

**ORIGINAL**

Decision No. 64362

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEO JOHNSON,

Complainant,

vs.

PACIFIC TELEPHONE & TELEGRAPH,  
a corporation,

Defendant.

Case No. 7388

James S. Fitzpatrick, for complainant.  
Lawler, Felix & Hall, by A. J. Krappman, Jr.,  
for defendant.  
Roger Arnebergh, City Attorney, by Charles E. Greenberg, Deputy City Attorney, for the  
Los Angeles Police Department, intervener.

O P I N I O N

By the complaint herein, filed on June 27, 1962, Leo Johnson requests an order of this Commission that the defendant, Pacific Telephone & Telegraph, a corporation, be required to reinstall telephone service at 1200 West 54th Street, Los Angeles 37, California.

By Decision No. 63975, dated July 17, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On July 24, 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 May 31, 1962, had reasonable cause to believe that the telephone service furnished to Leo Johnson under number PL 3-9262 at 1200 West 54th 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 August 20, 1962, before Examiner Robert D. DeWolf and the matter was submitted on the same date.

Exhibit No. 1 is a letter dated May 29, 1962, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the telephone furnished to Leo's Cleaners under number PL 3-9262, and one extension, at 1200 West 54th Street, 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 is owner and operator of a cleaning and pressing business and has great need for telephone service to contact his customers and for their use in calling for pickup and delivery. Complainant testified that he has never used

the telephone for bookmaking and has no knowledge of any illegal use by the public of this telephone; that no arrests were made by the officers and no charges filed against him, and no betting equipment was found on the premises by the officers. Complainant further testified that he will not use the phone for any unlawful purpose or permit it to be used by others.

A Deputy City Attorney appeared on behalf of the Chief of Police of the City of Los Angeles and cross-examined the complainant, but no testimony was offered by any law enforcement agency.

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.

C R D E R

The complaint of Leo Johnson 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. 63975, dated July 17, 1962, in Case No. 7388, 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 9<sup>th</sup> day of OCTOBER, 1962.

George G. Grover  
President  
W. H. Mitchell  
W. J. Fox  
Carroll Pittsley  
Fredrick B. Hallock  
Commissioners