

ORIGINAL

Decision No. 60143

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ERNEST RUSSELL,

Complainant,

vs.

Case No. 6433

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Walter L. Gordon, Jr., attorney, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr., for
 defendant.

Roger Arnebergh, City Attorney, by William E. Doran,
 Deputy City Attorney, for the Los Angeles Police
 Department, intervener.

O P I N I O N

By the complaint herein, filed with the Commission on March 14, 1960, Ernest Russell requests an order that the defendant be required to restore his telephone service to his place of business at 4074 South Central Avenue, Los Angeles, California.

On March 28, 1960, 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 8, 1960, had reasonable cause to believe that the telephone service furnished to complainant under number ADams 2-9281 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 on the complaint in Los Angeles before Examiner Kent C. Rogers on April 29, 1960.

The complainant testified that he has a place of business at 4074 South Central Avenue, Los Angeles, California; that therein he had a telephone furnished by the defendant; that he has had that place of business for 28 years; that approximately two months prior to the hearing, the telephone was removed by police officers; that he has requested the restoration thereof but that the telephone company has refused to restore it; that he needs the telephone in his business; and that he has not at any time used the telephone for illegal purposes.

No evidence was presented on behalf of any law enforcement agency.

Exhibit No. 1 is a copy of a letter from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the complainant's telephone service was being used for receiving and forwarding bets. It was stipulated that this letter was received on February 29, 1960, and that a central office disconnection was effected by the defendant on March 8, 1960, and has 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 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 complainant's telephone was used as an instrumentality to violate or to aid and abet the violation of the

law and that the complainant, therefore, is entitled to restoration of telephone service.

O R D E R

The complaint of Ernest Russell 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,

IT IS ORDERED that the complainant's request for telephone service is 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 place of business at 4074 South Central Avenue, 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 five days after the date hereof.

Dated at San Francisco, California, this 24th day of May, 1960.

Ernest Russell
President

William J. Fox
Commissioner

Leodore J. Turner
Commissioner

Commissioners