

ORIGINAL

Decision No. 63912

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ERNEST CRUZ,
Complainant,

vs.

PACIFIC TELEPHONE, a corporation,
Defendant.

Case No. 7318

Ernest Cruz, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, by Charles E. Greenberg,
Deputy City Attorney, for Los Angeles
Police Department, intervener.

O P I N I O N

By the complaint herein, filed on April 11, 1962, and amendment filed on May 23, 1962, Ernest Cruz requests an order of this Commission that the defendant, The Pacific Telephone Company, a corporation, be required to reinstall telephone service at his home at 4845 St. Charles Place, Los Angeles 19, California.

On April 27, 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 2, 1962, had reasonable cause to believe that the telephone service furnished to Ernest Cruz under number WE 6-5788 at 4845 St. Charles Place, 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.

A public hearing was held in Los Angeles on June 6, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

Complainant testified that he has urgent need for telephone service to keep in touch with his office and business and for other reasons. Applicant's telephone has been disconnected more than three months. He has not used the telephone for any unlawful purpose and will not do so in the future.

There was no testimony offered on behalf of any law enforcement agency.

Exhibit No. 1 is a letter dated March 1, 1962, from the Chief of Police of the City of Los Angeles to the defendant, advising that the telephone furnished to Ernest Cruz under number WE 65788 and one extension, at 4845 St. Charles Place, 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 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 Ernest Cruz 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 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 reinstall telephone service at the complainant's home at 4845 St. Charles Place, Los Angeles 19, 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 10th day of July, 1962.

George J. Traver
President

W. J. [Signature]

J. [Signature]

Arnold [Signature]

Frederic B. [Signature]
Commissioners