

ORIGINAL

Decision No. 62624

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EARL O. MORRIS,

Complainant,

vs.

Case No. 7133

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

G. V. Brumbaugh, for complainant.

Lawler, Felix & Hall, by A. J. Krappman, Jr., for
defendant.

Roger Arnebergh, by Bernard Patrusky, for the
Los Angeles Police Department, intervener.

O P I N I O N

By the complaint herein, filed June 9, 1961, Earl O. Morris requests an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at his shop at 8918 South Broadway, Los Angeles, California.

By Decision No. 62233, dated June 30, 1961, in Case No. 7133, the Commission ordered that the defendant restore telephone service to the complainant pending hearing on the matter.

On July 13, 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 March 27, 1961, had reasonable

cause to believe that the telephone service furnished to Earl O. Morris under number Pleasant 3-9481 at 8918 South Broadway, 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 August 11, 1961, before Examiner Robert D. De Wolf.

The complainant Earl O. Morris testified that he is the proprietor of an upholstering shop at 8918 South Broadway, Los Angeles, California; that he uses the telephone service in his business, and the same is essential for contacting his customers; that he has never used the telephone for bookmaking purposes and does not intend to use said telephone for any unlawful purposes; that all of the allegations of the complaint are true; and that he was not convicted of any violation of law.

Exhibit No. 1 is a letter dated March 23, 1961, from the Police Department of the City of Los Angeles to the defendant, advising that the telephone furnished to Earl O. Morris under number PL 39481 at 8918 South Broadway, Los Angeles, California, was being used for the purpose of disseminating horse racing information in violation of Section 337a of the Penal Code, and requesting that the telephone company disconnect the service. Pursuant thereto a central office disconnection was effected.

A police officer testified that he conducted a raid at the address at 8918 South Broadway, Los Angeles, California, on

March 9, 1961, and arrested the complainant; that after entry of the premises the telephone rang several times and the officer answered and each time the party calling asked to place a bet on a horse race; that the officer searched the premises and found racing forms of The National Daily Reporter and the Daily Racing Form and other paraphernalia used in bookmaking on horse races.

After full consideration of this record the Commission finds and concludes 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 the complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing; that complainant's telephone has now been disconnected more than ninety days and that complainant has stated he will not use or permit the use of his telephone for any illegal purpose; that there is urgent need for a telephone by complainant in his business and that the complainant should have telephone service at his business at 8918 South Broadway, Los Angeles, California, restored.

O R D E R

The complaint of Earl O. Morris 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 the order of the Commission in Decision No. 62233, dated June 30, 1961, in Case No. 7133, 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 3rd day of October, 1961.

C. L. Linton President

George L. Crocker

Frederick B. Hallock

Commissioners

Everett C. McKeage
Commissioner* Peter E. Mitchell, being
necessarily absent, did not participate
in the disposition of this proceeding.