

Decision No. 54226

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Henry F. Cannon,)
)
 Complainant)
)
 vs.)
)
 The Pacific Telephone and)
 Telegraph Company, a)
 corporation,)
)
 Defendant.)

Case No. 5811

Michael Lewton, for complainant.
John A. Sutro, Dudley A. Zinke and Pillsbury,
Madison & Sutro, for defendant.
William R. Ninnis, for the San Francisco
 Police Department, interested party.

O P I N I O N

This complaint, filed August 22, 1956, alleges that Henry F. Cannon was a subscriber and user of telephone service furnished by defendant, under the number Underhill 1-9956, at the Home Hotel, 68 Sixth Street, San Francisco, which he and his wife manage; that on or about June 12, 1955, said telephone service was disconnected by defendant; that although demand has been made upon defendant for the restoration of said facilities, the defendant has refused to restore said facilities; that because of such refusal, complainant has suffered a loss of income and has received many complaints from guests of his hotel regarding the lack of telephone service; and that he has suffered embarrassment and inconvenience as a result of the lack of said telephone service. Complainant further alleged that he is engaged in a legitimate business and that on the restoration of service he will utilize the telephone only for legitimate business communications.

On August 29, 1956, by Decision No. 53669, this Commission issued an order directing the telephone company to restore service to complainant pending hearing on the matter.

Public hearing was held in San Francisco before Examiner Rowe on November 7, 1956, at which time evidence was adduced and the matter was duly submitted.

Henry F. Cannon testified that he and his wife manage the 32-room Home Hotel at the above-stated location. He stated that several guests had moved out because of the fact that no telephone services were there available and that others had refused to move in for the same reason. He admitted that about three years ago he had pleaded guilty to a charge of soliciting for prostitution and has been placed on probation.

As a result of his arrest, a few days before the removal of the telephone, he was tried and convicted of violation of Section 240a of the San Francisco Police Code, under charge of soliciting in connection with prostitution. For this offense he served a term of sixty days in the county jail.

He testified that he had performed no illegal activity at the hotel and had never used the telephone for an illegal act. As corroboration of his testimony, his wife testified that to her knowledge the telephone had never been used for an unlawful purpose and that she would see to it that it would never be so used. Pursuant to Decision No. 53669, defendant restored service to complainant under telephone number Underhill 3-1921.

Exhibit No. 1 is a letter dated June 8, 1955, from George M. Healy, Acting Chief of Police of the City and County of San Francisco, to the defendant telephone company stating that investigation by his office disclosed that communication facilities furnished by said company, at 68 Sixth Street, Apt. 6, San Francisco,

telephone number Ho. 1-9956, were, on June 8, 1955, being used for the purpose of procuring women for prostitution in violation of the vice laws of the State and of the City. The telephone facilities are alleged in the answer to have been Hemlock 1-9956 as stated in the letter from the Acting Police Chief, rather than Underhill 1-9956 as alleged in the complaint. The evidence of record supports the allegation of defendant.

The position of the telephone company was that as a result of the receipt of Exhibit No. 1 it acted with reasonable cause, as that term is defined in Decision No. 41415, dated April 6, 1948, in Case No. 4930, in disconnecting and refusing to reconnect the service until ordered to do so by this Commission.

The officer who originally investigated this matter testified that as a member of the Police Department's Bureau of Special Services, on June 7, 1955, he talked with complainant at the Home Hotel, 68 Sixth Street, San Francisco. He stated that complainant at that time promised to arrange for him to meet a young woman at another location, and that this arrangement was to have been made over the telephone. The promise to use the telephone was denied by complainant in his rebuttal testimony.

The Commission is of the opinion and finds that the corroborative evidence which was lacking in support of the complaint filed by complainant in Case No. 5750 has now been adduced by him. It is our opinion that in spite of complainant's denial thereof he did undertake to use his telephone for an illegal purpose on June 7, 1955. However, in view of the other evidence of record, including the improbability that complainant after suffering such a long period of not having telephone service as a result of his improper use of the telephone would again place such use in jeopardy, we are of the opinion and find that the telephone services now furnished to complainant will not in the future be used for an unlawful purpose.

We find, therefore, that complainant is now entitled to restoration of telephone service. ✓

The finding of the Commission in Decision No. 53304, dated June 26, 1956, in Case No. 5750, that the telephone company's action was based upon reasonable cause is affirmed.

O R D E R

The complaint of Henry F. Cannon against The Pacific Telephone and Telegraph Company having been filed, a public hearing having been held thereon, the Commission being fully advised and basing its decision on the evidence of record,

IT IS ORDERED that the order of the Commission in Decision No. 53669, temporarily restoring telephone service to complainant, be made permanent, such restoration being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

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

Dated at San Francisco, California, this 11th day of DECEMBER, 1956.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners