

ORIGINAL

Decision No. 59186

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

OVSIAH H. ENGLISH,

Complainant,

vs.

PACIFIC TELEPHONE & TELEGRAPH COMPANY,
a corporation,

Defendant.

Case No. 6314

George C. Black, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr., for
defendant.

O P I N I O N

By the complaint herein, filed on July 14, 1959, complainant alleges that he operates a tire business at 8534 Washington Boulevard, Culver City, California; that he had two telephones therein furnished by the defendant under numbers VERmont 7-4941 and UPTon 0-2346; that on or about July 8, 1959, officers of the Police Department of Culver City removed said telephones; that the officers alleged that complainant's son, John G. English, was taking horse race bets over the telephone; that complainant had no knowledge of the conduct complained of by the officers and that he would not permit the telephones to be used for illegal purposes; and that he needs telephone service in his business and requests that the telephones be reinstalled.

On July 28, 1959, by Decision No. 58816, in Case No. 6314, the Commission ordered that telephone service be restored to complainant pending a hearing on the complaint.

On August 10, 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 10, 1959, had reasonable cause to believe that the telephone services furnished to the complainant under numbers VERmont 7-4941 and UPTon 0-2346 at 8534 Washington Boulevard, Culver City, California, were being or were to be used as instrumentalities 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.

The complainant testified that he owns the premises at 8534 Washington Boulevard, Culver City; that he has thereon a garage in the rear and a service station in the front; that he permitted his son, John English, to use the service station rent free; that he had the two telephones referred to above in the garage; that on or about July 8, 1959, in his absence, the officers arrested his son, John English, and removed the telephones; that if the telephones were used for illegal purposes such use was without his consent or knowledge; that he will not permit the telephones to be used for any illegal purposes in the future; and that he needs the telephone service for the conduct of his business.

Notice of the hearing was given to the city attorney of Culver City but said attorney made no appearance at the hearing.

Exhibit No. 1 is a letter from the Sheriff of Los Angeles County to the defendant, advising the defendant that on July 8, 1959, complainant's telephones under numbers VERmont 7-4941 and UPTon 0-2346 were being used for the purpose of disseminating horse racing information in violation of Section 337a of the Penal Code; that the telephones had been confiscated and requesting that the defendant disconnect the services. This letter was received by the defendant on July 10, 1959; service was disconnected on July 15, 1959; and reconnected pursuant to this Commission's Decision No. 58816, supra, on July 31, 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 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 as instrumentalities 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 Ovsiah H. English 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 evidence of record and the findings herein,

IT IS ORDERED that the order of the Commission in Decision No. 58816, dated July 28, 1959, temporarily restoring telephone service to the complainant be made permanent, such service 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 20th day of October, 1959.

W. E. Rogers President
W. E. Rogers
W. E. Rogers
W. E. Rogers
Theodore J. J. J. Commissioners

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