

ORIGINAL

Decision No. 58392

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JAMES L. STOLIKER,

Complainant,

vs.

Case No. 6235

PACIFIC TELEPHONE AND TELEGRAPH CO.,
a corporation,

Defendant.

James L. Stoliker, in propria persona.
Lowler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Alister McAlister, Deputy County Counsel, for the
Sheriff's Department, County of Los Angeles,
intervenor.

O P I N I O N

The complaint of James L. Stoliker of 11175 So. Manhattan Place, Los Angeles, California, filed on March 9, 1959, alleges that he had a telephone furnished by defendant at that address under number PLYmouth 4-4269; that on or about January 17, 1959, he was advised by the defendant that it had received information that the said telephone was being used as an instrumentality to violate the law; that immediately thereafter the defendant disconnected the communication facilities; that the complainant has suffered injury and hardship as a result of the disconnection of the service; and that the facilities were not used to violate the law nor in aiding or abetting such violation.

On March 23, 1959, the defendant 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 January 20, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number PLYmouth 4-4269 at 11175 So. Manhattan Place, 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 respondent was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held in Los Angeles on April 14, 1959, before Examiner Kent C. Rogers.

The complainant testified that on about January 17, 1959, he and his wife were alone in the house when vice squad officers entered and arrested them, took them to jail, and removed the two telephones and one extension he had. All charges were later dismissed, he said. He also stated that he needs a telephone.

No evidence was presented on behalf of the intervenor.

Exhibit No. 1 is a letter dated January 17, 1959, from the Captain of the Vice Detail of the Los Angeles Sheriff's Department to the defendant advising the defendant that on January 17, 1959, complainant's telephones, PLYmouth 4-4269 and PLYmouth 7-4794, were used for the purpose of disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephones had been confiscated; and requesting that defendant disconnect the services. This letter was received on January 20, 1959, and central office disconnections were effected pursuant thereto on January 20, 1959. 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 the telephone services inasmuch as it had received the letter designated as Exhibit No. 1.

After full consideration of the 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 there is no evidence to show that either of complainant's telephones was used for any illegal purposes. Therefore, the complainant is entitled to restoration of telephone service.

O R D E R

The complaint of James L. Stoliker 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 finding 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 to complainant's residence at 11175 South Manhattan Place,

Los Angeles, 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 twenty days after the date hereof.

Dated at San Francisco, California,
this 18th day of May, 1959.

E. L. Fox
President
W. J. D. [unclear]
W. J. D. [unclear]
Theodore J. [unclear]
Commissioners

Commissioner Warren C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.