

ORIGINAL

Decision No. 60223

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

STANLEY C. BARNHART,

Complainant,

vs.

Case No. 6449

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Stanley C. Barnhart, 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 April 6, 1960, Stanley C. Barnhart alleges that he resides at 623 W. Mariposa Street, Altadena, California, and that on or about March 24, 1960, the Los Angeles County Sheriff's Vice Squad removed from complainant's premises the telephone service furnished by the defendant herein. He requests that the telephone service be restored.

On April 22, 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 28, 1960, had reasonable cause to believe that the telephone service

furnished to Stanley C. Barnhart under number SYcamore 7-6669 at 623 West Mariposa Street, Altadena, California, was being or was to be used as an instrument 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 telephone service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held on May 16, 1960, in Los Angeles before Examiner Kent C. Rogers.

Stanley C. Barnhart, the complainant, testified that he and his wife reside at 623 West Mariposa Street, Altadena, California; that on or about March 24, 1960, Los Angeles County deputy sheriffs entered the premises, removed complainant's telephone and arrested him for suspicion of bookmaking; that the charge was subsequently dismissed; that he has not violated the law; and that he needs the telephone service.

The Los Angeles County Counsel was notified of the hearing but made no appearance thereat.

Exhibit No. 1 is a letter dated March 24, 1960, from the office of the Sheriff of Los Angeles County to the defendant, advising the defendant that communication facilities furnished by it to Stanley C. Barnhart at 623 West Mariposa Street, Altadena, under telephone number SYcamore 7-6669, were on March 24, 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 on March 28, 1960, and that a central office disconnection was effected pursuant thereto on April 1, 1960. 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 the complainant's telephone was used as an instrumentality to violate or to aid and abet the violation of the law, and that therefore the telephone service should be reconnected.

O R D E R

The complaint of Stanley C. Barnhart 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 the complainant of an application for telephone service, The Pacific Telephone and Telegraph Company, a corporation, shall install telephone service at the complainant's residence at 623 West Mariposa Street, Altadena, California, such installation being

subject to all duly authorized rules and regulations of the tele-
phone 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 6th day of June, 1960.

[Signature]
President

[Signature]

Theodore J. [Signature]

_____ Commissioners

Matthew J. Dooley

Commissioner 3 La Lyn Fox being
necessarily absent, did not participate
in the disposition of this proceeding.