

ORIGINAL

Decision No. 45145

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HARRY DROBMAN and GOLDIE H.
FINN DROBMAN

Petitioners,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 5055

Marin T. Kristovich, for complainant. Lawler, Felix
& Hall, and Pillsbury, Madison & Sutro, by Leslie C. Tupper,
for defendants.

O P I N I O N

The complaint herein alleges that, on or about the 1st day of April, 1949, the telephone facilities of complainants 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 complainants further alleged that the telephone facilities were not used in violation of the law and that they would 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 20, 1949, in Decision No. 42781, 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).

Public hearings were held in this matter before Commissioner Huls and Examiner Syphors on December 8 and 11, 1950, at Los Angeles. On the last-named date the matter was submitted.

At the hearing the parties entered into 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 petitioners "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 petitioners 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 complainants the benefit of the established presumptions of the law. Therefore, we find on this record that petitioners are 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 complaint of Harry Drobman and Goldie H. Finn Drobman 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. 42781, 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 December, 1950.

[Signature]
Justice J. Calves
Wm. H. Powell
Harold H. Hild
[Signature]
 COMMISSIONERS