

ORIGINAL

Decision No. 62155

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

J. T. ELLIS,

Complainant,

vs.

Case No. 7070

THE PACIFIC TELEPHONE
AND TELEGRAPH COMPANY,
a corporation,

Defendant.

J. T. Ellis, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Roger Arnebergh, by Bernard Patrusky, for the
Los Angeles Police Department, intervener.

O P I N I O N

By the complaint hercin, filed on March 3, 1961,
J. T. Ellis requests an order of this Commission that the
defendant, The Pacific Telephone and Telegraph Company, a corpora-
tion, be required to reinstall telephone service at his business
at 4219½ South Main Street, Los Angeles, California. The
Commission, by Decision No. 61646 in this proceeding, dated
March 14, 1961, ordered defendant to restore telephone service to
the complainant pending hearing herein.

On March 22, 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 J. T. Ellis under number ADams 4-3254 at 4219½ South Main Street, 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 in Los Angeles on May 12, 1961, before Examiner Robert D. DeWolf.

J. T. Ellis testified that he is the subscriber and user of telephone service furnished by defendant under number ADams 4-3254 at said address; that complainant did not use and does not now intend to use said telephone facilities as instrumentalities to violate the law nor in aiding or abetting such violation; that complainant's work makes it imperative that he have a telephone for the proper conduct of his activities and business. That all charges filed against complainant for bookmaking were dismissed.

Exhibit No. 1 is a letter dated November 30, 1960, from the Police Department of Los Angeles to the defendant, advising the defendant that the telephone furnished to Ellis Cleaners under number AD 43254 at 4219½ South Main Street, Los Angeles, 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, and requesting that the telephone company ~~disconnect~~ the service. The position of the telephone company was 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 of the Los Angeles Police Department was called and testified to the arrest of the complainant on said premises for bookmaking and that he found a copy of the sports section of a newspaper on said premises.

After full consideration of the record we find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, and we further find that there is insufficient evidence to show that the complainant's telephone was used for any illegal purpose, and that therefore the complainant is entitled to restoration of telephone service.

O R D E R

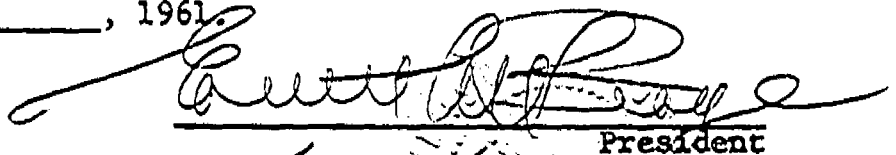
The complaint of J. T. Ellis against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission

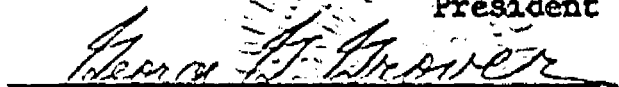
being fully advised in the premises and basing its decision upon the evidence herein,

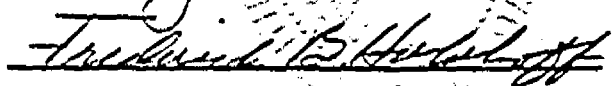
IT IS ORDERED that Decision No. 61646, dated March 14, 1961, ordering temporary restoration of telephone service, be made permanent.

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

Dated at San Francisco, California, this 20th day of JUNE, 1961.


President


Commissioner


Commissioner

Commissioners

^{Mr. Lyn Fox}
Commissioner ~~Mr. Peter E. Mitchell~~, being necessarily absent, did not participate in the disposition of this proceeding.