

ORIGINAL

Decision No. 50065

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SALVATORE BADAGLIACCO,

Complainant,

vs.

Case No. 5529

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

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 Salvatore Badagliacco, who resides at 2455 Griffin Avenue, Los Angeles 31, California, prior to February 18, 1954 was a subscriber and user of telephone service furnished by defendant company under numbers Capitol 2-5994 and Capitol 1-8822. On or about February 18, 1954, these telephone facilities were disconnected by officers of the Los Angeles City Police Department. The complainant had 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 he did not use and does not now intend

to use, nor does he have any knowledge that any other persons have used the said telephone facilities as an instrumentality to violate the law.

Under date of March 9, 1954, by Decision No. 49766 in Case No. 5529, this Commission issued an order granting temporary interim relief, directing the telephone company to restore service under number CAPITOL 1-8822. On March 22, 1954 the defendant telephone company filed an answer, the principal allegation of which was that the telephone company had reasonable cause to believe that the telephone service furnished to the complainant under number CAPITOL 1-8822 at 2455 Griffin Avenue 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 the 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 before Examiner Syphers on May 7, 1954, at which time evidence was adduced and the matter submitted.

At the hearing there was no appearance for the complainant, neither at the first call at 10 a.m., nor at the second call at 11 a.m. The file discloses that notice of the hearing was sent to complainant by registered mail on April 28, 1954. The defendant telephone company introduced in evidence Exhibit No. 1, a copy of a letter from the Los Angeles City Chief of Police to the defendant telephone company dated

February 19, 1954, requesting that telephone service under numbers Capitol 2-5994 and Capitol 1-8822, at 2455 Griffin Avenue, 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 full consideration of this record we now find that the action of the telephone company was based upon reasonable cause, as such term is used in Decision No. 41415, supra. Inasmuch as there was no appearance by the complainant, the complaint herein will be dismissed and the order granting temporary interim relief will be dissolved.

O R D E R

The complaint of Salvatore Badagliacco 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 complaint filed herein be and it hereby is dismissed. The temporary interim relief

granted by Decision No. 49766 in Case No. 5529 is hereby set aside and vacated.

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

Dated at San Francisco, California,
this 18th day of May, 1954.

John E. Mitchell
President

Justin J. Casner

Samuel P. Patten

James J. Higgins

Commissioners