

ORIGINAL

Decision No. 45181

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALFRED A. BARNEY,

Complainant,

vs.

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, a corporation,

Respondent.

Case No. 5067

Percy V. Hammon and Alfred A. Barney for complainant.  
Lawler, Felix & Hall, and Pillsbury, Madison & Sutro, by John A. Sutro and Leslie C. Tupper, for respondent.

O P I N I O N

The complaint herein alleges that, on or about the 4th day of April, 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 petitioner 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.

An order granting temporary interim relief was issued by this Commission on April 22, 1949, in Decision No. 42793, 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. 41115, dated April 6, 1948, in Case 4930 (47 Cal. P.U.C. 853).

Public hearings were held in this matter before Commissioner Huls and Examiner Syphers on October 5 and 7, 1949, and December 8, 1950, at which times evidence was adduced and on the last-named date the matter was submitted.

At the hearing on October 5 and 7, 1949, the complainant testified that the telephone facilities concerned were, at no time, used in violation of the law. He pointed out that he had borrowed money from the Guarantee Finance Company on two occasions and that he had made monthly payments to that company in this connection. However, he contended that these were the only deals he had ever had with that company and testified that he did not telephone this company, and in support thereof pointed out that the amounts of his telephone bills indicated that he had very few long-distance calls. It would have been a long-distance call to telephone from complainant's home in Alhambra to the offices of the above-mentioned finance company.

At the hearing on December 8, 1950, complainant reiterated his previous assertions to the effect that the telephone facilities had never been used in violation of the law. The telephone company introduced in evidence, as Exhibit No. 1, a letter from the

Special Crime Study Commission on Organized Crime, dated March 1, 1949, addressed to the defendant telephone company. This letter advised the telephone company that evidence had been obtained to the effect that the Guarantee Finance Company was engaged in bookmaking activities, in violation of the laws of California, and further, that this complainant was an agent of said Guarantee Finance Company and was engaged in bookmaking. Upon this presentation the telephone company rested its case.

In view 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. This Commission has previously held that information received from the Crime Study Commission on Organized Crime of the State of California constituted 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). 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 testimony of complainant, we hereby find that this complainant 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 complaint of Alfred A. Barney 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. 42793, dated April 22, 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 19<sup>th</sup> day of December, 1950.

R. J. [Signature]  
Justus J. Casper  
Harold D. Lowell  
Harold P. Hulet  
Ferneth [Signature]  
COMMISSIONERS