

ORIGINAL

Decision No. 46686

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LILLIAN M. GATES, dba)
 YOUR EXCHANGE SERVICE,)
)
 Petitioner,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY, a)
 corporation,)
)
 Respondent.)

Case No. 5311

Gordon Leslie Cooper, for Your Exchange Service, petitioner. Pillsbury, Madison & Sutro, by John A. Sutro, and Lawler, Felix & Hall, by L. B. Conant, for defendant.

O P I N I O N

Lillian M. Gates, complainant herein, is the owner and operator of Your Exchange Service, a telephone-answering service having its place of business at 643 North Vista Street, Hollywood 36, California.

The complaint alleges that on or about July 5, 1951, the complainant was advised in writing by the respondent that the telephone company had received information to the effect that the communication facilities of Your Exchange Service were being used as an instrumentality to violate the law, or in aiding or abetting such violation, and that as a result thereof these telephone services would be disconnected by

July 19, 1951. The complaint further alleges that the complainant serves about a hundred customers in the operation of the exchange service, and will suffer "irreparable damage, loss of business, injury to her reputation, severe hardship, financial loss, great embarrassment and humiliation" by reason of said disconnection, and further that the communication facilities concerned are not, and never have been, used as an instrumentality to violate the law or in aiding or abetting such violation.

As a result of this complaint this Commission, under date of July 20, 1951, issued an order granting temporary interim relief, restraining and enjoining the respondent telephone company from discontinuing or disconnecting the telephone service in question, pending a hearing before this Commission. (Decision No. 45966 in Case No. 5311). Subsequently, on July 27, 1951, the telephone company filed an answer, the principal allegation of which was that it had reasonable cause to believe that the use made or to be made of the telephone facilities in question was prohibited by law, and but for Decision No. 45966, supra, the telephone company would have been required to disconnect said service pursuant to the order of this Commission in Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

Public hearings were held before Examiner Syphers in Los Angeles on November 5 and 13, 1951, on which dates evidence was adduced and on the last-named date the matter was submitted. It is now ready for decision.

The exchange service operated by complainant, according to the testimony herein, consists of "two positions of 80-line switchboard", which equipment has a capacity of handling 160 customers. At the time of the hearings there were three types of service being offered through this switchboard. The first type consists of subscribers who have ordinary telephones with extensions connected to the switchboard. There were 64 of these subscribers. The second type consists of nine user services who were explained to be subscribers having telephones whose only connections were with the above switchboard. In other words, for these joint users to place or receive a call it would be necessary to go through the switchboard. The third type of service consists of a group of people having what is termed "a no answer call" listing. This is an arrangement whereby a telephone call placed to the number of one of these subscribers, and receiving no answer, is referred to the number of the switchboard. The principal number of the switchboard is WEBster 1-1521, and in addition there are ten rotary numbers extending to WEBster 1-1529 and 1-1520. If a call comes in for one of the numbers, which is busy at the time, the call is automatically advanced to the next number in the rotary. In addition to this set of rotary numbers there is a second group of ten extending from WEBster 3-5901 to WEBster 3-5909 and WEBster 3-5900, and a third group of four rotary numbers extending from WALnut 1157 to 1159 and 1150. Additionally there is a fourth group of rotary numbers extending from WEBster 1-1584 to WEBster 1-1588, and there is one off-group

number, YOrk 7981. The above numbers represent thirty trunk lines which terminate at the switchboard. It was further testified that the first number in each of these rotaries controls the other numbers, so that if service to the first number in a rotary were disconnected it would disconnect all of the other numbers in that same rotary.

Police officers from the City of Los Angeles testified that they had investigated complainant's exchange service on at least three different occasions. On December 2, 1950, at about twelve noon, two police officers of the City of Los Angeles visited complainant at her place of business and discussed with her the method whereby calls were coming in to telephone number WEbster 1-1524. Mrs. Gates acknowledged that the messages received for this telephone were different from most of the messages she received, and that, in most instances, people calling this number would give two names and leave a telephone number to be called. It was pointed out to her that this was a method of bookmaking, and she agreed to advise the police if she received any messages of that type in the future. Three or four months later one of the police officers again talked to Mrs. Gates concerning this problem and inquired as to why she had not referred this type of call to them, and she answered, "I tried to, but they didn't answer there."

