

ORIGINAL

Decision No. 45739

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAM TWERIE, <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">vs.</p> THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, a corporation, <p style="text-align: center;">Respondent.</p>	}
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Case No. 5329

Sam Twerie in propria persona. Pillsbury, Madison & Sutro, by John A. Sutro, and Lawler, Felix & Hall, by L. B. Conant, for The Pacific Telephone and Telegraph Company.

O P I N I O N

The complaint alleges that the telephone facility of Sam Twerie at his residence at 4618 South Normandie Avenue in the City of Los Angeles was disconnected by the respondent telephone company on or about the 29th day of August 1951, and requests its reconnection on the grounds that the petitioner will suffer irreparable harm to his reputation, and great hardship as a result of the actions of respondent, and will suffer financial loss and humiliation unless such service is restored. The complaint further alleges that the complainant has no knowledge of the circumstances or facts upon which the respondent company acted in disconnecting the telephone facility.

An order granting temporary interim relief and directing restoration of the telephone facility pending a hearing on the petition herein filed was issued by this Commission by Decision No. 46249, dated October 2, 1951, in Case No. 5329.

Under date of October 8, 1951, the respondent telephone company filed an answer alleging that on or about September 4, 1951, it had reasonable cause to believe that the use made or to be made of the telephone service then being furnished to complainant under number AXminster 2-6181 was prohibited by law, and that on that date the service was being or was to be used as an instrumentality directly or indirectly to violate or to aid and abet the violation of the law, and that respondent, having such reasonable cause, was required to and did disconnect and discontinue the service pursuant to an order of the California Public Utilities Commission in Decision No. 41145, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held in Los Angeles on December 13, 1951, before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that, upon coming home on August 29, 1951, his wife advised him that the police had taken out the telephone and that charges of book-making had been filed against his wife and another woman who had been using this telephone. Further, he testified that about five days prior to August 29, 1951, his wife had made arrangements to permit this other woman, one Hazel Miller, to use the telephone, presumably to sell cosmetics.

A policewoman of the City of Los Angeles testified that on August 29, 1951, at about 2:00 P.M., the police went to the Twerie residence at 4618 South Normandie Avenue, and that she went upstairs and answered calls coming in on the telephone for about an hour. During this period there were about fifty calls relating to the placing of bets on horses, and the unknown voices placing the calls would ask for either Minnie or Hazel. There were present in the residence during all of this period Mrs. Minnie Twerie and Hazel Miller. Both of these women were arrested on charges of bookmaking, although the testimony further indicated that subsequently these charges were dismissed.

The Supervising Special Agent for the telephone company testified that under date of August 30, 1951, the telephone company received a letter from the Chief of Police of the City of Los Angeles, requesting that the telephone service AXminster 2-6181, at 4618 South Normandie Avenue in Los Angeles, be discontinued. Exhibit No. 1 is a copy of this letter.

Upon this record we find that the telephone company exercised due care in disconnecting the telephone facility, and we further find that this action was based upon reasonable cause, as such term is used in Decision No. 41415, supra. We further find that the telephone facility here in question,

number AXminster 2-6181, was being used as an instrumentality to aid and abet the violation of the law.

O R D E R

The complaint of Sam Twerie against The Pacific Telephone and Telegraph Company having been filed, public hearing having been held thereon, the matter now being ready for decision, and the Commission being fully advised in the premises and basing its decision upon the evidence of record in this case and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be denied, and that the said complaint be, and it hereby is, dismissed. The temporary interim relief granted by Decision No. 46249, dated October 2, 1951, in Case No. 5329, is hereby set aside and vacated.

IT IS FURTHER ORDERED that, upon the expiration of sixty (60) days after the effective date of this order, The Pacific Telephone and Telegraph Company may consider an application for telephone service from the complainant herein on the same basis as the application of any new subscriber.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 13th day of February, 1952.

[Signature]
President
Justice F. Coe
Harold Hule
[Signature]
[Signature]
Commissioners