

ORIGINAL

Decision No. 59108

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FRANK I. LICHTMAN,

Complainant,

vs.

Case No. 6300

THE PACIFIC TELEPHONE & TELEGRAPH
COMPANY, a corporation,

Defendant.

Frank I. Lichtman, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Roger Arnebergh, City Attorney, by Samuel L. Palmer,
Deputy City Attorney, for the
Police Department of the City of Los
Angeles, intervener.

O P I N I O N

The complaint of Frank I. Lichtman of 6713 Enfield Avenue, Reseda, California, filed on July 1, 1959, alleges that on March 3, 1959, the Los Angeles Police Department broke into his home and ripped out his telephone and a telephone belonging to his daughter, and charged him with bookmaking; that a trial was held before Judge Mark Brandler, Superior Court Number 12, in and for the County of Los Angeles, on June 4, 1959, and that he was found not guilty. He prays that the telephone service be restored.

On July 17, 1959, the telephone company 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 March 5, 1959, had

reasonable cause to believe that the telephone service furnished to complainant under numbers Dickens 3-0175 and Dickens 3-8010 at 6713 Enfield Avenue, Reseda, 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 was held in Los Angeles on August 31, 1959, before Examiner Kent C. Rogers.

The complainant testified that he resides at 6713 Enfield Avenue, Reseda, with his wife and daughter; that prior to March 4, 1959, he had two telephones therein under numbers Dickens 3-8010 and Dickens 3-0175; that on or about March 3, 1959, he was the only person at home and that both telephones were removed by police officers of the Los Angeles Police Department; that he was arrested for bookmaking and the charges were subsequently dismissed; that he needs a telephone and that the telephone is not used for illegal purposes and would not be used for illegal purposes.

A deputy city attorney of the City of Los Angeles was present, but presented no evidence on behalf of the Police Department.

Exhibit No. 1 herein is a letter dated March 4, 1959, from the Commander of the Vice Detail of the Police Department of Los Angeles to the defendant, advising the defendant that complainant's telephones under numbers Dickens 3-0175 and Dickens 3-8010 at 6713 Enfield Avenue, Reseda, were on March 3, 1959, being 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 the telephone service be disconnected. An employee of the telephone company testified that this letter was received on March 5, 1959; that a central office disconnection pursuant thereto was effected on March 12, 1959; and that the service had 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 the complainant's 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 telephones, or either of them, were used for any illegal purpose and that, therefore, the complainant is entitled to restoration of his telephone service.

O R D E R

The complaint of Frank I. Lichtman 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 findings of record and the evidence herein,

IT IS ORDERED that complainant's request for telephone service is granted and that upon the filing by the complainant of an application for telephone service, The Pacific Telephone and

Telegraph Company shall install telephone service at the complainant's residence at 6713 Enfield Avenue, Reseda, 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 6th day of October, 1959.

 President
(Signature)

(Signature)

(Signature)

 Commissioners

Everett C. McKeage
Commissioner ~~Matthew J. Dooley~~ being necessarily absent, did not participate in the disposition of this proceeding.