaint is whether Pacific's tariffs permit it to provide Sonitrol with voice-grade (3001) channels which experience a decibel loss of no more than -10 dB at a frequency of 1000 Hertz. The tariff language at issue states:

"All facilities provided by Pacific shall conform to the established construction standards of the utility." (Schedule Cal. PUC No. 135-T, 1st Rev. Sh. 35, Para. III-A-1).

Pacific believes that the applicable construction standards are contained in the Bell System Technical Reference, Pub-41004, which according to Pacific, provides for a decibel loss on 3001 channels of **-16 dB (+1) at a frequency of 1004 Hertz.**

Despite Pacific's present position, the failed settlement agreement had provided, however:

"Pacific will assure that all type 3001 channels now allocated, or in the future allocated, to Sonitrol dealers in... California will have a dB loss of no greater than -10 dB at a frequency of 1000 Hertz."

Pacific's counsel, in referring to the tariff provision quoted above, explained its withdrawal from this settlement as follows:

"At the time we entered into the settlement agreement, we thought that there was some way we could get around this provision, but it is our position now that we cannot because of the reference in Schedule Cal PUC 44-T, Ninth Revised Sheet 22.

"The first paragraph on the page headed 'contract' makes reference to the fact that the facilities 'are furnished in accordance with the provisions of the utility's regulations and schedules.'" (Transcript 6.)

Sonitrol's request for a temporary cease and desist order is based on the affidavit of George Nicolino, Sonitrol's president. This affidavit states that Pacific, between May 1976 and October 1980, provided Sonitrol with voice-grade channels which met "all of the Sonitrol system requirements, including the requirement that decibel loss be in the 0 to .10 dB range." In October, 1980, however, Sonitrol was informed by Pacific that "tariff requirements necessitated that

the standard 3001 lines...now would be serviced by Pacific so that the dB loss would be 16 decibels." According to Nicolino's affidavit such an adjustment would render a Sonitrol alarm system inoperable.

Nicolino is concerned that since Pacific has withdrawn its settlement, the dB level of Sonitrol circuits will now be altered to the serious detriment of Sonitrol dealers and customers. It is asserted that Pacific, having been provided by Sonitrol since the settlement with list of numbers identifying Sonitrol circuits, will be able "to more efficiently effect its new and harmful policy." Nicolino also states that the adjustment of lines to -16 dB will require additional equipment and presumably additional costs for Pacific.

Sonitrol asks in its motion that "the status quo between Pacific and Sonitrol be preserved until the final determination of the merits of this action." Counsel for Sonitrol argues that without such relief irreparable harm will be caused to Sonitrol dealers and customers. Sonitrol therefore asks that pending hearing of this matter on July 27, Pacific be ordered:

- "1. To take no steps to degrade the service, by increasing the decibel loss, on any currently existing circuits provided to Sonitrol alarm users.
- "2. To provide to Sonitrol users who order new 3001 circuits, those circuits as were provided in the past, that is, circuits not engineered to any particular dB loss, and without that additional equipment which allows the dB loss to be adjusted in a negative manner, to a level unusable by Sonitrol.
- "3. To continue to provide repair service to Sonitrol users as has been done in the past, which service provided adjustments where decibel loss was so high as to render the Sonitrol equipment inoperable."

In Pacific's response to Sonitrol's motion, Pacific agrees that the status quo should be preserved pending hearing in this case. Pacific, however, disputes the allegations contained in Sonitrol's motion and affidavit and asks that the ordering paragraphs proposed by Sonitrol be changed to require Pacific:

- "1. To take no steps to increase the decibel loss on any currently existing circuits provided to Sonitrol alarm users.
- "2. When Sonitrol dealers order new 3001 circuits, to engineer those new circuits not to exceed 16 dB loss, and to refrain from taking any steps to add decibel loss to any new circuits which have a decibel loss less than -16 dB, but rather to leave the circuits with the amount of decibel loss that they have when installed, with the attenuator adjusted to zero.
- "3. To repair Sonitrol circuits in a manner that maintains their dB levels, ± 1 dB, as shown by the Estimated Measured Loss figures contained on Pacific's Circuit Layout Records^{1/} for these circuits, and does not increase the dB loss from those levels."

Sonitrol's motion presents sufficient allegations to warrant an interim order by this Commission while this complaint is pending. The allegations relating to the appropriate interpretation of Pacific's tariffs, Pacific's past practices, and the potential for harm to Sonitrol's dealers and customers require an order which will maintain the existing service levels being provided by Pacific to Sonitrol dealers who presently have such service. Although Sonitrol objects to Pacific's suggested language, we believe that that language better achieves this end, without

^{1/} According to Pacific, these records state a circuit's decibel loss level at installation.

prejudging the issues in this case. We also find that Sonitrol's proposal could require Pacific to continue an allegedly unlawful practice for new services.

We therefore adopt Pacific's suggested ordering paragraphs, deleting only its reference to its circuit layout records. It is sufficient to say that Sonitrol circuits will be maintained at the dB levels, ± 1 dB, which existed at installation. In addition, although Sonitrol requests and Pacific concurs in continuing any order only until hearing, we conclude that our order should remain in effect until the issues in this complaint have been resolved and a final decision has been issued.

Findings of Fact

1. An interim order in this complaint **will** maintain the existing service levels being provided by Pacific to Sonitrol dealers.

2. The language proposed by Pacific will effectively maintain the parties' present positions.

Conclusion of Law

An interim order in this complaint based on the language proposed by Pacific should be issued. Because immediate action is required, the order should be made effective today and should remain in effect until further order of this Commission.

IT IS ORDERED that:

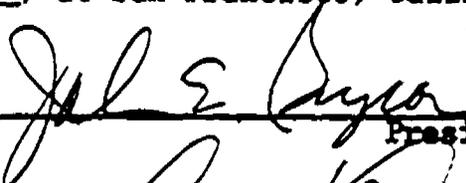
1. The Pacific Telephone and Telegraph Company shall (1) take no steps to increase the decibel loss on any currently existing circuits provided to Sonitrol Security, Inc. (Sonitrol) in Sonitrol's alarm business; (2) when Sonitrol dealers order new 3001 circuits, engineer those circuits not to exceed a 16 dB loss, and refrain from taking any steps to add decibel loss to any

new circuits which have a decibel loss less than -16 dB, but rather to leave the circuits with the amount of decibel loss that they have when installed, with the attenuator adjusted to zero, and (3) repair Sonitrol circuits in a manner that maintains their dB levels, ± 1 dB, which existed when the circuits were installed and does not increase the dB loss from those levels.

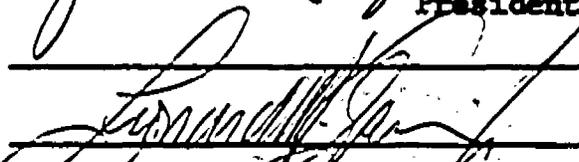
2. Ordering Paragraph 1 shall be in effect until further order of this Commission in Case 10916.

This order is effective today.

Dated JUL 7 1981, at San Francisco, California.



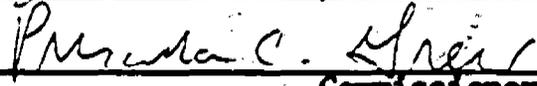
President



Commissioner



Commissioner



Commissioners

Commissioner Richard D. Gravello, being necessarily absent, did not participate in the disposition of this proceeding.