

GENERAL ORDER 107-B
(Supersedes General Order 107-A)

**PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

**RULES AND REGULATIONS CONCERNING THE
PRIVACY OF TELEPHONE COMMUNICATIONS.**

Adopted July 1, 1983; Effective July 1, 1983. Decision 83-06-021, OII 103.
Amended October 19, 1983; Effective October 19, 1983. Decision 83-10-090, OII 103.

I. REQUIRED RECORDS (Public Utilities Code §§ 7905 and 7906)

- A. Each telephone corporation subject to the jurisdiction of the Commission shall maintain complete records of all instances in which employees discover any devices installed for the purpose of overhearing communications over the lines of such corporation and all instances in which employees reasonably believe and report to the corporation that a device is installed or has been installed but has since been removed.

Each such telephone corporation shall file with the Commission on or before the 31st day of March each year one copy of a report of all instances in which its employees discover any devices installed for the purpose of overhearing communications over the lines of the corporation and all instances in which employees reasonably believe and report to the corporation that a device is installed or has been installed but since been removed. This report shall cover the immediately preceding calendar year and shall include the date, name of subscriber, telephone number, location of service, nature of case, description of the device, circumstance of discovery and designation of lines involved in each discovery of these devices, by whom reported, action taken, and disposition of the case. The reports will be labeled "confidential" and will be so treated by the Commission as to details the disclosure of which, in the Commission's opinion, would be adverse to the public interest.

- B. Each telephone corporation subject to the jurisdiction of the Commission shall maintain a central file available for Commission inspection of all instructions to employees, regulations, rules and forms designed to ensure the privacy and/or maintain the secrecy of communications over the lines of the corporation together with a record of the steps taken to ensure the privacy of and/or secrecy of communications.
- C. Each telephone corporation shall file with the Commission on or before the 31st day of March of each year one copy of a statement showing any changes in the steps being taken to ensure privacy of and/or secrecy of communications together with one copy of any new or revised instructions, regulations, rules and/or forms being used.

D. Each telephone corporation which does not have instances during the year under Section A above and/or changes under Section C above shall file with the Commission on or before the 31st day of March each year one copy of a statement indicating it has no instances or changes during the year.

II. REGULATIONS GOVERNING MONITORING AND RECORDING

A. Monitoring or recording of telephone conversations shall not be conducted except pursuant to this General Order.

1. "Monitoring" means the use of monitoring equipment to allow a third person to overhear the telephone conversation of two or more persons. Monitoring does not include:

- a. Unlawful wiretapping or eavesdropping;
- b. Monitoring by law enforcement or national defense agencies, when the activity is permitted under enabling laws and legal safeguards, or by telephone utilities as provided by law to prevent fraud or loss of revenues, or to identify the source of lewd or harassing calls;
- c. Accidental or unintentional interception of telephone conversations by telephone utility personnel engaged in normal operation, maintenance, or construction;
- d. "Administrative monitoring" or "service observing" performed by telephone utilities for training and quality control purposes, when performed as authorized by our decisions.

2. "Recording" means the recording or transcribing of any telephone conversation by means of any electronic device.

3. "Monitoring equipment" means any method or apparatus by which a public utility telephone corporation or a telephone subscriber, or any of their officers, employees, or agents, may listen to or record telephone conversations on premises owned or controlled by the utility or by the subscriber:

- a. Without any audible indication to the parties conversing that their conversation is being overheard, or
- b. Without connection of a device to provide two-way conversation between the listener and the parties conversing so that the listener's voice may be heard throughout any period of monitoring, or
- c. Without any indication to the parties conversing that their conversation is being recorded.

4. No portion of the public utility telephone network in California to which the public, or any portion of the public, has access shall be used for the purpose of transmitting any telephone conversation which is being monitored or recorded except when:

- a. All the parties to the conversation give their express prior consent to the monitoring or recording, or

- b. When notice that such monitoring or recording is taking place is given to the parties to the conversation by one of the methods required in this order.
5. Notice of recording shall be given either:
- a. By an automatic tone warning device which shall automatically produce the distinct tone warning signal known as a "beep tone" which is audible to all parties to a communication and which is repeated at regular intervals during the course of the communication whenever the communication is being recorded; or
 - b. By clearly, prominently and permanently marking each telephone instrument for company use from which communications may be recorded to indicate that a communication of the user of the instrument may be recorded without notice; provided that this method of giving notice of recording may be used only if the automatic tone warning signal is audible to all parties to the communication using telephone instruments not so marked.
6. Notice of monitoring shall be given either:
- a. By a tone warning device which automatically produces a distinct signal audible to all parties to a telephone conversation. The signal shall have those characteristics specified by the Federal Communications Commission, or by this order; or
 - b. By verbal announcement by the operator of monitoring equipment to the parties to a communication that their communication is being monitored; or
 - c. By a telephone instrument transmitter which is operationally connected to the communication circuit being monitored and which acoustically, mechanically, electrically or otherwise has not been designed, modified, desensitized or located with the intent of eliminating notice or monitoring or interception, with the exception that minimization of transmission losses will be permitted.
7. The tone warning signal referred to in the preceding sections shall have the following characteristics:
- Number of tones 1
 - Length of each tone 20/100 of a second, plus or minus 20%
 - Pitch of tone 1,400 cycles per second, plus or minus 10%
 - Frequency of recurrence of each signal not less than 12 seconds and not more than 18 seconds
 - Level of tone equal to the average telephone talking signal strength

8. Each California public utility telephone corporation which offers monitoring or recording equipment to its customers shall file and maintain on file, with this Commission a tariff setting forth the requirements and restrictions for the use of this equipment.
 9. All California telephone directories issued by, or under the authority of, any public utility telephone corporation shall include a description and statement of the significance of tone warning signals and marking or telephone instruments.
- B. In order to assure the same degree of privacy for telephone conversations conducted over the California lines of telephone utilities interconnected with terminal equipment provided by customers of telephone utilities, each telephone utility shall file, and maintain on file, with this Commission a tariff which provides as conditions of use of the telephone network:
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.

Approved and dated June 1, 1983, at San Francisco, California.

**PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA**

By **Joseph E. Bodovitz**
Executive Director

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