

ORIGINAL

Decision No. 78372

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

STELLA MAE McCLURE, Nickname - Pat,)
Complainant,)
vs.)
THE WESTERN UNION TELEGRAPH COMPANY,)
Defendant.)

Case No. 9159
(Filed December 8, 1970)

ORDER OF DISMISSAL

In her complaint against defendant, The Western Union Telegraph Company, the complainant Stella Mae McClure alleges that her personal telegram to her husband was transmitted by defendant, without her permission, over the Peco Corporation's teletype machine and was thereby made public.

She further alleges that by reason of her telegram having been made public her husband was greatly humiliated, all chance of their marriage returning to normal was made impossible, and she was caused great suffering. The complainant requests that she be financially reimbursed by defendant for her suffering.

In its answer filed January 18, 1971, defendant admits that on or about May 25, 1970, at the request of complainant, defendant accepted a telegram to be transmitted to Thomas Frank McClure at the Peco Corporation, Milpitas, California, and that at the said request of complainant, said message was transmitted to Thomas Frank McClure at said address. Defendant states it has no information or belief concerning the personal nature of the message

or whether said message was made public after its transmission sufficient to enable it to answer the said allegations of the complaint and on that ground denies said allegations. Defendant denies the remaining allegations of the complaint and prays that the complaint be dismissed.

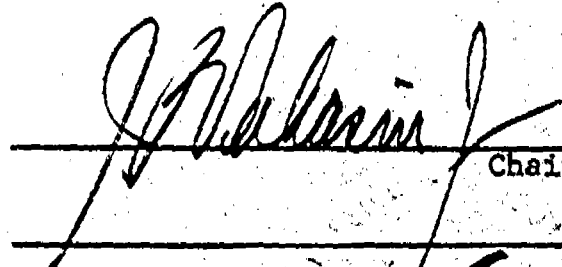
Warren and Hollander v. Pacific Tel. & Tel. Co., 54 Cal. P.U.C. 704, was a proceeding involving errors and omissions in a telephone directory. The Commission held that the determination of legal claims of negligence is reserved to the courts.

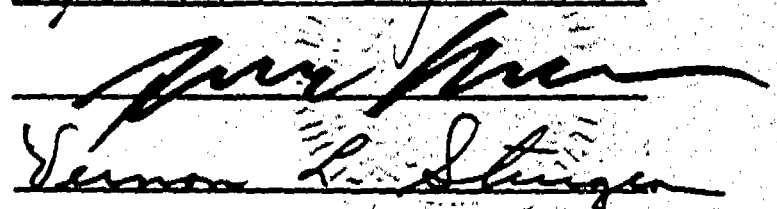
In Glynn v. Pacific Telephone Co., 62 Cal. P.U.C. 511, this Commission held it was without jurisdiction "to determine the existence of liability or to award damages for alleged loss of business resulting from the acts or omissions of public utilities."


In Vila v. Tahoe Southside Water Utility, 233 C.A. 2d 469 at 479 the Court said: "The Commission has no authority to award damages. That was sought in M. L. M. Jones v. Pacific Tel. & Tel. Co. (Nov. 1963) 61 Cal. P.U.C. 674, where the Commission asserted its lack of jurisdiction either to make a finding concerning, or to order, damages." In this case the Court sustained the jurisdiction of the Superior Court over actions for damages against public utilities. ✓

IT IS ORDERED that the complaint in Case No. 9159 is hereby dismissed for failure to state a cause of action within the jurisdiction of the Commission.

Dated at San Francisco, California, this 2nd day of MARCH, 1971.


Chairman


Vernon L. Stinger


Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.