

ORIGINAL

Decision No. 61916

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

M. W. PURCELL,

Complainant,

vs.

Case No. 7010

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Thorpe, Sullivan, Clinnin & Workman, by
Roger Sullivan, for complainant.
Lawler, Felix & Hall, by David Workman, for
defendant.
Roger Arnebergh, by Bernard Patrusky, for the
Police Department of the City of Los An-
geles, intervenor.

O P I N I O N

By the complaint herein, filed with this Commission on November 7, 1960, M. W. Purcell requests the restoration of telephone service in his apartment, 366 South Columbia Avenue, Los Angeles, California.

By Decision No. 61081, dated November 22, 1960, in Case No. 7010, the Commission ordered that the defendant restore telephone service to the complainant pending a hearing on the matter.

On December 6, 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 August 26, 1960, had

reasonable cause to believe that the telephone service furnished to complainant under number MADison 6-0932 at 366 South Columbia Avenue, Apartment 3, 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, supra.

A public hearing on the complaint was called before Examiner Kent C. Rogers in Los Angeles on December 22, 1960, and continued for hearing to March 17, 1961, in Los Angeles, at which time evidence was presented and the matter was submitted.

The complainant testified that he resides with his wife at Apartment 3, 366 South Columbia Avenue, Los Angeles, California; that he had a telephone service there furnished by defendant; that on August 2, 1960, in his absence, his wife was arrested on the premises for bookmaking and the telephone was removed; that the telephone was subsequently restored; that his wife was convicted of a misdemeanor for bookmaking and paid a fine of \$150; and that he needs the telephone.

The evidence on behalf of the Police Department shows that on August 2, 1960, a horse race bet was accepted over complainant's telephone by complainant's wife, that complainant's wife was arrested, and the telephone was removed.

Exhibit No. 2 is a letter dated August 5, 1960, from the office of the Chief of Police of Los Angeles to the defendant, advising the defendant that complainant's telephone under number MADison 60932 at 366 South Columbia Avenue, Apartment 3, Los Angeles,

California, was on August 2, 1960, 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 confiscated, and requesting that the defendant disconnect the service. It was stipulated that this letter was received on August 8, 1960, that pursuant thereto a central office disconnection was effected on August 26, 1960, and that service was reconnected pursuant to Decision No. 61081, supra, on November 29, 1961. 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. 2.

After full consideration of the 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 the evidence shows that complainant's telephone was used for illegal purposes.

O R D E R

The complaint of M. W. Purcell 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. 61081 is 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, if such applica-
tion is made, The Pacific Telephone and Telegraph Company shall
install telephone service in complainant's apartment at 366 South
Columbia 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 10th
day of MAY, 1961.

Charles H. Jones
President

George T. Hoover

Frederic B. Hallock
Commissioners