

ORIGINAL

Decision No. 63509

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ANTHONY JOSEPH MARTELLA,
Complainant,

vs.

PACIFIC TELEPHONE COMPANY, a
corporation,

Defendant.

Case No. 7262

Kroneberger & Goetz, by Walter L. Kroneberger, Jr.,
for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr., for
defendant.

O P I N I O N

By the complaint herein, filed on January 3, 1962, Anthony Joseph Martella requests an order of this Commission that the defendant, the Pacific Telephone Company, a corporation, be required to reinstall telephone service at 303 "Q" Street, Wilmington, California.

By Decision No. 63111, dated January 16, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On January 25, 1962, 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 7, 1961, had reasonable cause to believe that the telephone service

furnished to Anthony J. Martella under ~~number TE~~ ~~Terminal~~ 5-9420 at 303 West Q Street, Wilmington, 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 February 21, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

Exhibit No. 1 is a letter dated August 7, 1961, from the Sheriff's Office of the County of Los Angeles to the defendant, advising the defendant that the telephone furnished to Anthony J. Martella under number TE 5-9420 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.

Complainant testified that he has great need for telephone service and that he will not use the same for any unlawful purpose; that all the statements in his complaint are true and correct; that he has not had the use of a telephone for four months.

There was no appearance on behalf of, or testimony offered by, any law enforcement agency.

After full consideration of this 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 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.

O R D E R

The complaint of Anthony Joseph Martella 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. 63111, dated January 16, 1962, in Case No. 7262, 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 APRIL, 1962.

Creed H. Page
President

P. J. Fox

George H. Driver

Fredrick B. Holboff

Commissioners

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