

ORIGINAL

Decision No. 57377

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CYRIL FISH,

Complainant,

vs.

Case No. 6162

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

G. Vernon Brumbaugh, attorney, for the complainant.
Lawler, Felix and Hall, by Thomas E. Workman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Patrick Coleman,
for the Los Angeles Police Department, intervener.

O P I N I O N

By the complaint herein, filed on July 30, 1958, complainant seeks an order restoring his residential telephone service at 19012 Strathern Street, Reseda, California.

On August 5, 1958, by Decision No. 57099, in Case No. 6162, this Commission issued an order directing the telephone company to restore telephone service to the complainant pending a hearing on the matter.

On August 13, 1958, 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 March 26, 1958, had reasonable cause to

believe that telephone service furnished by defendant under number Dickens 4-3217, at 19012 Strathern Street, Reseda, 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 defendant was required to disconnect telephone service pursuant to Decision No. 41415, supra.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on August 28, 1958, and the matter was submitted.

The complainant testified that on March 20, 1958, and prior thereto, he was the subscriber to a telephone furnished by defendant at 19012 Strathern Street, Reseda, California; that on said date the telephone was disconnected by the Police Department of the City of Los Angeles; that he has never used said telephone for any illegal purposes and will not allow it to be used for any illegal purposes; that the telephone is necessary for him in his business; and that after the telephone was removed on March 20, 1958, it was subsequently restored on August 5, 1958, pursuant to an order of this Commission.

Exhibit No. 1 is a copy of a letter from the Commander of the Vice Division of the Los Angeles Police Department requesting that complainant's telephone be disconnected, alleging that on March 20, 1958, said telephone was being used for the purpose of disseminating horse racing information in connection with bookmaking in violation of Section 337a of the Penal Code, and stating that the telephone had been removed by the Police Department. It was stipulated that this letter was received on March 26, 1958, and that

pursuant thereto, a central office disconnection was effected on March 22, 1958, and that pursuant to the order of the Commission service was temporarily restored on August 7, 1958. 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.

The intervener presented no evidence.

After consideration of this record we now find that the telephone company's action was based upon a reasonable cause as that term is used in Decision No. 41415, supra. We further find that there is no evidence that complainant was engaged in, was directly connected with, or permitted his telephone 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 Cyril Fish 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. 57099, dated August 5, 1958, 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 29th day of September, 1958.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners