

ORIGINAL

Decision No. 59005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EUGENE J. WOMACK,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 6294

Eugene J. Womack, in propria persona.
Gray, Cary, Ames and Frye, by Alfred Lord,
for defendant.

O P I N I O N

In the complaint herein, filed on June 25, 1959, by Eugene J. Womack, it is alleged that on June 15, 1959, the defendant discontinued telephone service to the complainant at his home, 4465 Michael Street, Riverside, California; that the telephone was not used as an instrumentality to violate or to aid and abet the violation of the law; and that the complainant requests restoration of telephone service.

At the hearing it developed that the subscriber to the telephone service was Elise T. Womack who is complainant's wife, and the complainant thereupon amended the complaint to request that telephone service be installed in his name at the above address.

On July 13, 1959, the telephone company filed an answer in which it alleged that Elise T. Womack was the subscriber to the telephone service, and that on or about June 15, 1959, the defendant had

reasonable cause to believe that the telephone service furnished to Elise T. Womack under number Overland 3-3001 at 4465 Michael Street, Riverside, 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, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing on the complaint was held on August 7, 1959, before Examiner Kent C. Rogers, in Riverside, California.

The District Attorney of the County of Riverside was notified of the hearing but made no appearance.

The complainant testified that he and his wife reside at 4465 Michael Street, Riverside, California; that his wife is the subscriber to the telephone service at the present time; that if the service is reinstalled he will subscribe to it in his name; that he and his wife reside at the premises with their two children; that a telephone is necessary for their personal use; that on or about June 15, 1959, the telephone was disconnected by the telephone company for alleged illegal usage; and that the telephone has never been used illegally and will not be used illegally in the future.

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 telephone service at 4465 Michael Street, Riverside, California, was used as an instrumentality to violate or to aid and abet the violation of the law, and that therefore the complainant is entitled to telephone service.

O R D E R

The complaint of Eugene J. Womack against The Pacific Telephone and Telegraph Company having been filed, 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 complainant's request for telephone service be, and it hereby is, granted, and that upon the filing by complainant of an application for telephone service The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 4465 Michael Street, Riverside, 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 the date hereof.

Dated at San Francisco, California,
this 15th day of September, 1959.

[Signature]
President
[Signature]
[Signature]
[Signature]

Commissioners

Commissioner Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.