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ORIGINAL

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DEWITT EATON,

Complainant,

vs.

THE PACIFIC TELEPHONE  
AND TELEGRAPH COMPANY,  
a corporation,

Defendant.

Case No. 7377  
(Filed June 18, 1962)

Joseph T. Forno, by Arthur Lewis, for complainant.

Lawler, Felix & Hall, by A. J. Krappman, Jr., for defendant.

Roger Arnebergh, City Attorney, by Charles E. Greenberg, for the Police Department of the City of Los Angeles, intervener.

O P I N I O N

Dewitt Eaton requests an order directing defendant to reinstall telephone service at his barber shop at 1410 West Fifty-fourth Street, Los Angeles, California.

By Decision No. 63846, dated June 26, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On July 5, 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 June 11, 1962, had reasonable cause to believe that the telephone service furnished to Dewitt Eaton under number PL 3-9218 at 1410 West Fifty-fourth 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 22, 1962, before Examiner Robert D. DeWolf and the matter was submitted on the same date.

Exhibit 1 is a letter dated June 7, 1962, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the telephone furnished to Dewitt Eaton under number PL 39218 and two extensions 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 1.

Complainant testified that he has not used this telephone for any illegal purpose and will not do so in the future or aid and abet any such violation; that he has great need for the service

in the barber shop; and that the criminal charges against a barber in his shop have been dismissed.

A deputy city attorney appeared and examined the complainant, but no other 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.

O R D E R

The complaint of Dewitt Eaton 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. 63846, dated June 26, 1962, in Case No. 7377, 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 16th day of OCTOBER, 1962.

George H. Brown  
President

J. E. Mitchell

J. J. [unclear]

Wesley B. [unclear]

Frederic B. Holboff  
Commissioners