On January 6, 1951, a police officer from the City of Los Angeles, upon receipt of information to the effect that bookmaking was being conducted at WEbster 3-5901, called

that number and asked for Mr. Fillmore. A voice answered and the officer testified that he recognized this voice as that of one Clifford Rubenstein whom the officer described as a known bookmaker. As soon as the officer commenced talking Rubenstein hung up, and the officer then called Mrs. Gates and asked her for the telephone number of this subscriber. She gave him a number which was that of a telephone at a taxi drivers' social club. Mrs. Gates at that time was advised that it was illegal to permit bookmaking activities through her exchange service.

On June 9, 1951, five officers of the Los Angeles Police Department visited complainant's exchange service. Mrs. Gates was advised that the police had information from a better to the effect that he was calling WEBster 3-5901 to place his bets. She was further advised that a police officer had called this number, WEBster 3-5901, and had had a conversation with three different individuals relating to the placing of bets.

Mrs. Gates was asked where the calls coming to WEBster 3-5901 were being switched, and she informed the officers that they were being switched to HOLLYWOOD 9-3654 up until 1:00 P.M., and thereafter to HOLLYWOOD 3-1920. One of the officers went to the location of the number HOLLYWOOD 9-3654, which was a bowling alley at 8473 HOLLYWOOD Boulevard, and while there received several calls from people placing bets on race horses. Later he returned to the location of the exchange service and received calls for HOLLYWOOD 3-1920, which

calls were transferred to an extension telephone. These calls were from people who wanted to place bets on horse races. Another officer listened over the earpiece of one of the operators at the exchange service and heard wagers being given and made. Still another officer, who was a policewoman, sat at a desk for a period of about an hour and a half and received all of the calls for WEBster 3-5901. During this period this officer received, according to her testimony, numerous bets on horse races, and made notes of them.

Complainant presented testimony as to the business she was conducting, which disclosed that Your Exchange Service is located in a building at 643 North Vista Street, Hollywood, the front part of which is a residence. She stated that she has about 130 clients, consisting of various doctors, attorneys, real estate offices, telephone and radio shops, and a burglar alarm system.

In the light of this record we find that the telephone company exercised due care in advising the complainant that it intended to disconnect the telephone facilities, and we further find that such action was based upon reasonable cause, as such term is used in Decision No. 41415, supra.

The specific problem in this case is whether or not there is sufficient evidence of unlawful activities to justify the termination of the order granting temporary relief issued by Decision No. 45996, or whether there is insufficient evidence on this point, and, accordingly, that the aforesaid temporary order should be made permanent.

A careful review of this record impels the conclusion, and we now find, that the complaint should be dismissed and the temporary order set aside and vacated. Based upon the evidence, we hereby find that bookmaking activities were being carried on through the medium of the exchange service. While it is undoubtedly true that many of the subscribers to this service were not connected with these bookmaking activities, yet the service itself was the medium for permitting these activities, and, as such, was being operated in violation of the law.

O R D E R

The complaint of Lillian M. Gates, doing business as Your Exchange Service, against The Pacific Telephone and Telegraph Company having been filed, public hearings having been held thereon, the case now being ready for decision, the Commission being fully advised in the premises and basing its decision on the evidence of record and the findings herein,

IT IS ORDERED that the complainant's request for an order restraining respondent from disconnecting its telephone service be, and it hereby is denied and that the complaint be and the same hereby is dismissed. The temporary interim relief order granted by Decision No. 45966, dated July 20, 1951, in Case No. 5311, is hereby set aside and vacated.

IT IS HEREBY FURTHER ORDERED that, upon the expiration of sixty (60) days after the effective date of this order, The Pacific Telephone and Telegraph Company may consider an application for telephone service from the complainant herein on the same basis as the application of any new subscriber.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at Los Angeles, California, this 29th day of January, 1952.

R. J. [Signature]
President
Justice F. [Signature]
Harold P. [Signature]
[Signature]
[Signature]
Commissioners