

ORIGINAL

Decision No. 49389

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RUTH M. GINGRAS,
Complainant,

vs.

Case No. 5481

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,
Defendant.

Ruth Gingras, in propria persona. Pillsbury,
Madison & Sutro, and Lawler, Felix & Hall, by John
H. Harriman, for defendant.

O P I N I O N

The complaint herein alleges that on or about the 17th day of February, 1953, the telephone facilities of complainant were disconnected by the Los Angeles Police Department upon a charge of bookmaking and at that time the son of complainant, one Joseph Richard Valdes, was arrested. Subsequently Valdes was found not guilty of bookmaking charges and complainant thereupon made demand upon the defendant company to have the telephone facilities restored. The defendant company has refused to make such restoration. The complaint further alleges that the telephone facilities were not used and are not intended to be used in violation of the law and that complainant has suffered and will suffer irreparable

injury and hardship by being deprived of these telephone facilities.

An order granting temporary interim relief was issued by this Commission on August 18, 1953, in Decision No. 48998, directing defendant telephone company to restore the facilities in question pending a hearing on the complaint. This restoration was effected and subsequently the telephone company filed an answer to the complaint, the principal allegation of which was that the respondent telephone company had reasonable cause to believe that the use made and to be made of the telephone facilities concerned was prohibited by law and that, accordingly, it was required to discontinue service to the subscriber under the provisions of this Commission's order contained in Decision No. 44415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

Public hearing was held in Los Angeles on November 5, 1953, before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that on February 17, 1953, when she came home from work her telephone had been taken out of the house and she subsequently learned that her son had been arrested for bookmaking. Later the son was acquitted of these charges. The complainant further testified that she knew nothing about any alleged bookmaking and had never engaged in any such activities. She stated that she needs the phone for personal reasons and that the premises concerned constitute her home. The occupants thereof are complainant and her son.

A police officer of the City of Los Angeles testified that on February 17, 1953, he, in company with another officer, entered the premises at about 2:00 p.m. A man who identified himself as Joseph Richard Valdes was there and there was a telephone in the bedroom bearing number GRanite 9309. Also, there were several scratch sheets and scraps of paper containing notations as to wagers on horse races. The officers remained in the premises for about four hours and during that time they received approximately 50 wagers on horses over the telephone. They thereupon removed the telephone and arrested Valdes.

The chief special agent of the telephone company presented Exhibit No. 1, a letter received by the company from the Chief of Police of Los Angeles under date of February 18, 1953, requesting the company to disconnect the telephone facilities in question inasmuch as they were being used in violation of Section 337-A of the Penal Code of California.

It was the position of the telephone company that it had disconnected service pursuant to this request and, accordingly, had acted upon reasonable cause in accordance with Decision No. 41415, supra.

Upon this record we find that the action of the telephone company was based upon reasonable cause as such term is used in Decision No. 41415, supra. We further find that the telephone facilities here in question were used as an instrumentality to aid and abet violation of the law. While there is no evidence to show that the complainant

herself had any connection with, or any knowledge of, the alleged bookmaking activities, the record does show that her son, Joseph Richard Valdes, was present when the officers received approximately fifty bets and, further, that he now has access to the premises and to the telephone facilities.

O R D E R

The complaint of Ruth M. Gingras 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 on the evidence of record and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be denied and that the said complaint be, and it is, hereby dismissed. The temporary interim relief granted by Decision No. 48998, in Case No. 5481, is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order, the complainant herein may file an application for telephone service, and, if such filing is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 5225½ Hollywood Boulevard, Los Angeles, California, such installation being subject to all duly authorized rules

and regulations of the telephone company and to the existing applicable law.

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

Dated at Los Angeles, California, this 1st day of December, 1953.

A. E. [Signature]
President
James D. [Signature]
Bennett [Signature]
Robert E. [Signature]
Gene [Signature]
Commissioners