

ORIGINAL

Decision No. 62350

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBERT MOSLEY,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 7153 ✓

Robert J. Mosley, in propria persona,
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Bernard
Patrusky, for intervener.

O P I N I O N

By the complaint herein, filed on July 14, 1961, Robert Mosley 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 home at 305 West 93rd Street, Apartment 6, Los Angeles, California.

By Decision No. 62361, dated August 1, 1961, the Commission ordered that the defendant restore telephone service to the complainant pending hearing on the matter.

On August 9, 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 July 17, 1961, had

reasonable cause to believe that the telephone service furnished to Robert J. Mosley under number PL 7-4670 at 305 West 93rd Street, Apartment 6, 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 September 13, 1961, before Examiner Robert D. DeWolf.

Complainant's neighbor, Joe Passalacqua, testified that he used the complainant's telephone in his adjoining apartment; that he is interested in the horse races and had racing forms and charts and other horse race betting paraphernalia in his apartment; that he goes to horse races and places bets on races; and that complainant had no knowledge of horse races.

Exhibit No. 1 is a letter dated July 13, 1961, from the Police Department of the City of Los Angeles to the defendant, advising that the telephone furnished to Robert J. Mosley under number PL 7-4670 at 305 West 93rd Street, Apartment 6, 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.

There was no evidence offered by any law enforcement agency. A deputy city attorney appeared on behalf of the Police Department of the City of Los Angeles and cross-examined the witnesses.

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 evidence fails 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 at his home at 305 West 93rd Street, Apartment 6, Los Angeles, California.


O R D E R

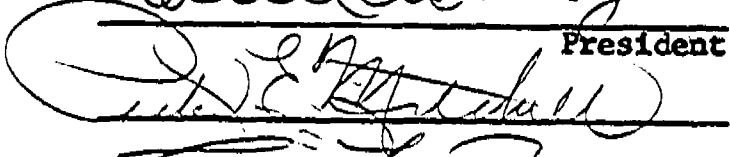
The complaint of Robert Mosley against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence herein,

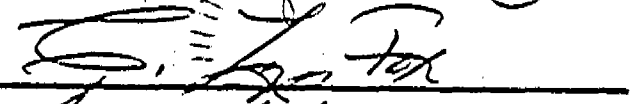
IT IS ORDERED that the order of the Commission in Decision No. 62361, dated August 1, 1961, in Case No. 7153, temporarily restoring telephone service to the complainant, be made permanent, such restoration being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

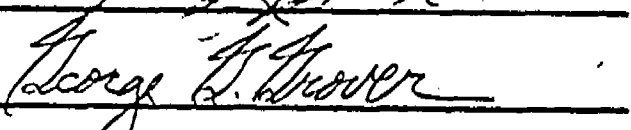
The effective date of this order shall be twenty days after the date hereof.

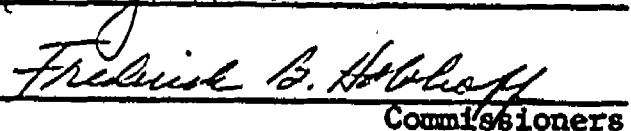
Dated at San Francisco, California, this 19th day of DECEMBER, 1961.



President








Commissioners