

**ORIGINAL**Decision No. 50436

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GEORGE MCGARRAGH,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 5549

George T. McGarragh, in propria persona. 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 alleges that George McGarragh, who resides at 3639 Montrose Avenue, La Crescenta, California, prior to October 18, 1951 was a subscriber and user of telephone service furnished by defendant telephone company under number Churchill 9-4900. On or about October 18, 1951 the telephone facilities of complainant were disconnected by deputies of the Los Angeles County Sheriff's Department when they discovered Margaret McGarragh was taking bets on horse races over the telephone. Subsequently Margaret McGarragh was found guilty and placed on probation for two years, which period now has been completed. It is further alleged that the complainant has made demand upon the defendant telephone company for restoration of the said telephone facilities, but that defendant has refused to comply

with such demand. Because of these facts the complainant has suffered and will suffer irreparable injury and great hardship.

Under date of June 7, 1954 the telephone company filed an answer, the principal allegation of which was that pursuant to the order of this Commission contained in Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), the defendant had reasonable cause to believe that the telephone service furnished to complainant under number CHurchill 9-4900 at 3639 Montrose Avenue, La Crescenta, California, was being or 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 before Examiner Grant E. Syphers in Los Angeles on August 2, 1954, at which time evidence was adduced and the matter submitted. At the hearing the complainant confirmed the allegations set out in the complaint and further testified that he had no knowledge of and took no part in the bookmaking activities which had been conducted by his wife. He further testified that he now needs a telephone for personal use and that he receives calls in connection with his work of laying linoleum. He stated that his wife is not now bookmaking and has not conducted any bookmaking activities since the incident described in the complaint.

Exhibit No. 1 is a letter from the sheriff of Los Angeles County to The Pacific Telephone and Telegraph Company dated October 18, 1951, requesting that telephone service under number CHurchill 9-4900 at 3639 Montrose Avenue, La Crescenta, be disconnected. Subsequently the telephone company did effect

a central office disconnection. 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 letter designated as Exhibit No. 1.

After a consideration of this record we now find that the telephone company's action 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 the violation of the law.

In the light of this record and in view of the fact that the complainant's wife has paid the legal penalty for any bookmaking activity she may have conducted, and the further fact that complainant has been deprived of a telephone for almost three years and now is in need of telephone service, we find that complainant is entitled to telephone service.

O R D E R

The complaint of George McGarragh 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 and the findings herein,

IT IS ORDERED that upon the filing by complainant of a request for restoration of telephone service with The Pacific Telephone and Telegraph Company, that company shall install telephone service at complainant's residence at 3639 Montrose

Avenue, La Crescenta, 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 San Francisco, California,  
this 17<sup>th</sup> day of August, 1954.

John E. Mitchell  
President

Justice Z. G. ...

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Commissioners