

Decision No. 66802

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HUDSON M. ACKERMAN and
OLIN L. ACKERMAN, individually
and Co-Partners doing business
under the fictitious firm name
and style of HOLLYMONT BOWL,

Complainants,

vs.

PACIFIC TELEPHONE, a corporation,
and JOHN DOE COMPANY, a
corporation,

Defendants.

Case No. 7806

ORDER OF DISMISSAL

The complaint herein may be summarized as follows.
Complainants operate a public bowling alley. Defendant utility installed in the bowling alley two telephone booths with necessary equipment. Such "public telephones" were installed for the convenience of complainants and their patrons and customers. Complainants must maintain "public telephones" for the convenience of their patrons and regular bowlers. It is not possible to operate successfully without "public telephones" being available for patrons and customers. In October of 1963, without prior notice or complainant's request therefor, defendant disconnected these telephones, thereby depriving complainants of a needed public utility service. Complainants are damaged by reason of their inability to furnish a needed service to their patrons and customers. It is alleged that defendants claim the telephones were being used by unauthorized persons to place bets or wagers on horse racing and other athletic events, and the Police Department of the City of Los Angeles ordered that said

telephones be disconnected. Defendants have refused to restore that service. Neither the complainants nor their agents, employees or customers, have used the telephones for the purpose of placing bets or wagers, and complainants have not had any knowledge of the use of the telephones for such purpose other than having been so informed by defendant after discontinuance of the service. Complainants have not participated in such use of the telephones and have not encouraged or permitted such use at any time. Complainants seek immediate restoration of service.

The complaint alleges disconnection of "public telephones". Under defendant's tariff schedule CAL. P.U.C. NO. 11-T, unlisted nonsubscriber public telephones are installed by the utility at its discretion to meet general and transient public requirements. Use thereof by occupants of the premises in which they are installed is only incidental to the purpose for which such telephones are installed. In Blum v Pacific Telephone, Decision No. 56154 in Case No. 6009, because of such tariff provisions, the Commission dismissed a complaint seeking restoration of a nonlisted, nonsubscriber public telephone in a cocktail lounge.

Case No. 7806 is hereby dismissed for failure to state a cause of action.

Dated at San Francisco, California, this 19th day of FEBRUARY, 1964.

William G. Bennett
President
John E. Mitchell
Robert W. Ray
Frederic B. Haloboff
Commissioners

I dissent. The utility's discretion as to public telephones must be reasonably exercised. I would grant a hearing.
George T. Dwyer