

ORIGINAL

Decision No. 45144

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEWIS STAVIS, et al <sup>(1)</sup> )  
 )  
 )  
 ) Petitioners, )  
 )  
 ) vs. )  
 )  
 ) THE PACIFIC TELEPHONE AND TELEGRAPH )  
 ) COMPANY, a corporation, )  
 ) Defendant. )

Cases Nos.

- 5015 5048
- 5022 5049
- 5025 5050
- 5026 5051
- 5027 5052
- 5028 5053
- 5029 5054
- 5030 5057
- 5031 5058
- 5032 5059
- 5033 5060
- 5034 5061
- 5036 5063
- 5037 5064
- 5038 5066
- 5039 5069
- 5040 5070
- 5042 5071
- 5044 5072
- 5047 5091

<sup>(2)</sup>  
 Ralph L. Welsh for petitioners .Lawler, Felix and  
 Hall, and Pillsbury, Madison and Sutro, by Leslie C. Tupper, for  
 defendant.

O P I N I O N

Each petitioner herein has filed a complaint alleging that, on a date set out therein, which in every instance occurred during the period March 16 to April 5, 1949, the telephone facilities of each petitioner were disconnected by defendant

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(1) See Appendix "A".  
 (2) At the hearing Mr. Welsh withdrew his appearance in Cases 5025, 5026, 5029, 5036, 5071, and 5072. These petitioners had individually signed stipulations which were presented by defendant.

telephone company, upon a representation by defendant that it had information to the effect that the telephone facilities concerned were being put to uses prohibited by the law. It is further alleged that the telephone facilities were not used in violation of the law and that each petitioner will 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 the dates and under the decision numbers set out in Appendix "A", directing defendant telephone company to restore the facilities in question pending a hearing on each complaint. In each case, restoration was effected and subsequently the telephone company filed answers to the complaints, the principal allegation of each being that the defendant 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 these subscribers 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).

Public hearings were held in these matters on December 11, 1950, before Examiner Syphers at Los Angeles, at which time the matters were submitted.

Each of the petitioners hereto entered into a stipulation with defendant 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 each 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 each complaint, we must give each petitioner the benefit of the established presumptions of the law. Therefore, we find on this record that each petitioner herein is entitled to continued telephone service, subject, of course, to all rules and regulations of the telephone company and to the existing applicable law.

APPENDIX "A"

<u>Case No.</u>	<u>Petitioner</u>	<u>Orders temporarily restoring service</u>	
		<u>Number</u>	<u>Date</u>
5015	Lewis Stavis	42805	4-26-49
5022	Leonard Heyne	42750	4-19-49
5025	Harry Mitzman	42746	4-19-49
5026	Kathryn Klitnick	42751	4-19-49
5027	Edith Franklin	42752	4-19-49
5028	Kenneth O. Leedom	42753	4-19-49
5029	Roy Donovick	42754	4-19-49
5030	Robert Larob	42755	4-19-49
5031	John W. Buford	42756	4-19-49
5032	Edward L. Star	42757	4-19-49
5033	Mrs. Henry Hirsh	42758	4-19-49
5034	Howard J. Sprague	42759	4-19-49
5036	M. Rubin	42760	4-19-49
5037	Herman Hoffman	42761	4-19-49
5038	L. D. Davis	42762	4-19-49
5039	Frank Naiditch	42763	4-19-49
5040	Robert Greenberg, co-partner in Little Club	42764	4-19-49
5042	Lester A. Wombacher	42768	4-20-49
5044	Berdie Conn	42770	4-20-49
5047	Lena Sherman	42773	4-20-49
5048	Harold Zubkoff	42774	4-20-49
5049	Maurine Jaynes, dba Florence Avenue Secretarial Service	42775	4-20-49
5050	Charles Ross	42776	4-20-49

APPENDIX "A" (Continued)

<u>Case No.</u>	<u>Petitioner</u>	<u>Orders temporarily restoring service</u>	
		<u>Number</u>	<u>Date</u>
5051	Sidney Pepperman	42777	4-20-49
5052	Henry A. Gronich	42778	4-20-49
5053	C. L. Handley	42779	4-20-49
5054	Donovan A. Himebaugh	42780	4-20-49
5057	Maurice Feldman	42783	4-22-49
5058	Theodore Michaud	42784	4-22-49
5059	E. S. Trimble	42785	4-22-49
5060	A. Bennett	42786	4-22-49
5061	Jack P. Kaye	42787	4-22-49
5063	Martha Hays	42789	4-22-49
5064	Mrs. J. Winstein	42790	4-22-49
5066	M. S. Martin	42792	4-22-49
5069	Sam Carbone	42808	4-26-49
5070	Caryl C. Clarke	42809	4-26-49
5071	Mrs. Helen Wagner	42810	4-26-49
5072	R. V. LeGrand	42816	5-2-49
5091	Chas. A. Byrne	42983	6-14-49

O R D E R

The above-entitled complaints 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 said cases,

IT IS HEREBY ORDERED that each and every order of this Commission in the decisions set out in Appendix "A", temporarily restoring telephone service to each complainant herein, 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 December, 1950.

R. E. Ingram  
Justus F. Craven  
Wesley L. Powell  
Harold P. Kule  
Herbert H. Patton  
 COMMISSIONERS