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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AL LEVITT,

Complainant,

vs.

Case No. 6396

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Joseph T. Forno, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Laurence R. Corcoran,
Deputy City Attorney, for the Los Angeles Police Department, intervenor.

O P I N I O N

By the complaint herein, filed on December 14, 1959, Al Levitt requests the restoration of telephone service furnished to his home at 5927 Penfield Avenue, Canoga Park, California.

By Decision No. 59458, dated January 5, 1960, in Case No. 6396, the Commission ordered that the defendant restore service to the complainant pending a hearing on the complaint herein.

On January 15, 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 November 25, 1959,

had reasonable cause to believe that the telephone service furnished to complainant under numbers Diamond 0-0846 and Diamond 8-5991 at 5927 Penfield Avenue, Canoga Park, 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 having such reasonable cause defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

The matter was originally set for hearing in Los Angeles on February 1, 1960, before Examiner Kent C. Rogers. At that time the matter was called and, at complainant's request, continued to March 29, 1960 at Los Angeles. On March 29, 1960, the matter was called before Examiner Kent C. Rogers in Los Angeles. The defendant appeared through its attorney and the police department of Los Angeles appeared through its attorney. There being no appearance by the complainant, the defendant moved that the matter be dismissed and the motion was submitted. Thereafter, on March 30, 1960, the complainant filed his petition for an order reopening the complaint. On May 3, 1960, the Commission ordered that the matter be reopened. On May 24, 1960, a hearing was held before Examiner Rogers in the courtroom in Los Angeles. At this hearing the complainant was present with his attorney and the defendant was present through its attorney. There was no appearance on behalf of any law enforcement agency.

The complainant testified that he resides at 5927 Penfield Avenue, Canoga Park, California; that prior to November 21, 1959, he had telephone service furnished by defendant at that address under numbers Diamond 0-0846 and Diamond 8-5991; that

on or about November 21 the defendant's facilities were removed and service disconnected by the defendant pursuant to instructions from the Los Angeles Police Department; that the telephone service has never been used for any illegal purpose; and that he needs the telephone service.

Exhibits Nos. 1 and 2 are letters from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant advising the defendant that complainant's telephone service, furnished under numbers DIamond 0-0846 and DIamond 8-5991, on November 21, 1959, was being used for the purpose of disseminating horse racing information, which was used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephones had been confiscated and requesting that the defendant disconnect the service. It was stipulated that these letters were received by the defendant on November 25, 1959, and that central office disconnections were effected on November 30, pursuant to said letter; and that pursuant to Decision No. 59458, supra, the services were reconnected on January 8, 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 services inasmuch as it had received the letters designated as Exhibits Nos. 1 and 2.

After full consideration of this record we now find that the telephone company's actions were 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 service was being used for any illegal purpose, and therefore the complainant is entitled to restoration of his telephone service.

ORDER

The complaint of Al Levitt 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. 59458, dated January 5, 1960, in Case No. 6396, 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 twenty days after the date hereof.

Dated at San Francisco, California,
this 28th day of June, 1960.

[Signature] President
[Signature]
[Signature]
Theodore J. Dennis
Commissioners

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