

ORIGINAL

Decision No. 63593

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BEN NEGRETE,

Complainant,

vs.

Case No. 7267

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Ben Negrete, in propria persona.

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

Harold W. Kennedy, County Counsel, by Norman L.
Lockwood, for Sheriff's Department,
intervener.

O P I N I O N

By the complaint herein, filed on January 15, 1962, Ben Negrete requests an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at 15301 S. Vermont Avenue, Gardena, California.

By Decision No. 63173, dated January 26, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On February 7, 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 March 11, 1960, had reasonable cause to believe that the telephone service furnished to Ben Negrete under number Davis 4-9890 at 15301 South Vermont Avenue, Gardena, 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 March 21, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

Exhibit No. 1 is a copy of a letter dated March 9, 1960, from the Office of the Sheriff of the County of Los Angeles to the defendant, advising the defendant that the telephone furnished at the address of Ben Negrete under number Davis 4-9890 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 need of telephone service in his gasoline service station business and that he has not had telephone service since April 1960. He has not used the service for any unlawful purpose and will not do so in the future.

The Sheriff of Los Angeles County appeared by Deputy County Counsel and cross-examined the complainant, but offered no other evidence.

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 Ben Negrete 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. 63173, dated January 26, 1962, in Case No. 7267, 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 24th day of APRIL, 1962.

[Signature] President
[Signature]
[Signature]
[Signature]
[Signature] Commissioners

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