

ORIGINAL

Decision No. 63658

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENCINO ENTERPRISES, a corporation,)

Complainant,)

vs.)

Case No. 7186

THE PACIFIC TELEPHONE AND TELE-
GRAPH COMPANY, a corporation,)

Defendant.)

Leo Mack, Jr., for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, by Charles Wm. Sullivan, for
City of Los Angeles, intervenor.

O P I N I O N

By the complaint herein, filed on September 7, 1961, Encino Enterprises, a corporation, requests an order of this Commission that the defendant, Pacific Telephone, a corporation, be required to reinstall telephone service at its place of business at 17301 Ventura Boulevard, Encino, California.

By Decision No. 62575, dated September 19, 1961, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On October 2, 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 August 15, 1961,

had reasonable cause to believe that the telephone service furnished to Encino Enterprises, Inc., under number State 8-4044 at 17301 Ventura Boulevard, Encino, 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 November 17, 1961, before Commissioner George G. Grover and Examiner Robert D. DeWolf.

Exhibit No. 1 is a letter dated August 16, 1961, from the Police Department of the City of Los Angeles to the defendant advising that the telephone furnished to The Oak Room under number ST 84044 at 17301 Ventura Blvd., Encino, 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.

Exhibit No. 2 is a two-page affidavit signed and sworn to by one of the owner-managers of the complainant which disclaims knowledge of any illegal activity on the premises, and alleges that the managers were diligent in hiring the bartender in their efforts to conduct a lawful business at said address and will continue to do so in the future.

Exhibit No. 3 is a letter dated September 20, 1961, from the Los Angeles Police Department to the telephone company, expressing the opinion, after further investigation, that said

telephone would not be used for illegal purposes in the future and that they have no objection to reinstallation of the telephone service at said address.

One of complainant's managers testified to strict controls and investigation of employees at said place of business; that no illegal activities were known or permitted; and that the bartender who was arrested was discharged.

A police officer testified to making a phone call to a bartender at complainant's place of business and placing a bet on a horse race with the bartender; that he later paid the bartender \$5.00 for the bet and subsequently arrested the bartender. The bartender pleaded guilty and paid a fine. The officer testified that he had no information that complainant or its officers or managers were in any way connected with or had any knowledge of the activities of the bartender; that no other illegal operations were observed by the police officers; and that no betting equipment or betting markers were found on the premises.

After full consideration of this record the Commission finds that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415; that the evidence fails to show that the complainant's telephone will be used in the future for any illegal purpose; that the only evidence that the telephone had been used in violation of the law for bookmaking is the one call made by the police officer to the bartender who is no longer at these premises, and that the complainant is entitled to restoration of telephone service at 17301 Ventura Boulevard, Encino, California.

IT IS ORDERED that the order of the Commission in Decision No. 62575, dated September 19, 1961, in Case No. 7186, temporarily restoring telephone service to the complainant, be made permanent.

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

Dated at San Francisco, California,
this 21st day of MAY, 1962.

George W. Peck
President

[Signature]

[Signature]

George W. Peck

Fredrick B. Haddock
Commissioners