

58708

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RAYMOND RAND,

Complainant.

vs.

Case No. 6259

THE PACIFIC TELEPHONE
AND TELEGRAPH CO., a
corporation,

Defendant.

Franklin D. Laven for the complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.

O P I N I O N

By the complaint herein filed on April 22, 1959, Raymond Rand requests that the telephone service formerly furnished to him at a cocktail lounge and restaurant located at 7580 Sunset Boulevard, Los Angeles, California, by the defendant, be reinstalled. He alleges that the service was removed on April 14, 1959, by the Police Department of the City of Los Angeles after an arrest for bookmaking was made on the premises.

On May 5, 1959, by Decision No. 58373 in Case No. 6259, the Commission ordered the telephone service restored to complainant pending a hearing on the complaint herein.

On May 15, 1959, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415 in Case No. 4930 (47 Cal.P.U.C. 853),

on or about April 10, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number HOLLYWOOD 9-2255 at 7580 Sunset Boulevard, 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 the defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing on the complaint was held on June 11, 1959, in Los Angeles, California, before Examiner Kent C. Rogers.

The complainant testified that he has a cocktail lounge and restaurant at 7580 Sunset Boulevard, Los Angeles; that on or about April 10, 1959, in his absence the telephone was removed; that he did not permit the telephone to be used for illegal purposes; and that the telephone service is necessary to the conduct of the business at said address.

Complainant's manager testified that the telephone was removed from 7580 Sunset Boulevard on April 10, 1959; that the complainant was not present at that time; that the telephone is a private telephone but that customers are permitted to use it for their convenience; that on said date a man named Ralph Bury was on the premises and was arrested for bookmaking and the telephone was removed by police officers; that to his knowledge the telephone was not used for illegal purposes; and that the telephone is necessary for the conduct of the business.

No evidence was presented on behalf of any law enforcement agency, although the City Attorney of the City of Los Angeles was notified of the hearing.

Exhibit No. 1 herein is a letter dated April 8, 1959, from the acting chief of police of the City of Los Angeles to the defendant, advising the defendant that the telephone facilities at 7580 Sunset Boulevard, under number HO 92255, were being used for receiving and forwarding bets.

The parties stipulated that this letter was received by the defendant on April 10, 1959, and that a central office disconnection was effected pursuant thereto on April 15, 1959, and that, pursuant to Decision No. 58373, supra, of the Commission, service was reconnected on May 11, 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 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 evidence fails to show that the complainant's telephone was used as an instrumentality to violate or to aid and abet the violation of the law, or, if so used, said use was with the knowledge or consent of the complainant. Therefore, the telephone service should be restored. Inasmuch as a telephone is necessary to the conduct of the business of complainant, the order will be effective in five days from the date hereof.

O R D E R

The complaint of Raymond Rand against The Pacific Telephone and Telegraph Company 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,

IT IS ORDERED that the order of the Commission in Decision No. 58373, dated May 5, 1959, in Case No. 6259, 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 five days after the date hereof.

Dated at San Francisco, California,
this 7th day of July, 1959.

Herbert R. M. Rago
President

W. E. Mitchell

Marion J. Cook

E. J. Fox

Theodore J. Jenner
Commissioners