

ORIGINALDecision No. 50085

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THOMAS HRISTRICH and
DEAN R. DOUGLASS,

Complainants,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 5534
Amended Complaint

Thomas Hristrich and Dean R. Douglass, in propria
persona.
 Pillsbury, Madison & Sutro, by Douglass A. Zinke,
 for defendant.

O P I N I O N

The amended complaint alleges that Thomas Hristrich and Dean R. Douglass were subscribers and users of telephone service of defendant under number Prospect 6-2484 at 220 Turk Street, San Francisco, California, and that about the twenty-fourth day of February, 1954 this telephone facility was disconnected by defendant. The complaint further alleges that complainants did not use and do not now intend to use any telephone facility as an instrumentality to violate the law, nor in aiding or abetting such violation; that defendant telephone company has refused to restore service even though demand has been made upon it to do so; and that as a result, complainants have suffered and will suffer irreparable injury and great hardship.

The telephone company filed an answer to the amended complaint on April 12, 1954, the principal allegations of which were that it had reasonable cause to believe that the telephone facility in question was being used to violate the law and that, accordingly, the telephone company disconnected and discontinued the telephone

service pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

Public hearing was held in San Francisco on May 18, 1954 before Examiner Rowe at which time, after the receipt of evidence introduced by complainants and defendant, the matter was duly submitted for decision.

Both complainants testified that they were innocent of any wrong doing or of any improper use of the telephone facilities at their place of business. One of their customers, according to information learned from the newspapers, was arrested February 12, 1954 by federal officers while allegedly using the public telephone in a booth at their bar for bookmaking. Both complainants stated that they had no knowledge of the customer's alleged illegal acts and that his said arrest was made while they were absent from the premises.

A supervising special agent of The Pacific Telephone and Telegraph Company testified that the telephone company had received a letter from the U. S. Treasury Department on February 18, 1954, advising that the telephone facilities at complainants' place of business were being used for an unlawful purpose and requesting that the facilities be disconnected. Resultantly, these facilities were disconnected effective February 24, 1954.

After consideration of this matter, we are of the opinion and hereby find that defendant telephone company had reasonable cause to believe that the use made or to be made of the telephone facilities in question was prohibited by law, inasmuch as the letter from the U. S. Treasury Department constitutes such reasonable cause under the terms of said Decision No. 41415. The Commission further finds, as indicated by the uncontradicted evidence of record, that neither of the complainants had any knowledge of any unlawful use

of telephone facilities at 220 Turk Street, San Francisco 2, California and consequently since complainants are suffering and will suffer hardship unless the requested relief be granted, that the telephone service previously furnished by defendant under telephone number Prospect 6-2484 should be immediately restored. Consequently the effective date of the order herein should be five days after the date hereof.

The amended complaint of Thomas Hristrich and Dean R. Douglass 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 and the findings herein,

IT IS ORDERED:

That The Pacific Telephone and Telegraph Company be, and it hereby is, directed to forthwith restore the telephone service under number Prospect 6-2484 to complainants pursuant to defendant's filed tariff, rates and rules applicable thereto.

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

Dated at San Francisco, California, this 25th day of May, 1954.

John E. Mitchell
President

Justice J. Brewer

Benjamin D. Potter

Verne Higgins

Commissioners