

ORIGINAL

Decision No. 59148

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILLIE YOUNG,

Complainant,

vs.

Case No. 6297

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

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

O P I N I O N

By the complaint herein, filed on June 29, 1959, Willie Young of 3 Berkeley Square, Los Angeles, California, alleges that prior to June 22, 1959, he was a subscriber and user of telephone service furnished by The Pacific Telephone and Telegraph Company under number REpublic 2-6450 at 3 Berkeley Square, Los Angeles, California; that on June 22, 1959, the telephone facilities were disconnected by the Los Angeles Police Department for alleged lottery use; that no charges were filed against complainant; that complainant has requested that telephone service be reconnected, but that defendant has refused and is now refusing to restore said telephone service. The complainant alleged that he has never used the telephone as an instrumentality to violate the law.

On July 17, 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 June 17, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number RRepublic 2-6450 at 3 Berkeley Square, 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 defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held before Examiner Kent C. Rogers in Los Angeles on August 31, 1959.

The complainant testified that he resides at 3 Berkeley Square, Los Angeles, California; that it is a large residence and he has one room therein which is locked; that he is employed; that on June 22, 1959, when he left for work his telephone was there, and when he came home from work that evening the telephone service was unusable; that thereafter he was advised by the telephone company that the telephone was disconnected on order of the Police Department; that he has never used the telephone for any illegal purpose, and that the room is kept locked at all times in his absence.

Exhibit No. 1 is a letter dated June 15, 1959, from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant, advising the defendant that complainant's telephone on June 12, 1959, was being used in violation of Sections 4411 and 4412, Title 26, U. S. Internal Revenue (Federal Wagering Tax Stamp Law), and requesting that the defendant disconnect

service to the above listed telephone. 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.

A police officer connected with the Vice Detail of the City of Los Angeles testified that on June 12, 1959, he went to 3 Berkeley Square in connection with an investigation of the numbers racket being carried on at that address; that he arrested certain persons on the premises, and several telephones in different rooms were removed; that the complainant's room was not entered; that the door was locked; and that he never saw the complainant, Willie Young, and did not take out the complainant's telephone.

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 and that, therefore, complainant's telephone service should be restored.

O R D E R

The complaint of Willie Young 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 complainant's request for telephone service be 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 the complainant's residence at 3 Berkeley Square, Los Angeles, 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 13th day of October, 1959.

President
W. J. Fox

W. J. Fox

Theodore J. Deane

Commissioners

Everett C. McKeage
Commissioner Peter E. Mitchell, being
necessarily absent, did not participate
in the disposition of this proceeding.