

ORIGINAL

Decision No. 60430

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CROWN HILL RECREATION CLUB,
a California corporation,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Case No. 6470

Paul K. Duffy, for the complainant.
Lawler, Felix & Hall, by David A. Workman, for the
defendant.
Roger Arnebergh, City Attorney, by Samuel C.
Palmer, III, Deputy City Attorney, for the
Los Angeles Police Department, intervener.

O P I N I O N

By the complaint herein, filed on April 29, 1960, Crown Hill Recreation Club, a California corporation, requests that the telephone service formerly furnished to it at 1413 West Third Street, Los Angeles, California, be ordered restored.

On May 17, 1960, by Decision No. 60109, in Case No. 6470, the Commission ordered that the telephone service be restored to complainant pending a hearing on the complaint herein.

On May 31, 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 April 22, 1960, had

reasonable cause to believe that the telephone service furnished to the Crown Hill Recreation Club under number MADison 8-3639 at 1409 (sic) West Third Street, Los Angeles, California, was being or was to be used as an instrumentality directly or indirectly 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 June 16, 1960, before Examiner Kent C. Rogers.

The president of the corporation testified that on or about April 28, 1960, the telephone facilities furnished by the defendant were removed and disconnected pursuant to instructions of the Los Angeles City Police Department; that the telephone service has never been used for any illegal purpose; that the complainant has not used and does not intend to use the telephone facilities as instrumentalities to violate the law; that the complainant has suffered irreparable injury and hardship by reason of the discontinuance of the service; and that the complainant cannot conduct its business without the telephone.

On cross-examination by the deputy city attorney the witness testified that at the time the telephone was taken by police he had told a member of the club arrested for bookmaking not to carry betting markers around with him.

Exhibit No. 1 is a letter dated April 21, 1960, from an acting Chief of Police of the City of Los Angeles to the defendant advising the defendant that the telephone service being provided to the complainant recreation club at 1409 (sic) West Third Street, Los Angeles, California, was being used for receiving

and forwarding bets, and requesting that the telephone company disconnect the service. It was stipulated that this letter was received on April 22, 1960; that pursuant thereto service was disconnected by the defendant on April 29, 1960; and that pursuant to Decision No. 60109, supra, it was reconnected on May 23, 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.

It was stipulated by the parties that a police report could be received as Exhibit No. 2. This exhibit shows that the telephone was being used in connection with bookmaking.

After full consideration of this record we now find that the telephone company's action was based on reasonable cause as that term is used in Decision No. 41415, supra. We further find that complainant's telephone was used as an instrumentality to aid and abet the violation of the law in that it was used for bookmaking purposes in connection with horse racing.

ORDER

The complaint of the Crown Hill Recreation Club 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 be denied and that the temporary interim relief

granted by Decision No. 60109, dated May 17, 1960, be vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein may file an application for telephone service and that if such application is made The Pacific Telephone and Telegraph Company shall install telephone service at complainant's place of business at 1409 or 1413 West Third Street, 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 26th day of July, 1960.

 President

[Handwritten Signature]

[Handwritten Signature]

[Handwritten Signature]

 Commissioners

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