

ORIGINAL

Decision No. 63993

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOSEPH ROBERT SPINAZZOLA,
Complainant,)

vs.

Case No. 7324

PACIFIC TELEPHONE COMPANY, a
corporation,
Defendant.)

Kroneberger & Goetz, by Walter L. Kroneberger,
for complainant.
Lawler, Felix & Hall, by H. Neal Wells III,
for defendant.
Harold W. Kennedy, County Counsel, by DeWitt
Clinton, for the Sheriff of Los Angeles
County, intervener.

O P I N I O N

By the complaint herein, filed on April 30, 1962, Joseph Robert Spinazzola requests an order of this Commission that the defendant, Pacific Telephone Company, a corporation, be required to reinstall telephone service at his home at Everglow Apartments, 539 Lomita Boulevard, Apartment 39, Wilmington, California.

By Decision No. 63684, dated May 14, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On May 25, 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 January 29, 1962, had reasonable cause to believe that the telephone service furnished to Joseph Robert Spinazzola, under number TE 5-7050 at 539 East Lomita Avenue, Apartment 39, Wilmington, 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 18, 1962, before Examiner Robert D. DeWolf and the matter was submitted on the same date.

Exhibit No. 1 is a letter dated January 25, 1962, from the office of the Sheriff of the County of Los Angeles to the defendant, advising the defendant that the telephone furnished to Joseph Robert Spinazzola under number TE 5-7050 was being used for the purpose of disseminating horse racing information which was being used in connection with book-making 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 has great need for telephone service for medical and health reasons, and that he has

not used the telephone for any unlawful purpose and will not do so in the future.

There was no testimony offered by any law enforcement agency. A deputy county counsel appeared on behalf of the Sheriff of Los Angeles County.

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 Joseph Robert Spinazzola 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. 63684, dated May 14, 1962, in Case No. 7324, 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 24th day of JULY, 1962.

George G. Grover
President

John P. Mitchell

J. J. [unclear]

Charles W. [unclear]

Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.