

49143

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ANNA GOLD,

Complainant,

vs.

Case No. 5480

PACIFIC TELEPHONE AND TELEGRAPH COMPANY)
(Fresno Branch),

Defendant.

Nathan Guthertz, 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

Complainant is the operator of a rooming house, known as the "Rainbow Rooms" located at 1428 Tulare Street, Fresno, California. Telephone service is furnished by defendant to complainant at the above premises under the number Fresno 4-4289.

On or about July 15, 1953, the complainant received a letter from defendant informing her that the telephone hereinbefore mentioned was to be disconnected because defendant had been advised that such telephone was being used as an instrumentality to violate or to aid and abet the violation of the law. The complaint filed herein, on July 31, 1953, alleged the status of complainant, the receipt of the letter from defendant and the disconnection by defendant, on July 17, 1953, of said telephone facilities. It further alleged "that complainant has not, at any time, used, or attempted to use, the communication facilities of defendant company, as an instrumentality to violate or to aid and abet the

violation of the law" and, further, that complainant because of her physical condition will suffer irreparable injuries and damages because of the disconnection of said telephone facilities. Restoration of the telephone facilities under number Fresno 4-4289 was requested.

On August 6, 1953, by Decision No. 48920, in Case No. 5480, 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 10, 1953 in Fresno before Examiner Howard when and where evidence was received and the matter duly submitted. It is now ready for decision.

Complainant testified that she operated a rooming house at 1428 Tulare Street in Fresno, which contained 17 rooms and her own living quarters. In the latter was located the telephone having the number Fresno 4-4289. The witness stated that on the few occasions when she left the premises the telephone, which had an extension cord, was placed in the hall outside her door so that it could be used by tenants in case of emergency. Complainant testified that the telephone in question had never to her knowledge been used for any unlawful purpose.

An officer of the Fresno Police Department testified that one night in March of 1953 it was reported that a woman was seen going in and out of bars in the vicinity of the "Rainbow Rooms" and then into that rooming house. He stated that he and another officer investigated the area but saw nothing suspicious. However, they entered complainant's rooming house and with her cooperation searched all of the rooms therein. All were occupied by registered male roomers except one, in which they discovered a fully clothed, unmarried 22-year-old, white, female reading a magazine. It was

stated that she had been staying in the rooming house for three days and had come from San Francisco. The witness testified this woman was charged with vagrancy.

The Chief of Police of Fresno testified that reports had been received that the "Rainbow Rooms" were being used for purposes of prostitution and that a prostitute was using the telephone in the premises to make appointments. He stated that he wrote a letter on July 8, 1953, Exhibit No. 2 in this case, to the defendant company advising that investigation of repeated rumors disclosed that the telephone communication facilities at 1428 Tulare Street, Fresno, were being used to promote prostitution and requesting that telephone service be disconnected at that address in accordance with Decision No. 41415 of the California Public Utilities Commission.

Defendant as a result of receipt of the letter from the Chief of Police advised complainant that the telephone facilities would be discontinued and subsequently terminated the service. It is the position of the defendant telephone company that it acted upon reasonable cause in disconnecting said telephone service.

After thorough consideration of 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 the evidence of record fails to establish that the telephone facilities under number Fresno 4-4289 are or were used 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 Anna Gold 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. 48920, dated August 4, 1953, in Case No. 5480, is continued and made permanent.

IT IS FURTHER ORDERED that said telephone service here 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.

R. Z. [Signature]
President
James J. [Signature]
[Signature]
[Signature]

Commissioners

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