

ORIGINALDecision No. 57021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEWIS ELON DOWNER,

Complainant,

Case No. 6100

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Al Matthews and John Hamilton, by John Hamilton,
for complainant.
Lawler, Felix & Hall, by Thomas E. Workman, Jr.,
for the defendant.
Roger Arnebergh, City Attorney, by John Neville,
Deputy City Attorney, for the Los Angeles
Police Department, intervener.

O P I N I O N

The complaint filed on May 9, 1958, alleges that the complainant resides at 3660 South Norton Avenue, Los Angeles, California; that prior to April 2, 1958, complainant was a subscriber to telephone service furnished by defendant under number AXminister 2-8921; that on April 2, 1958, complainant was arrested by police officers of the City of Los Angeles on suspicion of book-making, and his telephone was removed; that subsequently the defendant disconnected complainant's telephone; that the complainant is ill and needs telephone service.

On May 26, 1958, the defendant 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),

the defendant, on or about April 7, 1958, had reasonable cause to believe that the telephone service furnished by defendant under number AXminister 2-8921 at 3660 South Norton Avenue, Los Angeles, California, was being used 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 was required to disconnect the telephone service pursuant to said decision.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on June 27, 1958, and the matter was submitted.

The complainant testified that he resides at the address given; that on April 2, 1958, he was arrested for violation of Section 337a of the Penal Code, bookmaking; that on the day of the arrest complainant was out of work and was taking bets on the telephone; that he daily has emergencies which require a doctor; that he has not done any bookmaking since his arrest; and that at the trial he pleaded guilty to the charge of bookmaking and was placed on probation.

The intervener presented no evidence.

Exhibit No. 1 is a copy of a letter from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the telephone company advising that the complainant's telephone had been confiscated, that it had been used for the purpose of disseminating horse racing information in connection with bookmaking, and requesting that the telephone be disconnected. It was stipulated that this letter was received by the telephone company on April 7, 1958, and that the service was disconnected on

April 10, 1958, 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, supra, in disconnecting 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, supra. We further find that the complainant's telephone was used for illegal purposes, to-wit, bookmaking, and that such use was by the complainant himself. It also appears from the record that the complainant has been convicted of bookmaking and has been subjected to a penalty for such illegal use of the telephone. Inasmuch as he has already ✓ paid the penalty for his violation of the law, his telephone service ✓ will be ordered restored.

O R D E R

The complaint of Lewis Elon Downer against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully informed in the premises and basing its decision upon the evidence of record and the findings herein,

IT IS ORDERED that complainant's request for restoration of telephone service be granted, and that upon the filing by

applicant of an application for telephone service The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's home at 3660 South Norton Avenue in 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 from the date hereof.

Dated at San Francisco, California, this 22nd day of JULY, 1958.

[Signature]
 President

[Signature]

[Signature]

[Signature]
 Commissioners