

DECISION NO. 38513

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Kathie Zahn,

Complainant

vs.

Pacific Telephone & Telegraph Company

Defendant.

**ORIGINAL**

Case No. 4801

KATHIE ZAHN, in propria persona

PILLSBURY, MADISON & SUTRO, and FRANCIS N. MARSHALL and  
JAMES G. MARSHALL, Attorneys, for Defendant.

ROWELL, COMMISSIONER:

OPINION

The complainant alleges that she is a subscriber of defendant's telephone service, and that on March 5, 1945, while engaged in a telephone conversation, a terrific crashing sound occurred in the receiver of her telephone instrument which caused her hearing to be impaired. Other facts alleged seem to imply that the alleged crashing sound in her telephone receiver was occasioned by workmen engaged in working on her line or while installing or repairing telephone facilities in the vicinity of her home.

The prayer of the complaint is that, in the interest of safety and protection of complainant and other users of telephone service against accidents and injury similar to that complainant has suffered, defendant be required to establish a rule providing that precautionary action be taken before undertaking line repairs or installations.

At the hearing had in this matter, complainant explained that the purpose of her pleading was merely to persuade the Commission that it would be in the public interest to require the defendant telephone company to adopt a general rule that no work be done upon a patron's telephone line without notice first given to the patron of such intention. Complainant expressly disclaims any desire to obtain any relief personal to herself. She states that her complaint was intended to reflect solely the interest that all telephone patrons have in safe and adequate service rules and regulations.

It is quite evident that the Commission would be powerless to prescribe rules and regulations of the kind suggested by the complainant without instituting a proceeding wherein all patrons of the defendant telephone company might have an opportunity to be heard. It is unfortunate that the pleading filed was not read by the Commission as a mere petition to the Commission praying that it should in the exercise of its discretion institute such a proceeding. Complainant now expresses the willingness that the pleading be so construed. It being evident that no relief personal to the complainant is being sought against the defendant company, the complaint should be dismissed. However, after giving consideration to plaintiff's request, the Commission believes that it should institute an inquiry upon its own motion into the rules to be applied by defendant and other telephone companies, so that the propriety of such a rule as proposed by plaintiff can be fully explored and all interested parties be heard. An order to that effect is being issued.

I recommend the following order.

ORDER

A hearing having been had upon the within complaint of Kathie Zahn against the Pacific Telephone and Telegraph Company, the matter considered, and it appearing that the complainant does not seek relief within the jurisdiction of the Commission; Therefore, Good Cause Appearing,

IT IS HEREBY ORDERED that the above entitled complaint be and hereby is dismissed.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of December, 1945.

Harold Anderson

Harold Dwyer

James H. Lawrence

Harold P. Huls

Commissioners.