

ORIGINAL

Decision No. 63591

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DAVID DUVAL,

Complainant

vs.

Case No. 7176

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY,

Defendant.

David Duval in propria persona.  
Lawler, Felix & Hall, by A. J. Krappman, Jr.,  
for defendant.  
Roger Arnebergh, City Attorney, City of Los  
Angeles, by Edward P. George, for Los An-  
geles Police Department, intervener.

O P I N I O N

By the complaint herein, filed on August 18, 1961, David Duval 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 3414 Maple, Los Angeles, California.

By Decision No. 62479, dated August 29, 1961, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On September 8, 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 June 8, 1961, had reasonable cause to believe that the telephone service furnished to James W. Walker under number ADams 1-3100 at 3414 Maple Avenue, 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.

Complainant failed to appear at public hearings scheduled on October 20, November 17 and December 8, 1961, and the complaint was dismissed in Decision No. 63117, dated January 16, 1962. Complainant filed a petition for rehearing January 25, 1962, which was granted by order of this Commission dated February 20, 1962.

A public hearing was held in Los Angeles on March 23, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

Complainant testified that he has recently moved to the address at 3414 Maple Avenue, Los Angeles, California, and is serving as manager of the apartment building at that location; that he has need for telephone service for his personal affairs and in connection with his work; that he does not know the previous resident at said apartment; and that he will not use said telephone for any unlawful activity.

A deputy city attorney appeared on behalf of the Police Department of the City of Los Angeles and cross-examined the complainant, but offered no other evidence in answer to the complaint for telephone service.

Exhibit No. 1 is a copy of a letter dated June 30, 1961, from the Police Department of the City of Los Angeles to the defendant, advising that the telephone service at 3414 South Maple will be used to violate the law, namely, Section 337a of the Penal Code, Bookmaking.

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 has used a telephone for any illegal purpose, and that therefore the complainant is entitled to installation of telephone service.

O R D E R

The complaint of David Duval 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 complainant's request for installation of telephone service is granted, and that, upon the filing by the complainant of an application with the utility for telephone

service, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's place of residence at 3414 Maple 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 five days after the date hereof.

Dated at San Francisco, California,  
this 24th day of APRIL, 1962.

[Signature] President  
[Signature]  
George G. Brown  
Frederick B. Hollings Commissioners

Commissioner Everett C. McKee, being necessarily absent, did not participate in the disposition of this proceeding.