

ORIGINAL

Decision No. 63742

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

D-15, INC., a California corporation,

Complainant,

vs.

PACIFIC TELEPHONE & TELEGRAPH COMPANY,
a California corporation,

Defendant.

Case No. 7288

Daniel N. Busby, by Marvin L. Klynn, for
complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Edward P.
George, for the Los Angeles Police
Department, intervener.

OPINION AND ORDER

By the complaint herein, filed on February 27, 1962,
D-15, Inc., a California corporation, requests an order of this
Commission that the defendant, Pacific Telephone & Telegraph Company,
a California corporation, be required to reinstall telephone service
at its place of business at 5875 Franklin Avenue, Los Angeles,
California.

On March 12, 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 27, 1961, had
reasonable cause to believe that the public-pay-telephone service

furnished under number HOLLYWOOD 2-9745 at 5875 Franklin Avenue, Los Angeles, 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 April 25, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

The president of complainant testified that the telephone with number HOLLYWOOD 2-9745 is a public pay station in his place of business and used by his customers, and that he has another telephone on the premises for the use of his business. The complainant and defendant stipulated for a dismissal of this complaint upon the representation of counsel for defendant that defendant would then be in a position to install a public pay station at said address. Defendant also moved to dismiss the complaint on the ground that the evidence fails to state a cause of action against defendant in that the telephone service sought to be reinstalled is a public pay station and that the Commission has no jurisdiction to order the defendant to reinstall a public pay station at the request of the complainant.

There was no testimony offered on behalf of any law enforcement agency. A deputy city attorney appeared on behalf of the Los Angeles Police Department.

Exhibit No. 1 is a copy of a letter dated March 23, 1962, from the Police Department of the City of Los Angeles to the

defendant, advising that the telephone furnished under number HO 29745 at 5875 Franklin Avenue, Los Angeles, 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.

After full consideration of this record the Commission finds and concludes 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 said public pay telephone was used for any illegal purpose; and that the complaint should be dismissed as the telephone service requested is a public pay station. Accordingly, it is unnecessary to consider defendant's motion relating to our jurisdiction.

Therefore, IT IS HEREBY ORDERED that the complaint of D-15, Inc., Case No. 7288, is dismissed.

Dated at San Francisco, California, this 28th day of MAY, 1962.

Charles W. [Signature]
 President

[Signature]

[Signature]

[Signature]

[Signature]
 Commissioners