

**ORIGINAL**

Decision No. 60215

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RUSH SPINKS,

Complainant,

vs.

Case No. 6445

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, a  
corporation,

Defendant.

Joseph T. Forno 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 March 31, 1960, Rush Spinks requests the restoration of telephone service at his home, 2503 Lincoln Avenue, Altadena, California.

By Decision No. 59909, dated April 12, 1960, in Case No. 6445, the Commission ordered that the defendant restore service to the complainant pending a hearing on the complaint herein.

On April 25, 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 February 16, 1960, had reasonable cause to believe that the telephone service furnished to complainant under number SYcamore 7-8442, at 2503 Lincoln Avenue,

Altadena, 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 the defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held in Los Angeles on May 5, 1960, before Commissioner Theodore H. Jenner and Examiner Kent C. Rogers.

The complainant testified that on February 12, 1960, and prior thereto, he was the subscriber to telephone service furnished by defendant at 2503 Lincoln Avenue, Altadena; that the telephone has never been used for any illegal purpose; and that he needs the telephone. There was no appearance by any law enforcement agency.

Exhibit No. 1 is a letter dated February 15, 1960, from the Sheriff of Los Angeles County to the defendant advising the defendant that complainant's telephone under number SYcamore 7-8442 at 2503 Lincoln Avenue, Altadena, was on February 12, 1960, being used for the purpose 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 service. It was stipulated that this letter was received by the defendant on February 16, 1960; that a central office disconnection was effected the same day pursuant to said letter; and that pursuant to Decision No. 59909, supra, the service was reconnected on April 21, 1960.

It was the position of the telephone company 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 the complainant's telephone was used for any illegal purpose and that, therefore, the complainant is entitled to restoration of his telephone service.

O R D E R

The complaint of Rush Spinks 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 order of the Commission in Decision No. 59909, dated April 12, 1960, in Case No. 6445, temporarily restoring telephone service to the complainant, be made permanent, such restoration 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 16<sup>th</sup> day of June, 1960.

Ernest A. Page  
President  
Ed L. Litchfield  
Theodore J. Finer

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Commissioners