

ORIGINAL

Decision No. 64134

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JAMES T. NEWLAND and
LAURA A. NEWLAND,
Complainants,

vs.

Case No. 7362

THE PACIFIC TELEPHONE
AND TELEGRAPH COMPANY,
a corporation,
Defendant.

James T. Newland, in propria persona.
Gray, Cary, Ames & Frye, by
Rudi M. Brewster, for defendant.

O P I N I O N

By the complaint herein, filed on May 22, 1962, James T. Newland and Laura A. Newland request an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at their home at 328 South 49th Street, San Diego, California.

On June 8, 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 August 11, 1961, had reasonable cause to believe that the telephone service furnished to James T. Newland under number Congress 4-3548 at 328 South 49th Street, San Diego, 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 rea-

sonable cause, the defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415.

A public hearing was held in San Diego on July 6, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

Complainant testified that he has urgent need of telephone service to contact his employer as he is on 24-hour duty, and for use of his wife and two daughters living at home.

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

Exhibit No. 1 is a letter dated August 11, 1961, from the Police Department of San Diego to the defendant, advising that the telephone furnished to J. T. Newland under number Congress 4-3548 at 328 South 49th Street, San Diego, California, 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 James T. Newland and Laura A. Newland 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 request of complainant James T. Newland for telephone service is granted and the complaint of Laura A. Newland is dismissed, and that, upon the filing by the complainant James T. Newland 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 328 South 49th Street, San Diego, 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 9th day of AUGUST, 1962.

George H. Grover
President

W. E. Mitchell

W. J. [unclear]

Wendell [unclear]

Frederick B. Holshoff
Commissioners