

Decision No. 49142**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CELIA BERG,

Complainant,

vs.

Case No. 5487

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

James M. Thueson, attorney for complainant.Pillsbury, Madison & Sutro, by Noble K. Gregory
for defendant.C. M. Ozias, City Attorney of Fresno for City of
Fresno and City of Fresno Police Department,
interested parties.O P I N I O N

The complainant herein is the operator of the premises known as the "May Hotel" located at 1226 E Street, Fresno, California. Telephone service is furnished by defendant to complainant at the above address under the number Fresno 4-0274.

The complaint alleges that prior to July 17, 1953, complainant was a subscriber and user of telephone service furnished by defendant at the address and under the number above specified. It further alleges that on or about July 17, 1953 the telephone facilities of complainant were disconnected by a member of the police department of the City of Fresno who claimed said telephone facilities were being used by complainant for illegal purposes, namely, solicitation for prostitution, which charges are and at all times have been untrue. It is alleged further that complainant will suffer irreparable injury and hardship as a result of being deprived of said telephone facilities which are necessary because of

complainant's physical condition to enable her to make calls to doctors and to transact other legitimate business. Restoration of the telephone facilities under number Fresno 4-0274 was requested.

On August 25, 1953, by Decision No. 49017, in Case No. 5487, the Commission issued an order granting temporary interim relief directing the defendant company to restore telephone service to complainant pending hearing on said complaint.

A public hearing was held on September 11, 1953 in Fresno before Examiner Howard at which time and place evidence was adduced and the matter submitted. It is now ready for decision.

The complainant testified that she operated a 27-room hostel known as the May Hotel at 1226 H Street in Fresno. She stated that six of the rooms she uses for her own living quarters and the telephone having number Fresno 4-0274 is situated in such quarters. She said that she was in her rooms most of the time because she is crippled with arthritis but that she permitted tenants to come into her living area to use the telephone. Complainant testified that such telephone had never been used for any unlawful purpose to her knowledge.

Four police officers and the Chief of Police of Fresno gave testimony concerning the May Hotel. The first officer testified that in January of 1951 he participated in a raid on the hotel and arrested a woman working there, whom complainant said was a transient employed as a housemaid. The woman arrested was charged with prostitution and according to the witness later pleaded guilty.

The second policeman to testify told of a visit to the May Hotel in August of 1951 when a woman was arrested in the garage in back of the premises and charged with vagrancy and held for quarantine. He stated that he inspected the hotel thoroughly on that occasion but saw no roomers nor any sign that there had been

occupants living therein. He said all of the beds were made and the closets were empty.

The third officer to be a witness told of visiting the May Hotel on May 28, 1953 when he succeeded in obtaining admission after showing identification to complainant through a sliding panel in the door at the top of the second floor. He was shown into a room where he waited a short time until a young woman came in who told him he must pay five dollars. The witness did so with a marked \$5 bill and was told to wait a few minutes. This woman returned after a short interval and removed her clothing. The witness then arrested her. Thereafter, this witness and another officer searched the premises but were unable to find the marked money. The woman in question was not prosecuted.

The fourth police officer to testify was the one who assisted in the search of the May Hotel on May 28, 1953. He stated he had checked the premises at least once a week during the day since that time in the course of his duties with the vice squad and had never seen roomers therein. He has tried several times at night to gain admittance, so he stated, but without success. The street door, he says, is locked at 6:30 p.m., no one answers knocks thereon or the bell and no light can be seen in the hotel from outside.

The Fresno Police Chief testified that numerous reports had been received that the May Hotel was being used for purposes of prostitution and that he had had it under surveillance for some two and a half years. He stated that after trying for about a month an operative succeeded by telephone in making an appointment at the May Hotel. He stated this operative would have been willing to testify but he was drafted into the Army and was no longer available. The Chief stated that he believed the May Hotel was

being operated on a "sneak" basis "by a select group clientele" for purposes of prostitution and that "contacts are made over the phone." By letter dated July 8, 1953 he so advised the defendant company and requested that telephone service be disconnected in accordance with Decision No. 41415 of the California Public Utilities Commission.

Defendant after receiving such letter (Exhibit No. 2 in this case) advised complainant that her telephone facilities would be disconnected and subsequently did cause service to be discontinued. The defendant company takes the position that it acted upon reasonable cause in so disconnecting said telephone service.

After fully reviewing the evidence of record the Commission is of the opinion and finds that the defendant company's action in disconnecting the telephone service in question was based upon reasonable cause as that term is used in Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

It is further found that though it may be suspected or inferred that prostitution has been practiced at the May Hotel, the evidence in this case fails to establish that the telephone facilities under number Fresno 4-0274 are or were used for the purpose of promoting prostitution or as an instrumentality to violate or to aid and abet the violation of the law. Consequently, it is found that the complainant is entitled to continue to receive telephone service in accordance with defendant's filed tariff rates and rules and the existing applicable law and that the order granting temporary interim relief should be made permanent.

O R D E R

The complaint of Celia Berg 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,

IT IS ORDERED that the order of this Commission in Decision No. 49017, dated August 25, 1953, in Case No. 5487, temporarily restoring telephone service to complainant is continued and made permanent.

IT IS FURTHER ORDERED that said telephone service in question is to be provided in accordance with defendant's filed tariff rates and rules and the existing applicable law.

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

Dated at San Francisco, California, this 29th day of September, 1953.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

Commissioner Harold P. Huls, being necessarily absent, did not participate in the disposition of this proceeding.