

ORIGINAL

Decision No. 61809

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DEWITT EATON,

Complainant,

vs.

Case No. 7028

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 and Bernard Patrusky, for the
Police Department of the City of Los Angeles
intervener.

O P I N I O N

By the complaint herein, filed on November 28, 1960, Dewitt Eaton requests the restoration of telephone service at 2306 South Union Avenue, Los Angeles, where he is the owner of barber shop furnishings and equipment and building lease.

By Decision No. 61220, dated December 20, 1960, in Case No. 7028, the Commission ordered that the defendant restore telephone service to the complainant pending a hearing on the matter.

On January 3, 1961, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, dated April 6, 1943, in Case No. 4930 (47 Cal. P.U.C. 853), on or about December 1, 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 defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415.

A public hearing was held on the complaint in Los Angeles before Examiner Robert D. DeWolf on February 2, 1961, and adjourned to February 10, and on said date adjourned to and submitted on February 17, 1961.

The complainant testified that he is the owner of the barber shop equipment and lease on the premises at 2306 South Union Avenue, Los Angeles, and is the subscriber to a semi-public telephone with coin box and two extensions attached thereto which are located in the front of said shop, and that he pays the bill for said phone, and that same is maintained there for use of the barber and customers in said shop. Complainant denied knowledge of the use of said phone for any unlawful purposes. He testified that Samuel Grant was the only barber using and occupying said shop, and that said Samuel Grant had his own private telephone in the rear of said shop.

Exhibit No. 1 is a copy of a letter dated November 30, 1960, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the telephone service under number Richmond 9-9060 at complainant's place of business at 2306 South Union Avenue, Los Angeles, California, is being used for

receiving and forwarding bets in violation of the law. It was stipulated that this letter was received by the defendant on December 1, 1960; that pursuant thereto a central office disconnection was effected on December 6, 1960; and that pursuant to Decision No. 61220 the service was reconnected on December 24, 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 in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

A police officer connected with the University Vice Division, Los Angeles Police Department, testified that he arrested James Crockett in said barbershop on November 23, 1960, and on said date found betting markers in the front of said barbershop and a National Daily Reporter in the back room of said shop; that the front telephone in the barbershop rang two different times and he answered both times, at which a party on the other end of the line requested the making of a bet on a race horse. The officer further testified that at other times he had been in the shop and answered the telephone of this complainant in the back room but at no time did anyone make any conversation with him.

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. We further find that there is strong evidence that the complainant's telephone, with two extensions was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing.

ORDER

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 on the evidence of record,

IT IS ORDERED that the complainant's request for telephone service is denied and that the temporary interim relief granted by Decision No. 61220 is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of sixty days after the effective date of this order, the complainant herein may file an application for telephone service and, if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's address at 2306 South Union Avenue, 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 twenty days after the date hereof.

Dated at San Francisco, California, this 11th day of APRIL, 1961.

Dewitt Eaton
 President

W. L. Hatchell

F. L. Fox

George L. Hoover

Frederick B. Holbrook
 Commissioners