

Decision No. 81747

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
DON EDGAR BURRIS, Esq.,

Complainant,

vs.

Case No. 9595

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY,

Defendant.

ORDER DENYING CEASE AND DESIST AND  
PARTIALLY DISMISSING COMPLAINT

Complainant alleges that he has been required to disconnect an electronic telephone answering device in his office because of a threat by defendant to discontinue telephone service to that office. Complainant seeks a cease and desist order against defendant's interference with complainant's use of the answering device, and an award for damages incurred by the removal of the device, for attorney's fees, for costs of prosecuting this complaint, and for such other relief as the Commission deems just. ✓

The Commission is not satisfied that the alleged injury resulting from the defendant's activity is the type which merits immediate extraordinary relief based on the pleadings, as requested by complainant. Therefore, complainant's request for a cease and desist order will be denied. Defendant has already received formal service of this complaint, and after filing of defendant's answer this matter will be set for hearing.

As for complainant's prayer for damages, costs and expenses of this action, these are matters beyond the jurisdiction of this Commission to award. Villa v. Tahoe Southside Water Utility. ✓

233 C.A.2d 469, 479 (1965); McDaniel v. PT&T, 64 CPUC 707, 720 (1965); Pub. Util. Code § 2106.

Therefore, to the extent that the complaint prays for monetary damages, it must be dismissed and complainant is advised that such remedies must be pursued in an appropriate court.

IT IS ORDERED that:

1. Complainant's request for a cease and desist order is hereby denied.
2. Complainant's request for monetary damages and costs and expenses of this action is hereby dismissed.
3. After receipt of defendant's answer the remaining issues will be set for hearing.

The effective date of this order is the date hereof

Dated at San Francisco, California, this 14<sup>th</sup>  
AUGUST day of \_\_\_\_\_, 1973.

Vernon L. Stinson  
President

[Signature]  
[Signature]

Commissioners

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

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.