

ORIGINAL

Decision No. 50204

BEFORE THE PUBLIC-UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GABRIELLA EGGNAUER,

Complainant,

vs.

Case No. 5539

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Mildred Gilmore for complainant. Pillsbury, Madison
& 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 Gabriella Eggnauder of 433 East 76th Street, Los Angeles, California, prior to March 30, 1954, was a subscriber and user of telephone service furnished by the defendant company under number PLeasant 8-4891. On or about March 20, 1954 these telephone facilities were disconnected by police officers of the City of Los Angeles. The complainant has made demand upon the defendant telephone company to restore service but it has refused to do so. It is also alleged that complainant will suffer irreparable injury and great hardship if she is deprived of the use of her telephone, and further that she did not use and does not now intend to use the telephone facilities as an instrumentality to violate the law.

Under date of April 13, 1954, this Commission, by Decision No. 49908 in Case No. 5539, issued an order granting temporary interim relief directing the telephone company to restore telephone service to complainant pending a hearing on the matter. On April 23, 1954 the telephone company filed an answer, the principal allegation of which was that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853) the telephone company had reasonable cause to believe that the telephone service furnished to complainant under number Pleasant 8-4891 at 433 East 76th 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.

Public hearing was held in Los Angeles on June 16, 1954, before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that she now lives at 820 East 76th Place, Los Angeles, and had a telephone there under number Kimball 3525. She moved to this new address about a month ago from 433 East 76th Street, and in moving had the telephone service of the prior address transferred. At the prior address she operated an apartment court, living in one of the apartments herself. During the month of January, 1954, a woman by the name of Kay Casey moved into complainant's apartment, and six or eight days later rented a vacant apartment adjacent thereto. On or about March 11, 1954, while complainant was cleaning Kay Casey's apartment, police officers of the City of Los Angeles came to this apartment court, interviewed the complainant in Kay Casey's apartment, and then went to complainant's

apartment where they removed an extension telephone. The complainant was arrested on suspicion of bookmaking but subsequently was released on a writ of habeas corpus, and was never thereafter convicted. The complainant testified that she did not use and does not now intend to use the telephone for bookmaking or any unlawful purpose. She further testified that she had now moved from this apartment court and desired and needed a telephone at her new address.

Exhibit No. 1 is a copy of a letter dated March 16, 1954, from the Chief of Police of Los Angeles to the defendant telephone company, requesting that telephone service under Pleasant 8-4891, at 433 East 76th Street, be disconnected.

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. Inasmuch as there is no evidence connecting complainant with any illegal use of the telephone, and inasmuch as complainant testified she did not use nor does not now intend to use telephone facilities for unlawful purposes, there is no reason why she should now be deprived of telephone facilities. However, since complainant no longer resides at 433 East 76th Street, the complaint has become moot and for this reason will be dismissed. This action is being taken without prejudice to complainant's right to have telephone facilities at her new address in accordance with the rules and regulations of the telephone company and the existing applicable law.

O R D E R

The complaint of Gabriella Eggnauer against The Pacific Telephone and Telegraph Company having been filed, public hearing having been held thereon, the matter now being ready for decision, 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 complaint herein be and it hereby is dismissed. The temporary interim relief granted by Decision No. 49908 in Case No. 5439 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 29 day of June, 1954.

Robert E. Mitchell
President

Justin J. Calmes

Wesley Peggins

Commissioners

Kenneth Potter
Commissioner....., being
necessarily absent, did not participate
in the disposition of this proceeding.