

**ORIGINAL**

Decision No. 51725

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SIMON TASEJIAN,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant

Case No. 5626

W. M. Finney, Jr. for complainant.  
Pillsbury, Madison & Sutro, John A. Sutro and  
Dudley A. Zinke for defendant.

O P I N I O N

The complainant alleges that prior to February 11, 1955, he was a subscriber and user of telephone service furnished by defendant company under the number Valencia 4-3919 at 2584 Mission Street, San Francisco, California and that on February 11, 1955, defendant disconnected these telephone facilities upon the assertion that they were being used as an instrumentality to violate the law. The complaint further alleges that complainant has not used and does not intend to use these telephone facilities for any unlawful purpose, and that the telephone company has refused to restore service though demand has been made upon it to do so. As a result, complainant contends he has suffered and will suffer irreparable injury and great hardship.

Under date of March 8, 1955, by Decision No. 51180, in Case No. 5626, this Commission issued an order granting temporary interim relief, directing the telephone company to restore the above-described service pending a hearing on the complaint.

The telephone company filed an answer on March 16, 1955, the principal allegation of which was that the telephone company

had reasonable cause to believe that the telephone facilities in question were 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 June 15, 1955, before Examiner Rowe, at which time evidence was adduced and the matter submitted.

Complainant testified that he has been engaged in business in this neighborhood for approximately 20 years and has been operating a liquor business at 2584 Mission Street, San Francisco, for two years; that he has used the telephone both for the placing of orders for merchandise and for personal reasons. He further testified that he has never used this telephone for any illegal purpose and does not intend to do so; that no complaint has been served on him; and that he has not been arrested on any charge connected with any illegal use of this telephone. Service was temporarily restored March 11, 1955 pursuant to Decision No. 51180, dated March 8, 1955, in this Case No. 5626.

The position of the telephone company was that it had acted upon reasonable cause in removing the telephone inasmuch as it had received a letter from the Chief of Police of the City and County of San Francisco, dated February 9, 1955, requesting that the telephone facilities be disconnected because investigation by his office disclosed that it was used in connection with bookmaking. Exhibit 2 is a copy of this letter. The introduction of this letter into evidence against him was objected to by complainant upon the ground that as to him it constituted hearsay. This objection was sustained and the document was received in evidence for the sole and limited purpose of justifying the action of the telephone company.

In the light of this record we find that the action of the defendant telephone company was based upon reasonable cause, as such term is used in said Decision No. 41415. We further find that there is no evidence to support a conclusion that the complainant herein has used, or now intends to use, the telephone facilities above described for any illegal purpose. Therefore, complainant is entitled to a permanent restoration of telephone service.

O R D E R

The complaint of Simon Tashjian against The Pacific Telephone and Telegraph Company, a corporation, having been filed, public hearing having been held thereon, 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 order in Decision No. 51180 in the above-numbered case, dated March 8, 1955, temporarily restoring telephone service to complainant, be made permanent.

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

Dated at Los Angeles, California, this 18th day of July, 1955.

Justin J. Creswell  
President  
Paul W. Lutz  
Thomas J. Kelly  
R. H. Kelly

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.