

ORIGINAL

Decision No. 56100

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JACK RAPPAPORT,

Complainant,

vs.

Case No. 6001

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Rose & Rose, attorneys, by Bernard Rose, for complainant.

Lawler, Felix & Hall, by Gene Otsea, for defendant.

Roger Arnebergh, City Attorney, by Patrick Coleman,
Deputy City Attorney, for the Los Angeles Police
Department, intervener.

O P I N I O N

In the complaint herein, filed on October 30, 1957,
Jack Rappaport alleges that he is a subscriber and user of telephone
service furnished by the respondent at 1734 South Vermont Avenue,
Los Angeles, California, under the number REpublic 2-1636; that on
or about October 11, 1957, the telephone facilities of complainant
were physically disconnected by the Police Department of the City of
Los Angeles without permission of the complainant; that complainant
has requested the reinstallation of the telephone, but that the
defendant refuses to reconnect the same; that complainant has
suffered and will continue to suffer irreparable injury to his
business and his reputation and will suffer great hardship as a

result of the actions of defendant in disconnecting said communication facilities and in refusing to reconnect the same; that complainant has no knowledge of the circumstances or facts upon which defendant purports to have based its action in disconnecting said facilities; and that said telephone facilities were not used as an instrumentality to violate the law nor in aiding or abetting such violation.

On November 6, 1957, by Decision No. 55794, in Case No. 6001, the Commission issued an order restoring said telephone service to the complainant pending a hearing on the complaint.

On November 18, 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 October 11, 1957, had reasonable cause to believe that the telephone service furnished to complainant under number REpublic 2-1636 at 1734 South Vermont 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, and that having such reasonable cause it disconnected said telephone service on or about said date pursuant to said Decision No. 41415.

A public hearing was held in Los Angeles on December 13, 1957, before Examiner Kent C. Rogers.

Complainant testified that he is in business at 1734 South Vermont Avenue, Los Angeles, California; that approximately two months prior to the date of hearing telephone service furnished by the defendant as aforesaid was removed by the Los Angeles City

Police Vice Squad; that such removal was without his permission or consent; and that the telephone has never been used for illegal purposes.

Exhibit No. 1 is a letter from the Police Department of the City of Los Angeles to the defendant, advising the defendant that on October 11, 1957, the complainant's telephone services were being used to conspire to make and also to distribute lewd movies; that the telephone had been removed, and requesting that the defendant disconnect the said telephone which had been removed by the police officers. It was stipulated that this letter was received by the defendant on or about October 29, 1957; that the complainant's service was disconnected on November 5, 1957, pursuant to said letter, Exhibit No. 1; and that the service was reconnected on November 8, 1957, pursuant to the order of this Commission. 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 telephone service, inasmuch as it had received the letter designated as Exhibit No. 1. Law enforcement officers were present at the hearing but offered no evidence to show unlawful use of the telephone by complainant. ✓

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 the restoration of his telephone service.

O R D E R

The complaint of Jack Rappaport 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 order of the Commission in Decision No. 55794, dated November 6, 1957, temporarily restoring telephone service to the 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 order shall be twenty days after the date hereof.

Dated at San Francisco, California,
this 14th day of January, 1958.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]

Commissioners