

ORIGINALDecision No. 50027

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MAUDE E. DOMIS)

Complainant,)

vs.)

THE PACIFIC TELEPHONE AND)
TELEGRAPH COMPANY, a corporation,)

Defendant.)

Case No. 5524

Maude E. Domis in propria persona. Pillsbury,
Madison and Sutro, by John A. Sutro, and Lawler,
Felix & Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint alleges that Maude E. Domis, who resides at 4015 Verona Street, Los Angeles 23, California, prior to February 5, 1954, was a subscriber and user of telephone service furnished by defendant company under number ANgelus 1-3011. On or about February 5, 1954, these telephone facilities were disconnected by officers of the Los Angeles County Sheriff's Office. The complainant has made demand upon the defendant telephone company to restore service, but it has refused to do so. It is further alleged that the complainant has suffered and will suffer great hardship as a result of being deprived of the telephone facilities in question, and further that she did not use and does not now intend to use said telephone facilities as an instrumentality to violate the law.

Under date of February 23, 1954, this Commission, by Decision No. 49714, issued an order granting temporary interim relief, directing the telephone company to restore telephone service to complainant pending a hearing on the matter. On March 4, 1954, the telephone company filed an answer, the principal allegations of which were that the defendant telephone company had reasonable cause to believe that the use made or to be made of the telephone service furnished to complainant under number Angelus 1-3011 at 4015 Verona Street, Los Angeles, California, 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, having such reasonable cause, defendant was required to disconnect the service pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held in Los Angeles on April 22, 1954, before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that she was away from her residence on February 5, 1954, but upon her return home about 6:30 p.m. she found the telephone had been removed. One Donald Eugene Fiscus, who also lives at that address, testified that he was there on February 5, 1954, and that about 3:30 p.m. deputies from the Los Angeles County Sheriff's Office entered the premises, stayed there for about an hour, and upon leaving took the telephone with them. Both the complainant and Fiscus testified that they had not and did not intend to use the telephone for book-making purposes. It was further pointed out that the officers had made no arrests and no charges were filed against either the

complainant or Fiscus.

A deputy sheriff of the Los Angeles County Sheriff's Office testified that he, in the company of other officers, entered these premises at about 3:30 p.m. on February 5, 1954, and that upon entering they found Donald Eugene Fiscus present. While they were in the premises the telephone rang on several occasions, the officers answered it and received bets on horse races. Inasmuch as they found no betting markers, no arrest was made. Fiscus further stated that he had no occupation, and had previously been arrested for bookmaking.

Exhibit No. 1 is a copy of a letter dated February 5, 1954, from the Sheriff of Los Angeles County to the telephone company, requesting that telephone service under number ANGelus 1-3011 at 4015 Verona Street, be disconnected. Subsequently the telephone company did effect a central office disconnection. The position of the telephone company was that it had acted with reasonable cause in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After a consideration of this record we now find that the telephone company's action was based upon reasonable cause, as such term is used in Decision No. 41415, supra. We further find that the telephone facilities here in question were used as an instrumentality to aid and abet the violation of the law.

O R D E R

The complaint of Maude E. Domis 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 on the evidence of record 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. 49714 in Case No. 5524 is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the date of this order the complainant herein may file an application for telephone service, and if such filing is made The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 4015 Verona Street, Los Angeles 23, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

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

Dated at Los Angeles, California, this 11th day of May, 1954.

John E. Mitchell
President
Justus J. Cameron
Samuel J. Foster
Gene Higgins
Commissioners