CF /ds

ORIGINAL

Decision No. 65206

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHN CANCILLA,

Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH COMPANY, a public corporation,

Defendant.

Case No. 7474
(Filed October 29, 1962)

Jack Riordan, for complainant.
Pillsbury, Madison and Sutro by James F. Kirkham, for defendant.
Thomas M. O'Connor, City Attorney, and Orville I. Wright, for intervenor, City and County of San Francisco.

O P I N I O N

A public hearing was held on January 28, 1963, in San Francisco, California, before Examiner Rowe, on complainant's request for an order that defendant reinstall a public telephone at complainant's bar and restaurant at 2400 Harrison Street, San Francisco, California.

The City Attorney of the City and County of San Francisco intervened in the proceedings to oppose the request, to introduce testimony of police officers that the telephone had, in fact, been used by persons other than complainant to aid and abet the violation of law, and to testify that defendant had been so advised. Defendant's witnesses testified that the telephone had been removed upon the receipt of that advice pursuant to Decision No. 41415, Case No. 4930, dated April 6, 1948, 47 P.U.C. 853.

The defendant's witnesses further testified, and the Commission so finds, that the subject public telephone was a non-listed, nonsubscriber exchange station and that under the provisions of defendant's tariff contained in Cal. P.U.C. No. 11-T, First Revised Sheet 6, the location and installation of such a telephone is left to the defendant's option. Complainant did not challenge the reasonableness of this tariff.

In view of the findings, it is apparent that, with respect to the type of telephone service requested by complainant, the complaint fails to state a cause of action, and the matter should be dismissed.

O R D E R

IT IS ORDERED that the complaint in Case No. 7474 is dismissed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 9th day of April, 1963.

George G. Grover
President

Commissioners