

ORIGINAL

Decision No. 59182

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FLOYD W. BIGGINS,

Complainant,

vs.

Case No. 6335

PACIFIC TELEPHONE AND TELEGRAPH CO.,
a corporation,

Defendant.

Floyd W. Biggins, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.

O P I N I O N

By the complaint herein, filed on August 14, 1959, complainant alleges that he resides at 11758 Wilmington Avenue, Los Angeles, California; that prior to July 24, 1959, the telephone of complainant was removed from said address by the Los Angeles Police Department; that the telephone was allegedly removed because of illegal use by a tenant of complainant; that complainant has never authorized any person to use the telephone for illegal purposes; that the telephone is necessary to complainant; and that he desires that the telephone service be reinstalled.

On August 25, 1959, by Decision No. 58913, in Case No. 6335, the Commission ordered that the telephone service be restored to complainant pending a hearing on the complaint.

On September 4, 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 July 28, 1959, had reasonable cause to believe that the telephone service furnished to complainant under number LOrain 4-4893, at 11758 Wilmington Avenue, 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 on the complaint was held before Examiner Kent C. Rogers in Los Angeles on September 28, 1959.

The complainant testified that he owns the premises at 11758 Wilmington Avenue; that on or about July 22, 1959, he came home from work and found the doors broken and the telephone and other paraphernalia removed from the premises; that subsequently he found that a man whom he had permitted to stay in the apartment had been arrested on the premises for bookmaking; that he never permitted any one to use the telephone for illegal purposes; and that he desires that the telephone be reinstalled as he needs it.

Exhibit No. 1 is a copy of a letter from the Vice Detail of the Sheriff's Office of Los Angeles County to the defendant, advising the defendant that on July 22, 1959, complainant's telephone under number LOrain 4-4893 was being used for the purposes of disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337a of the Penal Code;

that the telephone had been confiscated and requesting that the defendant disconnect the services. This letter was received by the defendant on July 28, 1959. Service was disconnected pursuant thereto on August 14, 1959, and reconnected pursuant to this Commission's Decision No. 58913, supra, on August 28, 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 service inasmuch as it had received the letter designated as Exhibit No. 1.

After full consideration of this record, we 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. Complainant is, therefore, entitled to telephone service.

O R D E R

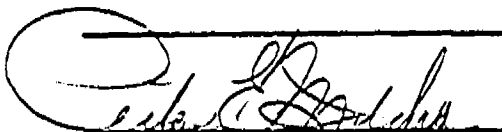

The complaint of Floyd W. Biggins against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence of record and the findings herein,

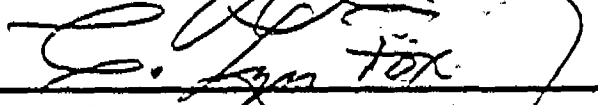
IT IS ORDERED that the order of the Commission in Decision No. 58913, dated August 25, 1959, temporarily restoring telephone

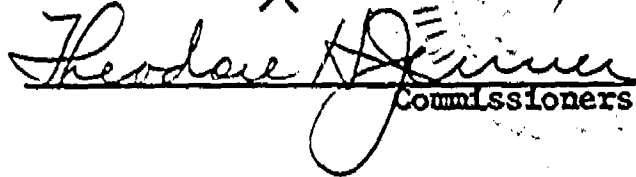
service to the complainant, be made permanent, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

The effective date of this order shall be five days after the date hereof.

Dated at San Francisco, this 20th day of October, 1959.


 _____ President





 _____ Commissioners

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