

ORIGINALDecision No. 50278

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOAN GEORGE,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Case No. 5542

Cyril A. Walton for complainant. Pillsbury,
Madison & Sutro, by John A. Sutro, and Lawler, Felix
& Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint, as amended, alleges that Joan George, who resides at 1226 Sunset Boulevard, Los Angeles, California, prior to February 12, 1954 was the user of telephone service furnished by the defendant company. This service consisted of number MADison 6-8605 which was listed in the name of Fred Woodward, the son of complainant, and numbers MADison 6-6734, MADison 6-6735 and MADison 6-6736, listed in the name of Anthony George, the deceased husband of complainant. In addition there was another telephone at 1226½ Sunset Boulevard under number MADison 6-1415, listed in the name of Ethel Pepper. On or about February 12, 1954 all of the above-mentioned telephone facilities were disconnected by the

Police Department of the City of Los Angeles. On or about February 23, 1954 the complainant received a notice from the defendant company to the effect that the above-mentioned telephone service would be discontinued. On or about April 1, 1954 the complainant made an application to the defendant telephone company for telephone facilities to be furnished to her at the above address, in her name. The defendant company refused and still refuses to furnish such facilities. It is also alleged that complainant will suffer irreparable injury and great hardship if she is deprived of telephone facilities at her residence, and further that she did not use and does not intend to use telephone facilities as an instrumentality to violate the law.

Under date of May 27, 1954 the telephone company filed an answer alleging, among other things, that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853) it had reasonable cause to believe that the telephone service in question was to be used as an instrumentality directly or indirectly to violate or to aid and abet the violation of the law.

A public hearing was held in Los Angeles on June 28, 1954, before Examiner Syphers, at which time evidence was adduced and the matter submitted.

At the hearing the complainant testified that she was the owner and operator of an apartment house at 1226 Sunset Boulevard. At that address, prior to February 12, 1954, there were five telephones, three were on a three-telephone rotary

system under numbers MADison 6-6734, MADison 6-6735 and MADison 6-6736, one was a single installation under number MADison 6-8605, and the fifth was an extension of a telephone in the basement. The basement apartment bears the address 1226½ Sunset Boulevard, and the telephone installed there was under number MADison 6-1415. On February 12, 1954, police officers of the City of Los Angeles entered the premises and removed all of the telephones in complainant's apartment as well as the telephone in the basement apartment at 1226½ Sunset Boulevard.

At the time of this incident there were present in the apartment, in addition to the police officers, the complainant and a Mr. Guy Cale. The complainant testified that Mr. Cale had been using the telephones for a period of eight or nine months to give information on horse racing. She did not know whether or not Mr. Cale received or placed bets, and testified that she personally did not receive or place bets over the telephone. However, upon occasion she would assist Mr. Cale in his business of disseminating horse racing information. While the police removed the telephones, no arrests were made.

Complainant further testified that she now desires a single telephone for her personal use. In this connection, she owns some apartments in Montebello and has need to make and receive calls to the tenants there. She further testified that Gay Cale does not now have access to her apartment and will not have access to her telephone if one should be installed. It is alleged that she does not now know where he is.

There was a stipulation permitting the introduction in evidence of Exhibits 1, 2 and 3, which are letters from the Los Angeles Police Department to defendant company requesting disconnection of the telephone service in question.

The position of the telephone company was that it had acted with reasonable cause in disconnecting the telephone service inasmuch as it had received the letters designated as Exhibits 1, 2 and 3.

After a consideration of this record we now find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 411415, supra.

Inasmuch as there is no evidence connecting complainant with any illegal use of the telephone, and inasmuch as complainant testified she did not use and does not now intend to use the telephone facilities for unlawful purposes, there is no reason why she should be deprived of telephone facilities. The evidence in this case indicates that the telephone was used for the disseminating of racing information, although this activity in and of itself is not illegal (People vs. Brophy, 49 Cal. Ap. 2d. 15). The testimony also indicates that Guy Cale, who was engaged in this activity, no longer has access to complainant's apartment.

O R D E R

The complaint of Joan George against The Pacific Telephone and Telegraph Company having been filed, public

hearing having been held thereon, the matter now being ready for decision, the Commission being fully advised in the premises and basing its decision upon the evidence of record and the findings herein,

IT IS ORDERED that The Pacific Telephone and Telegraph Company shall consider an application for telephone service from the complainant herein upon the same basis as that of any other subscriber.

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

Dated at San Francisco, California,
this 13th day of July, 1954.

John E. Mitchell
President

Justice F. Adams

Kenneth Pottel

Deane Higgins

Commissioners