

ORIGINAL

Decision No. 60729

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DEWITT EATON,

Complainant,

vs.

Case No. 6562

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Joseph T. Forno, Attorney, for the complainant.
Lawler, Felix & Hall, Attorneys, by
A. J. Krappman, Jr., for the defendant.

O P I N I O N

By the complaint herein, filed on June 16, 1960, DeWitt Eaton requests the restoration of telephone service at his barbershop at 2306 South Union Avenue, Los Angeles, California.

By Decision No. 60332, dated June 28, 1960, in Case No. 6562, the Commission ordered that the defendant, The Pacific Telephone and Telegraph Company, a corporation, restore service to the complainant pending a hearing on the complaint herein.

On July 11, 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 June 9, 1960,

had reasonable cause to believe that the telephone service furnished to complainant under number RIchmond 9-9060 at 2306 South Union Avenue, Los Angeles, 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 telephone company was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held in Los Angeles, California, on August 10, 1960, before Examiner Kent C. Rogers.

The complainant testified that he has a barbershop at 2306 South Union Avenue, Los Angeles, California; that prior to June 15, 1960, he had therein a telephone with two extensions, all furnished by the defendant; that he has never permitted the telephone or the extensions to be used for any illegal purposes; that he needs them in his business; that on or about June 15, 1960, the telephone company discontinued the service; and that pursuant to an order of this Commission the telephone company subsequently reconnected the telephone service.

There was no appearance by any law enforcement agency.

Exhibit No. 1 is a letter dated June 6, 1960, from the acting Chief of Police of the City of Los Angeles to the defendant advising the defendant that complainant's telephone service, under number RIchmond 9-9060 at 2306 South Union Avenue, Los Angeles, California, was being used for the purpose of receiving and forwarding bets, and requesting that the telephone service be discontinued. The evidence shows that this letter was received

by the telephone company on June 9, 1960; that pursuant thereto the service was disconnected on June 15, 1960; and that the service was reconnected pursuant to this Commission's Decision No. 60332, supra, on July 2, 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 DeWitt Eaton 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. 60332, dated June 28, 1960, in Case No. 6562, 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 13th day of SEPTEMBER, 1960.

[Signature]
President

[Signature]

[Signature]

_____ COMMISSIONERS

Matthew J. Dooley
Commissioner Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.