

ORIGINAL

Decision No. 61811

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SAMUEL GRANT,

Complainant,

vs.

Case No. 7031

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 Los Angeles Police Department,
intervenor.

O P I N I O N

By the complaint herein, filed on December 7, 1960, Samuel Grant requests the restoration of telephone service at 2306 South Union Avenue, Los Angeles, California, where he is employed as a barber.

By Decision No. 61211, dated December 20, 1960, in Case No. 7031, 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, 1948, 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 8-7676 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. De Wolf on February 2, 1961.

The complainant testified that he is employed as a barber at 2306 South Union Avenue, Los Angeles, California, and is the only barber working in said shop; that he is not a co-owner, and that the allegation of the complaint is in error in so stating; that complainant's telephone is in a room back of the shop, and is solely for his personal use; and that the owner of the shop, who is not a barber, has a semipublic telephone at the front with two extensions which are near the barber chair.

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 8-7676 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. 61211, 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, which number is Richmond 9-9060, 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, which is Richmond 8-7676, 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 the evidence does not establish that the complainant's telephone was used as an instrumentality to violate the law. Complainant's request will be granted.

O R D E R

The complaint of Samuel Grant 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 order of the Commission in Decision No. 61211, dated December 20, 1960, in Case No. 7031, 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 11th day of April, 1961.

Arvid W. Berg
 President

Walter E. ...

...

George ...

Frederick B. Holcomb
 Commissioners