

ORIGINAL

Decision No. 52709

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GUS SOLDAVINI,

Complainant,

vs.

Case No. 5704

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY,

Defendant.

Harry V. Leppeck, for complainant. Pillsbury, Madison & Sutro and Lawler, Felix & Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint, filed on December 7, 1955, alleges that Gus Soldavini, complainant herein, owns and operates a cafe business at 960 South Gehart (sic) Avenue, Los Angeles, California; that there is located therein a telephone with the number Parkview 1-6783; that on or about November 21, 1955, the defendant The Pacific Telephone and Telegraph Company removed said telephone from said premises on an alleged order of the police authorities asserting that said telephone was used for booking; that said charge is false; and that said telephone is used exclusively in operating the cafe. The complainant requests that the defendant be forthwith ordered to restore the telephone service.

On December 20, 1955, 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) defendant on or about November 21, 1955, had reasonable cause to believe that the telephone service furnished by defendant under number Parkview 1-6783 at 960 South Gerhart Avenue, 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.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on February 14, 1956, and the matter was submitted.

The complainant testified that he owns and operates a cafe at 960 South Gerhart, Los Angeles; that he has been in business at that location for ten years; that some time prior to November 21, 1955, police officers entered his place of business and placed him under arrest; that the officers found no betting paraphernalia, and received no telephone calls; that the officers removed the telephone; that he has never used the telephone to place bets or to receive bets; that to his knowledge no employee ever used the telephone to place or to receive bets; and that he needs the telephone to conduct his business.

Exhibit No. 1 is a copy of a letter from the Sheriff of Los Angeles County to the telephone company requesting that the telephone facilities be disconnected. A supervising special agent of the telephone company testified that this letter was received on November 14, 1955, and a central office disconnection was effected shortly thereafter, pursuant to that request. 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 that term is used in Decision No. 41415, referred to supra. We further find that there is no evidence that complainant was engaged in, was directly connected with, or permitted, the telephone to be used for illegal purposes. The complainant is entitled to restoration of telephone service. It will be so ordered.

O R D E R

The complaint of Gus Soldavini against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a 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 Pacific Telephone and Telegraph Company be, and it hereby is, directed to forthwith restore telephone service to complainant at 960 South Gerhart Avenue, Los Angeles, California, under number Parkview 1-6783, pursuant

to defendant's filed tariffs, rates and rules applicable there-
to.

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

Dated at San Francisco, California,
this 6th day of March, 1956:

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners