

ORIGINAL

Decision No. 45146

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HARRISON D. SQUIRES,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY, a corporation,)
)
 Defendant.)

CASE NO. 5016

HARRY TALSKY and MILLIE TALSKY)
)
 Complainants,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY, a corporation,)
)
 Defendant.)

CASE NO. 5021

UNIQUE COFFEE SHOP, by)
 P. CASACKY,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY, a corporation,)
)
 Defendant.)

CASE NO. 5073

Harrison D. Squires in propria persona, Raymond Tremaine
 for Harry Talsky and Millie Talsky, H. William Hess for Unique
Coffee Shop, complainants; Lawler, Felix & Hall and Pillsbury,
Madison & Sutro, by Leslie C. Tupper, for defendant.

O P I N I O N

Two of the complainants herein, Harry Talsky and Millie Talsky, and Harrison D. Squires, allege that, on March 31, 1949, and the third complainant, Unique Coffee Shop, alleges that, on April 1, 1949, the telephone facilities of each 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. It is further alleged that the telephone facilities were not used in violation of the law and that each complainant 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 May 2, 1949, in Decision No. 42815, in the matter of Harrison D. Squires, on Case No. 5016; on April 19, 1949, in Decision No. 42749, in the matter of Harry Talsky and Millie Talsky, on Case No. 5021; and on May 17, 1949, in Decision No. 42892, in the matter of Unique Coffee Shop, on Case No. 5073, directing respondent 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 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. 41115, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

Public hearings were held in these matters on December 8, 1950, before Commissioner Huls and 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. 41115, 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 complainant 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.

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 these cases,

IT IS HEREBY ORDERED that the orders of this Commission in Decisions Nos. 42815, dated May 2, 1949, on Case No. 5016, 42749, dated April 19, 1949, on Case No. 5021, and 42892, dated May 17, 1949, on Case No. 5073, temporarily restoring telephone service to each of the complainants 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. Dwyer
Arthur J. Casper
W. H. Darrill
Harold P. Kula
Herbert P. Potter
COMMISSIONERS