

ORIGINAL

Decision No. 54970

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MONTEREY CLUB, a copartnership, )  
Complainant, )

vs. )

Case No. 5909

THE )  
PACIFIC TELEPHONE AND TELEGRAPH )  
COMPANY, a corporation, and )  
H. B. QUIGLEY. )

Gray, Glass, Allen & Ransom, by Karl Ransom, for complainant.

Lawler, Felix & Hall, by L. B. Conant, for defendant.

O P I N I O N

In the complaint herein, filed on February 21, 1957, by the Monterey Club, a partnership consisting of John Lockhead and seven other members, it is alleged that the address of the complainant is 13927 South Vermont Avenue, Gardena, California; that on or about November 5, 1956, the defendant disconnected a telephone from said address; that the telephone disconnected had the number Davis 4-9282; that the complainant at no time had any knowledge nor could it have had any knowledge of any illegal or immoral transaction being conducted upon said telephone; and that complainant is ignorant of the true facts constituting the grounds for disconnecting said telephone, but upon information and belief alleges that some one whose identity is unknown to complainant made a wager on a horse race at said telephone

without the knowledge or consent of the Monterey Club or any of its agents or employees.

On March 11, 1957, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930, (47 Cal. P.U.C. 853), on or about November 2, 1956, had reasonable cause to believe that the telephone service furnished to complainant under number Davis 4-9282 at 13927 South Vermont Avenue, Gardena, 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 on April 12, 1957, before Examiner Kent C. Rogers.

Complainant's manager, who is a member of the partnership, testified that on about October 31, 1956, law enforcement officers raided the club and arrested a patron on suspicion of bookmaking; that he does not permit illegal activities on the premises; that no other person is authorized to permit illegal activities on the premises; that the telephone concerned was a semipublic pay phone booth; that in July 1956 the same thing happened but that the person arrested then was not the person arrested in the raid here involved; and that the club premises are under his control. The telephone was not removed at the time of the patron's arrest.

Exhibit No. 1 is a letter dated October 31, 1956, from the office of the Sheriff of Los Angeles County to the defendant, advising the defendant that complainant's telephone, number

Davis 4-9282, located at 13927 South Vermont, Gardena, was being used as an instrumentality to violate or to aid and abet the violation of the law of California and requesting that the telephone be disconnected. The parties stipulated that Exhibit No. 1 was received by the defendant on November 2, 1956, that the service was disconnected by defendant on November 5, 1956, and has not been reconnected. The position of the telephone company was that it had acted with reasonable cause, as that term is used in Decision No. 41415, referred to supra, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After full 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 facilities to be used for illegal purposes. Therefore, the complainant is now entitled to restoration of telephone service.

#### O R D E R

The complaint of the Monterey Club, a copartnership, 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 on 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 complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall restore telephone service at the complainant's property at 13927 South Vermont Avenue, Gardena, California, 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 order shall be the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of May, 1957.

[Signature]  
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Matthew J. Dooloy, being necessarily absent, did not participate in the disposition of this proceeding.