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ORIGINAL

Decision 93849 DEC 15 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 and Charles T. C.
 Compton, Attorneys at Law, for Sonitrol
 Security, Inc., complainant.
Margaret deB. Brown, Attorney at Law, for The
 Pacific Telephone and Telegraph Company,
 defendant.
Willard A. Dodce, Jr., for the Commission staff.

ORDER MODIFYING AND EXTENDING EFFECTIVE DATE OF DECISION 93631

This complaint involves a service and billing dispute between Sonitrol Security, Inc. (Sonitrol), a private alarm business, and The Pacific Telephone and Telegraph Company (Pacific). The complaint has been the subject of two prior orders. The first, Decision (D.) 93268 issued July 7, 1981, was based on a motion by Sonitrol which sought interim relief to preserve the status quo of the parties during the pendency of the complaint. Based on subsequent experience and the developing record in the proceeding, Sonitrol petitioned to modify D.93268 on September 17, 1981. D.93268 was modified on October 20, 1981, in D.93631. In addition to the modification, the effective period of D.93631 was limited to 60 days or to December 19, 1981. This action was taken to ensure that there would be no delay in submitting this matter.

The complaint, however, has now been submitted with the filing of closing briefs on November 25, 1981. Because of the extensive record in this case and the complex issues involved, a final decision cannot be issued prior to the expiration date of D.93631 on December 19, 1981. For this reason, the effective date of the interim order, as modified, must be extended in order to preserve the status quo prior to the final decision.

In addition to the need to extend this date, we must also consider another petition for modification, this one filed by defendant Pacific on November 6, 1981. While this petition and Sonitrol's response reflect some of the difficulties of fashioning an interim order which precisely maintains the parties' respective positions during the interim period, both are also indicative of the acrimonious nature of this proceeding.

In its petition, Pacific urges the present application of its new tariff offering of a 3009 circuit to new Sonitrol customers. Pacific asserts that this tariff was specifically designed to meet Sonitrol's stated requirement for its alarm systems of an overall decibel loss of -10 dB or better. It is also claimed that the order contained in D.93631 to "repair" all Sonitrol circuits, both 3001 (voice-grade) and 1009 (sub-voice grade) to a decibel level of -10 dB or better, conflicts with Pacific's tariffs which designate 1009 circuits as subvoice grade channels with no guaranteed decibel loss. Pacific argues most strongly that the prior interim orders have produced confusion among its employees by singling out one customer for service which differs from or requires changes in its tariffs, technical manuals, and written employee instructions.

We agree with Sonitrol that Pacific's arguing employee confusion or compliance difficulties related to prior orders in this complaint is contradictory to a request for additional modifications of an interim order. We note also that the record in this proceeding reflects the

presence of confusion and contradiction on the part of Pacific's management and employees regarding the appropriate service for Sonitrol prior to any orders being issued in this case. The purpose of the interim orders is to preserve the status quo to the best of the Commission's ability and to protect Sonitrol's customers who have come to depend upon a certain type and level of telephone service and equipment.

With respect to Pacific's new 3009 circuit, we stated in a prior order, D.93631, that comment on Pacific's plans for a new tariff offering "may lead to a premature judgment on issues which have not been fully explored or presented at hearing or in briefs." Although Pacific's provisional tariff for a 3009 service has been approved by the Commission, its applicability to Sonitrol or its role in the resolution of this complaint remains an issue for the final decision which will be based on the entire record in this case. We therefore will not undertake any modification of D.93631 to require the application of this new tariff to Sonitrol.

Pacific's assertions, however, concerning "repair" of 1009 circuits to a specified decibel loss do have merit, at least for the interim period until a final decision. Again, there is conflicting testimony about the interpretation and applicability of the tariffs and technical manuals involved in this case. Such issues will be resolved in the final decision. Nevertheless, it does appear that for the interim period any Commission order should endeavor to maintain the parties' position while doing the least violence to reasonable tariff interpretation. For Sonitrol's benefit, we stress that we are not attempting to resolve any issue in the complaint through this interim order.

The 1009 circuit is a nonvoice grade channel with no guaranteed decibel loss level. Apparently, the parties have agreed that no action will be taken by Pacific to suppress voice or alter billing or allocation practices for these circuits. However, the parties have not specifically addressed the circumstance when the decibel loss on a 1009 circuit exceeds -10 dB and Sonitrol requires that loss to be reduced. It therefore appears that for the interim should a 1009 line no longer provide the required decibel level and should Sonitrol request the line

be adjusted to a decibel loss of -10 dB or better, the circuit should be converted to a 3001 circuit, without an installation or other non-recurring charge being imposed and the circuit be adjusted to a loss not in excess of -10 dB.

Finding of Fact

Modification of D.93631 is required to preserve the status quo of the parties to this complaint.

Conclusions of Law

1. To preserve the status quo of the parties to this complaint, the effective date of D.93631 should be extended and an ordering paragraph modified to identify more definitively the actions to be taken by Pacific and Sonitrol during the period prior to a final order.

2. Extending the interim solution before the order with D.93631 expires constitutes an emergency requiring consideration of this decision even though it was not noticed in the public meeting agenda.

IT IS ORDERED that:

1. Ordering Paragraph 1 of D.93631 is modified as follows:

The Pacific Telephone and Telegraph Company shall (1) take no steps to increase the decibel loss of any currently existing circuits provided to Sonitrol Security, Inc. (Sonitrol) in Sonitrol's alarm business; (2) install new 3001 circuits ordered by Sonitrol dealers at a decibel loss of -10 or better; (3) repair all Sonitrol 3001 circuits in a manner that maintains a dB loss level of -10 or better; and (4) if Sonitrol requests that any 1009 circuit with loss in excess of -10 dB be adjusted to guarantee a decibel loss no greater than -10 dB, convert that circuit, without the imposition of any installation or other nonrecurring charge to a 3001 circuit adjusted to a loss not in excess of -10 dB.

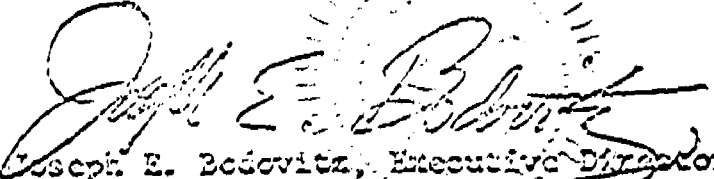
2. Ordering Paragraph 1, as modified, shall be in effect until further order of the Commission.

This order is effective today.

Dated DEC 15 1981, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bedovitz, Executive Director