

Decision No. 69866

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PAUL HALULA, WILLIAM WILSON  
doing business as THE AMERICAN  
UNIVERSAL SCHOOL OF DRIVING,

Complainant,

vs.

Case No. 8235

PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY,

Defendant.

ORDER OF DISMISSAL

In substance the above complaint alleges that incoming calls were interrupted during a period of 18 days, that as a result 159 persons did not enroll in a driver education program, and that the "subsequent loss therein is in the amount of \$14,310.00." The complaint concludes as follows:

"9. Complainant alleges that defendant herein is liable for damages based upon the following theories: breach of contract during the period in question; negligence in the installation and repair of the above described telephone equipment during the period in question, and reckless and wanton misconduct in the installation and repair of the above described telephone equipment during the period in question.

WHEREFORE, complainant requests an order from this Honorable Commission that complainant receive from defendant herein the sum of \$14,310.00 in damages, costs of litigation and for such other and further relief as this Honorable Commission may deem just."

A copy of the complaint was mailed to defendant by way of information under procedural Rule 12, and defendant's counsel submitted a statement of asserted defects, requesting dismissal. A copy of that statement was sent to complainant's counsel on August 5, 1965, and it was requested that the Commission be advised

whether complainant wished to amend the complaint or rely upon the present pleading. No reply has been received.

The Commission is without jurisdiction to award damages for alleged negligence or loss of business. (Jones v. Pacific Telephone, 61 Cal.P.U.C. 674; Warren v. Pacific Telephone, 54 Cal.P.U.C. 704; Glynn v. Pacific Telephone, 62 Cal.P.U.C. 511; Schumacher v. Pacific Telephone (May 11, 1965), Decision No. 69025, Case No. 8152; Vila v. Tahoe Southside Water Utility, 233 A.C.A. 566.)

Case No. 8235 is dismissed for failure to state a cause of action within the jurisdiction of the Commission.

Dated at San Francisco, California, this 26<sup>th</sup> day of October, 1965.

Frederick B. Schreff  
President  
Arthur E. Medina  
Augusta

Commissioners

The allegations of the complaint do not appear to bring it within the scope of the second paragraph of Public Utilities Code section 737. I therefore concur in the order.  
George T. Grover