

ORIGINAL

Decision No. 47760

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EVELYN GREENE,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant

Case No. 5381

Evelyn Greene in propria persona. Pillsbury,
Madison and Sutro, by John A. Sutro, Lawler, Felix
and Hall, by L. B. Conant, for the Pacific Telephone
and Telegraph Company, defendant.

O P I N I O N

The complaint alleges that Evelyn Greene who resides at 12341 East Ferris Road, El Monte, California, was a subscriber and user of telephone service furnished by defendant company under number Forest 8-2244. On or about January 16, 1952, the telephone facilities of complainant were disconnected by representatives of the Sheriff's Office and subsequently the telephone company has refused to reconnect and restore the telephone service. The complaint further alleges that the complainant will suffer irreparable injury and damage if she is deprived of the use of her telephone.

Under date of May 29, 1952, this Commission, by Decision No. 47210, on Case No. 5381, issued an order granting

temporary interim relief, directing the defendant telephone company to restore telephone service to complainant pending a hearing on the matter. On June 5, 1952, the telephone company filed an answer denying most of the allegations in the complaint and alleging that it had reasonable cause to refuse to restore the telephone service.

A public hearing was held in Los Angeles on September 22, 1952, before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that she had not used the telephone for unlawful purposes. She stated that she was a member of a lodge and that it had been the practice of the ladies of this lodge to send one member to the race track and this member would carry money to bet for the other members. However, she insisted that no bets had been arranged over the telephone. She further testified that she was now in need of a telephone inasmuch as she was under doctors' care and it was necessary to communicate with the doctor frequently.

On or about January 8, 1952, members of the Sheriff's Office went to the residence of complainant and a search of the premises disclosed several papers containing pencil notations showing horses running at Santa Anita. However, the complainant advised the officers at that time that these notations had been taken down from radio broadcasts in her car. While the officers were at the house the telephone rang and a man's voice said "I want two and two on Dark Count, Sixth Race, Santa Anita."

In connection with this investigation, the complainant testified that she was not engaged in bookmaking and did not know

who the man could have been. She further stated that during the month of January 1952, the month when this investigation was conducted, she was daily going to Huntington Hospital for X-ray treatments and each day would be gone from about 1 to 5 P.M. and that, therefore, she could not have been home in the bookmaking business. She further testified that the Sheriff's Office filed no charges against her and that no further action was taken after the investigation hereinabove described. This was corroborated by a copy of the Sheriff's complaint report which was received in evidence as Exhibit No. 2.

The position of the telephone company was that it had acted upon reasonable cause in disconnecting the telephone inasmuch as it had received from the Sheriff's Office of Los Angeles County a letter designated herein as Exhibit No. 1, requesting the telephone company to disconnect complainant's telephone service.

After consideration of this record we now find that the action of the telephone company was based upon reasonable cause as such term is used in Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853). Upon this record it is extremely doubtful as to whether or not the telephone facilities were used illegally. Therefore, based upon the specific facts in this case, we cannot find that the telephone facilities here in question were used as an instrumentality to aid and abet the violation of the law.

ORDER

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

IT IS HEREBY ORDERED that the order of this Commission in Decision No. 47210, dated May 29, 1952, on Case No. 5381, temporarily restoring telephone service to the complainant herein, be made permanent, such restoration being subject to all rules and regulations of the telephone company and to the existing applicable law.

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

Dated at San Francisco, California, this 21st day of September, 1952.

R. J. [Signature]
 President

Harold P. [Signature]

[Signature]

 Commissioners