

Decision No. 75390**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MOBILE BRAKE SALES & SERVICE, INC.,)

Complainant,)

vs.)

Case No. 8884

PACIFIC TELEPHONE & TELEGRAPH CO.,)

Defendant.)

ORDER OF DISMISSAL

In substance the complaint herein alleges that in October and November of 1968 complainant requested installation of certain foreign exchange telephone lines and a tie line, and has suffered losses because of defendant's nonperformance, complainant having invested in additional equipment to establish a mobile communication system dependent on the requested foreign exchange and tie lines. Complainant seeks an order requiring immediate installation.

The complaint also seeks damages in the amount of \$2,800 for alleged losses because of noninstallation of the requested lines, plus punitive damages in the amount of \$10,000.

In accordance with procedural Rule 12 a copy of the complaint was mailed to defendant by way of information. Defendant's counsel submitted a statement of asserted defects, which stated that the requested lines had been installed on January 13, 1969, and suggested failure to state a cause of action and absence of jurisdiction to award damages.

A copy of the statement was mailed to complainant on January 17, 1969. The transmittal letter cited cases holding that

the Commission is without jurisdiction to award damages of the nature alleged in the complaint. (Jones v. Pacific Telephone, 61 Cal. P.U.C. 674; Glynn v. Pacific Telephone, 62 Cal. P.U.C. 511; Schumacher v. Pacific Telephone, 64 Cal. P.U.C. 295; Vila v. Tahoe Southside Water Utility, 233 Cal. App. 2d 469.)

Complainant was requested to advise whether or not the lines had been installed, satisfying that portion of the complaint, and whether complainant objected to dismissal of the complaint. No reply has been received.

Case No. 8884 is dismissed without prejudice.

Dated at San Francisco, California, this 4th day of MARCH, 1969.

William Symons, Jr.
President
Augustine
Paul P. Monroney
W. H. Harrison
Thomas
Commissioners