

ORIGINAL

Decision No. 63946

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

A. W. LOFTON,
Complainant,
vs.
THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,
Defendant.

Case No. 7316

Edward C. Fitzgerald, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, by Charles E. Greenberg,
Deputy City Attorney, appearing for
the Police Department of the City of
Los Angeles, intervener.

O P I N I O N

By the complaint herein, filed on April 9, 1962, A. W. Lofton requests an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, be required to reinstall telephone service at 1453 W. 57th Street, Los Angeles 62, California.

By Decision No. 63579, dated April 17, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On April 30, 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

A. W. Lofton under number PL 10784 at 1453 West 57th Street, 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 May 28, 1962, before Examiner Robert D. DeWolf and the matter was submitted on the same date.

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 the defendant that the telephone furnished to A. W. Lofton under number PL 10784 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 she and a tenant were arrested and charged with taking bets, and that all charges against complainant were dismissed on March 23, 1962. That she is a nurse and has great need for a phone to obtain employment.

There was no testimony offered by any law enforcement agency. A deputy city attorney cross-examined the complainant.

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 A. W. Lofton 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. 63579, dated April 17, 1962, in Case No. 7316, 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 17th day of JULY, 1962.

George T. Grover
President
Charles E. Hutchins
Sam Fox
Conrad A. Berg
Fredrick B. Holbrook
Commissioners