

ORIGINALDecision No. 47647

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FLOYD EDDY,

Complainant,

vs.

Case No. 5386

THE PACIFIC TELEPHONE AND TELE-
GRAPH COMPANY, a corporation,

Defendant.

Burke Mathes for the complainant. Pillsbury,
Madison & Sutro, by John A. Sutro, and Lawler, Felix &
Hall, by John H. Harriman, for The Pacific Telephone
and Telegraph Company.

O P I N I O N

The complaint alleges that Floyd Eddy, who resides at 7316 California Avenue, Huntington Park, California, was a subscriber of telephone service at this address under telephone number Lafayette 3274. On or about January 31, 1952, these telephone facilities were disconnected as a result of certain alleged bookmaking activities on the part of Mildred Eddy, the wife of the petitioner. Complainant has requested the telephone company to restore telephone service, but it has refused to do so. The complaint further alleges that the complainant had no knowledge of any unlawful use of the telephone facilities, and that it is necessary that he have a telephone in connection with his work.

Under date of July 21, 1952, the defendant telephone company filed an answer, the principal allegations of which were that it had reasonable cause to believe that the communication facilities furnished to complainant were being used as an instrumentality to violate the law, or to aid or abet the violation of the law, and that, accordingly, the defendant telephone company was required to and did disconnect and discontinue the telephone service.

Public hearing was held in Los Angeles on August 21, 1952, before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that he was a subscriber to telephone service prior to 1942, and at that time, when he went into the army, he had his telephone listing changed to the name of his sister-in-law, Lola Eddy. In 1943 this telephone was moved to his present residence at 7316 California Avenue, Huntington Park. Upon returning from the military service in 1946, he did not have the telephone listing changed to his own name although, according to his testimony, the telephone was used by him and his family. His sister-in-law, Lola Eddy, moved away from the premises.

He further testified that he did not know his wife was engaged in bookmaking activities, and that the first he learned of it was when she was arrested for bookmaking on January 31, 1952. He stated he is the sales manager for an automobile agency and a telephone is necessary in his work; that he had never used the telephone for unlawful purposes, and did not intend to do so. His wife now is on probation for a three-year period and

the witness was of the opinion that she would not use the telephone unlawfully.

A deputy sheriff of Los Angeles County testified that, on January 31, 1952, accompanied by two other deputies, she went to complainant's residence at 7316 California Avenue, Huntington Park, entered the premises and found Mrs. Mildred Eddy, who, upon questioning, admitted that she had been taking bets over the telephone. There was a table in the kitchen upon which there was a hand telephone, Lafayette 3274, and there were also scratch sheets and pieces of paper on which were written in pencil the names of horses running at western and eastern tracks upon that date, with the amount of wagers noted after the names of the horses. Mildred Eddy told the deputies that she received \$40 a week for conducting this bookmaking activity. The telephone rang several times and the deputy sheriff answered it and recorded bets on horses. Mrs. Mildred Eddy was arrested at this time.

The position of the telephone company was that it had acted upon reasonable cause in removing the telephone inasmuch as it had received a letter from the Sheriff of Los Angeles County, dated January 31, 1952, requesting that these telephone facilities be disconnected. Exhibit 1 is a copy of this letter.

After consideration of this record, we now find that the telephone company acted with reasonable cause, as such term is used in Decision No. 41115, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853). We further find that the telephone facilities here in question were used as an instrumentality to aid and abet the violation of the law.

According to this record, the complainant, Floyd Eddy, was not implicated in these unlawful activities. His wife, Mildred Eddy, now is on probation, and from the evidence herein it does not seem likely that she will use the telephone for unlawful activities.

While the complainant, Floyd Eddy, was not listed as the subscriber of this telephone, nevertheless the record shows that he was the user of it for the last six years, and that he has a need for telephone service in his work. He has been deprived of telephone service since January 31, 1952, and upon this record we now find that he is entitled to telephone facilities on the same basis as any new subscriber. However, any telephone facilities furnished him need not have the same number as the prior facilities.

ORDER

The complaint of Floyd Eddy against The Pacific Telephone and Telegraph Company having been filed, public hearing having been held thereon, the matter now being ready for decision, and the Commission being fully advised in the premises and basing its decision upon the evidence of record in this case and the findings herein,

IT IS ORDERED that The Pacific Telephone and Telegraph

Company 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 San Francisco, California, this 2nd day of September, 1952.

A. J. [Signature]
President
Justin F. [Signature]
[Signature]
[Signature]

Commissioners