

ORIGINAL

Decision No. 63715

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RUSSELL M. WYNN,

Complainant,

vs.

Case No. 7285

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Russell M. Wynn in propria persona.  
Lawler, Felix & Hall, by Charles L. Rogers  
for defendant.

Harold W. Kennedy, County Counsel, by  
DeWitt Clinton, Deputy County Counsel,  
for the Sheriff of Los Angeles County,  
intervener.

O P I N I O N

By the complaint herein, filed on February 20, 1962, Russell M. Wynn requests an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at 7901 Sunset Boulevard, Los Angeles, California.

By Decision No. 63360, dated March 6, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On March 14, 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.), on or about February 20, 1962, had

reasonable cause to believe that the telephone service furnished to complainant under numbers Oldfield 6-3388 and Oldfield 6-7771 at 7901 Sunset Boulevard, Los Angeles, California, were being or were to be used as instrumentalities 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 April 11, 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 February 16, 1962, from the Sheriff's Office of the County of Los Angeles to the defendant, advising defendant that the telephone furnished to Russ-Wynn's Service Station under numbers OL 6-3388 and OL 6-7771 were 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 is the owner and operator of a gasoline service station which is open for business 24 hours a day. In this business he has seven employees and rented space for a wash rack to a man named Smith who was also given the privilege of receiving telephone calls over complainant's telephone which was locked to outgoing calls. Complainant also testified that he had no knowledge of any illegal activities prior to the arrest of Smith,

and that, upon learning of this, he then cancelled his leasing arrangement with him. He testified that he has not used the telephone for any illegal activities and will not do so in the future.

There was no testimony offered by any law enforcement agency in opposition to the complaint.

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 Russell M. Wynn 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. 63360, dated March 6, 1962, in Case No. 7285, 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 22nd day of MAY, 1962

*Charles W. Page*  
 President

*J. E. Hill*

*E. Linton*

*George H. Grover*

*Fredrick E. Hoff*  
 Commissioners