

ORIGINAL

Decision No. 50066

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ANTHONY C. MOSCATI,

Complainant,

vs.

Case No. 5522

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 Anthony C. Moscati, who now resides at 7720 Hollywood Boulevard, Hollywood, California, prior to December 17, 1953 was a subscriber and user of telephone service furnished by defendant company under number Hollywood 3-3824 at 8051 Willow Glen Road, Los Angeles. On or about December 17, 1953 these telephone facilities were disconnected by the Los Angeles Police Department. 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 he did not use and does not now intend to use said telephone facilities as an instrumentality to violate the law.

Under date of February 16, 1954 this Commission by Decision No. 49679 issued an order granting temporary interim relief, directing the telephone company to restore telephone service to complainant pending a hearing on the matter. On February 26, 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 telephone service furnished to complainant under number Hollywood 3-3824 at 8051 Willow Glen Road, 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 (Cal. P.U.C. 853).

A public hearing was held in Los Angeles on April 29, 1954 before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing there was no appearance for the complainant Moscati. A representative of the telephone company testified that after the issuance of Decision No. 49679 an agent of the telephone company attempted to effect restoration of the telephone service but was unable to locate the complainant.

A police officer of the City of Los Angeles testified that on December 17, 1953 at 2:30 p.m., he, in the company of two other officers, entered the premises at 8051 Willow Glen Road, Los Angeles, California, and there found the complainant

Moscati, another man named Brill, and a woman named Tsimpedes. They found a piece of paper containing approximately 80 wagers on horse races, and while there they answered the telephone on numerous occasions and received bets on horses. Whereupon both Moscati and Brill were arrested.

Exhibit No. 1 is a copy of a letter from the Police Department dated December 18, 1953, requesting that the telephone service at 8051 Willow Glen Road under number Hollywood 3-3824 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, inasmuch as it had received the letter designated as Exhibit No. I.

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 Anthony C. Moscati 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 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. 49679 in Case No. 5522 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

Justus D. Calver

Kenneth Potter

Verne Higgins

Commissioners