

ORIGINAL

Decision No. 44794

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HENRY KOSAR,)
)
) Petitioner,)
)
) vs.)
)
) THE PACIFIC TELEPHONE AND TELEGRAPH)
) COMPANY, a corporation,)
)
) Defendant.)

Case No. 5043

HENRY KOSAR,)
)
) Petitioner,)
)
) vs.)
)
) THE PACIFIC TELEPHONE AND TELEGRAPH)
) COMPANY, a corporation,)
)
) Defendant.)

Case No. 5045

O P I N I O N

The two complaints herein allege that, on or about the 31st. day of March, 1949, the telephone facilities of complainant, at 138 North Soto Street, in the city of Los Angeles, were disconnected by respondent telephone company, and, on or about the 1st day of April, 1949, the telephone facilities of complainant, at 3972 Whiptier Boulevard, in the county of Los Angeles, were likewise disconnected by respondent telephone company, both disconnections being made upon a representation by respondent that it had information to the effect that the telephone

facilities concerned were being put to uses prohibited by the law. The complainant further alleged that the telephone facilities were not used in violation of the law and that he would suffer irreparable injury, hardship, and financial loss by being deprived of these telephone facilities.

Orders granting temporary interim relief were issued by this Commission on April 20, 1949, in Decisions Nos. 42769 and 42771, directing respondent telephone company to restore the facilities in question pending a hearing on the complaints. This restoration was effected and subsequently the telephone company filed an answer to the complaints, the principal allegation of which was that the respondent telephone company had reasonable cause to believe that the use made and to be made of the telephone facilities concerned was prohibited by law and that, accordingly, it was required to discontinue service to the subscriber under the provisions of this Commission's order contained in Decision No. 41415, dated April 6, 1948, in Case 4930 (47 Cal. P.U.C. 853).

The parties hereto have now signed and filed stipulations wherein it is stipulated that, although the telephone company acted with reasonable cause, it does not have evidence "to introduce before the above-entitled Commission to establish the actual use made or to be made of said telephone service". It is further stipulated that the petitioner "has no cause for action nor claim for damages against defendant" for its action in this matter.

A review of the record in these cases discloses that defendant telephone company disconnected the telephone facilities of petitioner upon information received from the Crime Study Commission on Organized Crime of the State of California. Similar information from the Crime Commission was held by this Commission to constitute reasonable cause for the telephone company to disconnect the service in the case of Millstone vs. The Pacific Telephone and Telegraph Company, Decision No. 43458, dated October 25, 1949 (49 Cal. P.U.C. 178).

In the light of this record, we find that the telephone company exercised due care in taking the action it did, and we further find that this action was based upon reasonable cause as such term is used in Decision No. 41415, supra. However, inasmuch as there is no evidence to introduce concerning the actual use made or to be made of the telephone service, and, in view of the affidavits made in the complaints, we must give the complainant the benefit of the established presumptions of the law. Therefore, we find on this record that petitioner is entitled to continued telephone service, subject, of course, to all rules and regulations of the telephone company and to the existing applicable law.

O R D E R

The two complaints of Henry Kosar against The Pacific Telephone and Telegraph Company having been filed, the parties having entered into stipulations, and the Commission being fully advised in the premises and basing its decision on the evidence of record in these cases,

IT IS HEREBY ORDERED that the orders in Decisions Nos. 42769 and 42771, both dated April 20, 1949, temporarily restoring telephone service to complainant, be made permanent, such restoration being subject to all rules and regulations of the telephone company and to the existing applicable law.

The effective date of this order shall be twenty (20) days after the date hereof

Dated at San Francisco, California, this 19th day of September, 1950.

R. F. [Signature]
James F. [Signature]
Carl H. [Signature]

COMMISSIONERS