

ORIGINAL

Decision No. 45059

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

J. Z. CHRISTENSEN,

Complainant,

vs.

Case No. 5065

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

O P I N I O N

The complaint herein alleges that, on or about the 31st day of March, 1949, the telephone facilities of complainant were disconnected by respondent telephone company 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 alleges that the telephone facilities were not used in violation of the law and that he will suffer irreparable injury, hardship, and financial loss by being deprived of these telephone facilities.

An order granting temporary interim relief was issued by this Commission on April 22, 1949, in Decision No. 42791, directing respondent telephone company to restore the facilities in question pending a hearing on the complaint. This restoration was effected and subsequently the telephone company filed an answer

to the complaint, 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 No. 4930 (47 Cal. P.U.C. 853).

The parties hereto have now signed and filed a stipulation 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 this case 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 affidavit

made in the complaint, 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 duly authorized rules and regulations of the telephone company and to the existing applicable law.

ORDER

The complaint of J. Z. Christenson against The Pacific Telephone and Telegraph Company having been filed, the parties having entered into a stipulation, and the Commission being fully advised in the premises and basing its decision on the evidence of record in this case,

IT IS HEREBY ORDERED that the order of this Commission in Decision No. 42791, dated April 22, 1949, temporarily restoring telephone service to complainant, be made permanent, such restoration being subject to all duly authorized 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 28th day of November, 1950.

[Signature]
Justus F. Calmes
[Signature]
Harold H. Hill
[Signature]
Permitt P. Potter
COMMISSIONERS