

ORIGINALDecision No. 53256

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RUFUS B. LEWIS,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 5742

Rufus B. Lewis in propria persona.Fillsbury, Madison & Sutro, and Lawler,
Felix & Hall, by L. B. Conant, for
defendant.O P I N I O N

The complaint, filed on March 15, 1956, alleges that Rufus B. Lewis, doing business as Beer Parlor and Cafe at 2066 West Manchester, Los Angeles, California, prior to June 2, 1955, was a subscriber and user of telephone service furnished by defendant company at that address under number Pleasant 2-0234; that on June 2, 1955, police officers removed the telephone instruments; that complainant was tried and convicted of bookmaking; that complainant has made demand upon defendant to have said telephone facilities restored, but defendant has refused; that complainant has suffered irreparable injury to his business and reputation; and that complainant does not intend to use said telephone facilities to violate the law nor in aiding and abetting such violation.

On March 29, 1956, 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 June 7, 1955, had reasonable cause to believe that the telephone service furnished by defendant under number Pleasant 2-0234 at 2066 West Manchester 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 May 22, 1956, and the matter was submitted.

The complainant testified that he resides at 8610 South Cimarron and has a beer parlor at 2066 West Manchester; that he had a wall telephone therein under number Pleasant 2-0234 and an extension at the bar; that on June 2, 1955, he was arrested there for bookmaking and the bar telephone was removed and later the wall phone was disconnected; that he was found guilty of bookmaking, paid a fine of \$150 and was placed on two years' probation; that he had had no telephone service since the wall telephone was disconnected; that he needs the telephone to order supplies and to contact his family; and that he will not hereafter use the telephone for illegal purposes.

Exhibit No. 1 is a copy of a letter from the Chief of Police of the City of Los Angeles to the telephone company, advising the telephone company that the telephone facilities at

2066 West Manchester were being used for receiving and forwarding bets, and that the extension telephone had been removed. An office supervisor of the telephone company testified that this letter was received by the defendant on June 7, 1955, and that the telephone was thereupon removed. 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 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. 44415, referred to supra. We further find that the complainant is entitled to telephone service on the same basis as any other similar subscriber inasmuch as he has paid the penalty for any violation of law which he may have committed, and there is no indication that he will in the future use the telephone facilities in an unlawful manner.

O R D E R

The complaint of Rufus B. Lewis 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 complainant's request for restoration of telephone service be granted, and that, upon the filing by the complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone

service at complainant's bar at 2066 West Manchester Avenue,
Los Angeles, California, such installation being subject to all
duly authorized rules and regulations of the telephone company
and to the existing applicable law.

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

Dated at San Francisco, California,
this 19th day of June, 1956.

John E. Mitchell
President

Justin J. Casse

Donald L. Lintner

Walter J. Loe

Commissioners

Commissioner Rex Hardy, being
necessarily absent, did not participate
in the disposition of this proceeding.