

ORIGINAL

Decision No. 60964

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOE W. HERRERA and LORRAINE M. HERRERA,
Complainants,

vs.

Case No. 6852

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Joe W. Herrera, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Roger Arnebergh, City Attorney, by
Bernard Patrusky, Deputy City Attorney,
for the Los Angeles Police Department,
intervenor.

O P I N I O N

By the complaint herein, filed on August 15, 1960, Joe W. Herrera and Lorraine M. Herrera request that the telephone service formerly furnished to them at 1275 West Second Street, San Pedro, California, be ordered restored. At the outset of the hearing it was stipulated that the telephone service was furnished to Joe W. Herrera, and the complaint was amended to show that Joe W. Herrera only is the complainant.

On August 30, 1960, by Decision No. 60634, in Case No. 6852, the Commission ordered that the telephone service be restored to the complainant pending a hearing on the complaint herein.

On September 12, 1960, The Pacific Telephone and Telegraph Company, a corporation, 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 25, 1960, had reasonable cause to believe that the telephone service furnished to Joe W. Herrera under number TErMinal 3-9567 at 1275 West Second Street, San Pedro, 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 it was required to disconnect the service pursuant to Decision No. 41415, supra.

A public hearing was held on September 23, 1960, in Los Angeles before Examiner Kent C. Rogers.

The complainant, Joe W. Herrera, testified that he and his wife reside at 1275 West Second Street, San Pedro, California; that prior to April 19, 1960, there was a telephone therein furnished by the defendant; that on or about April 16, 1960, he and his wife were present when police officers of the City of Los Angeles entered the premises, removed the telephone and arrested his wife; that she was subsequently released from custody; that no complaint was ever filed; that he needs the service in his business as a longshoreman; and that he has not used the telephone to violate any law.

Exhibit No. 1 is a copy of a letter dated April 22, 1960, from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant advising the

defendant that on April 16, 1960, complainant's telephone at 1275 West Second Street, San Pedro, California, under number Terminal 3-9567, was 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 removed by the police officers; and requesting that the telephone service be disconnected. The evidence shows that this letter was received on April 25, 1960; that pursuant thereto service was disconnected on April 27, 1960, and that pursuant to Decision No. 60634, supra, service was reconnected on September 6, 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.

A deputy city attorney appeared on behalf of the Los Angeles Police Department and questioned the complainant. No evidence was produced to show that the telephone was used for any illegal purpose.

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.

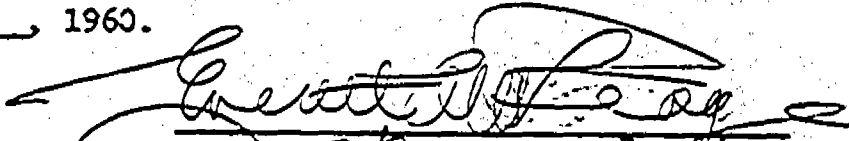
ORDER

The complaint of Joe W. Herrera 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. 60634, dated August 30, 1960, in Case No. 6852, 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.

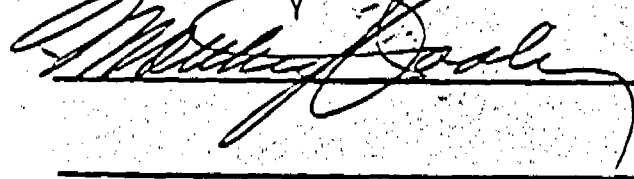
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 25th day of OCTOBER, 1960.



President





Commissioners

Theodore H. Jenner
Commissioner S. C. Lynn Fox, being necessarily absent, did not participate in the disposition of this proceeding.