

ORIGINAL

Decision No. 64025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ANTHONY AGUILERA,

Complainant,

vs.

Case No. 7307

THE PACIFIC TELEPHONE COMPANY,

Defendant.

Anthony Aguilera, in propria persona.
Lawler, Felix & Hall, by H. Neal Wells, III,
for defendant.
Roger Arnebergh, by Edward P. George, for the
City of Los Angeles, intervener.

O P I N I O N

By the complaint herein, filed on March 27, 1962, Anthony Aguilera requests an order of this Commission that the defendant, The Pacific Telephone Company, a corporation, be required to reinstall telephone service at 2001 North Broadway, Los Angeles 31, California.

By Decision No. 63539, dated April 10, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On April 19, 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 13, 1962, had reasonable cause to believe that the telephone service

furnished to Anthony Aguilera under numbers CA 1-9114 and CA 1-6939 at 2001 North Broadway, 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 18, 1962, before Examiner Robert D. DeWolf and the matter was submitted on the same date.

Exhibit No. 1 is a letter dated March 8, 1962, from the Police Department of the City of Los Angeles to the defendant, advising the defendant that the telephones furnished to Aga's Muffler Shop under numbers CA 16939 and CA 19114 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 has great need for telephone service in his place of business and depends on

it to give customers service; that he has not used the telephone for any unlawful activities and will not do so in the future.

There was no testimony offered by any law enforcement agency. A deputy city attorney for the City of Los Angeles appeared and 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 Anthony Aguilera 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. 63539, dated April 10, 1962, in Case No. 7307, 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 31st day of JULY, 1962.

George E. Grover
President

John A. Mitchell

E. J. Fox

Walter W. Page

Fredrick B. Holdhoff
Commissioners