

ORIGINAL

Decision No. 59345

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAM CHERNOCK,

Petitioner,

vs.

Case No. 6349

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Respondent.

Sam Chernock, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for respondent.
Roger Arnebergh, City Attorney, by William E. Doran,
for the Police Department of the City of Los
Angeles, intervener.

O P I N I O N

By the petition herein, filed on September 2, 1959, petitioner alleges that he resides at 7465 Hawthorn Avenue, Los Angeles, California; that he is the subscriber and user of telephone service furnished by respondent at 4501 Sunset Boulevard, Los Angeles, California; that on or about August 11, 1959, he was advised by the respondent that the respondent had received information that the communication facilities furnished by the respondent were being used as an instrumentality to violate the law, and that respondent was disconnecting said telephone facilities; that immediately thereafter the communication facilities were disconnected by the respondent; that petitioner has suffered irreparable injury to his reputation and great hardship as a result; that the communication facilities were not used as an instrumentality to violate the law or to

aid and abet said violation; and that petitioner needs the telephone and requests that respondent be ordered to reinstall the service.

On September 22, 1959, by Decision No. 59045 in Case No. 6349, the Commission ordered that the telephone service be restored to petitioner pending a hearing on the petition.

On October 2, 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. 353), on or about August 17, 1959, had reasonable cause to believe that the telephone service furnished to petitioner under number NOrmandy 5-2201, at 4501 Sunset Boulevard, 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 respondent was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing on the petition was held before Examiner Kent C. Rogers in Los Angeles, on November 3, 1959.

The petitioner testified that on the premises at 4501 Sunset Boulevard, Los Angeles, there is an automobile top shop which is owned by him and another man as partners; that petitioner is the subscriber to the telephone service; that his partner's name is Tony La Croix; that on August 11, 1959, his partner was arrested at said place of business for allegedly taking bets over the telephone; that said partner, in fact, never used the telephone for illegal purposes; and that the telephone is necessary for the conduct of the business.

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

Exhibit No. 1 is a letter from the Commanding Officer of the Administrative Vice Detail of the Los Angeles Police Department to the respondent advising respondent that on August 11, 1959, petitioner's telephone under number NO 5-2201 at 4501 Sunset Boulevard, Los Angeles, was being used for the purpose of disseminating horse racing information which was being used in connection with book-making in violation of Section 337a of the Penal Code; that the telephone had been confiscated and requesting that the respondent disconnect the services. This letter was received by the respondent on August 17, 1959. Service was disconnected on August 20, 1959, and reconnected pursuant to this Commission's Decision No. 59045, supra, on September 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 petitioner's telephone was used as an instrumentality to violate or to aid and abet the violation of the law. Petitioner is, therefore, entitled to telephone service.

O R D E R

The petition of Sam Chernock 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. 59045, dated September 22, 1959, temporarily restoring telephone service to the petitioner, 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, this 8th day of December, 1959.

[Signature]
 President

[Signature]

[Signature]

[Signature]

Theodore Jensen
 Commissioners