

**ORIGINAL**Decision No. 51930

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ETHEL W. NOLAN,

Complainant,

vs

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, a  
corporation,

Defendant.

Case No. 5662

G. Vernon Brumbaugh for complainant.Pillsbury, Madison and Sutro, and Lawler, Felix  
and Hall, by L. B. Conant, for defendant.O P I N I O N

The complaint, filed on June 30, 1955, alleges that Ethel W. Nolan of 1332 East 23d Street, Los Angeles, California, prior to March 10, 1955 was a subscriber and user of telephone service furnished by defendant at that address under number ADams 4-9649; that on or about March 10, 1955 the telephone facilities of complainant were disconnected by the Police Department, and were disconnected at the time the complaint was filed; that complainant has made demand upon the defendant for the restoration of the facilities, but the defendant has refused to restore the facilities; that the complainant has suffered and will suffer irreparable injury to her reputation and great hardship as a result of being deprived of said telephone facilities; and that complainant did not use and does not now intend to use said telephone facilities as an instrumentality to violate the law nor in aiding or abetting such violation.

On July 15, 1955, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 411415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), had reasonable cause to believe that the telephone service furnished to complainant under number ADams 4-9649, at 1332 East 23d Street, Los Angeles, 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 in Los Angeles before Examiner Kent C. Rogers on August 17, 1955, and the matter was submitted.

Howard Nolan testified that he is the husband of the complainant, Ethel W. Nolan; that he and complainant reside at 1332 East 23d Street, Los Angeles; that Ethel Nolan was in Texas on the day of the arrest (March 10, 1955) and she will not return to Los Angeles until August 27, 1955; that on March 10, 1955 he and another man were arrested at the witness's home on suspicion of bookmaking; that on that day he had allowed the other man, a neighbor, to use his telephone for the reason that his neighbor's daughter was sick; and that he had never used the telephone for bookmaking or allowed it to be used for bookmaking.

A police officer of the City of Los Angeles, connected with the Vice Detail, testified that on March 10, 1955 he and two other officers connected with the Vice Detail went to 1332 East 23d Street, Los Angeles, at about 12:30 p.m.; that these premises are in a four-family flat building; that he knocked at the door and Mr. Nolan answered the knock; that he asked if Mr. Williams was there and Mr. Nolan said he was not; that he knocked at another door in the building and Mr. Williams' daughter came to the door

and informed him that Mr. Williams was in Mr. Nolan's apartment; that he returned to Mr. Nolan's door and the door was opened by one of the two officers with him who had gone to Mr. Nolan's rear door; that he observed Mr. Nolan, Mr. Williams, and a third person besides the police officers in the apartment; that in the room in Mr. Nolan's apartment there was a scratch sheet for that day, and betting markers; that while the officers were on the premises the telephone rang on several occasions; that he answered the telephone several times and was given bets on horses running that day at various horse-racing tracks in the state; that he asked Mr. Nolan if he knew that Mr. Williams was making book and Mr. Nolan said that on the day of arrest Mr. Williams had asked him if he could use his telephone and Mr. Nolan said he could, and that Mr. Nolan knew that Mr. Williams was a bookmaker. The officer further testified that Mr. Nolan and the others were arrested and the telephone was removed. Subsequently, he said, Mr. Nolan was tried for bookmaking and acquitted.

Exhibit No. 1 is a letter from the Commander of the Administrative Vice Division of the Los Angeles Police Department received by the defendant telephone company on March 14, 1955, advising the defendant that on March 10, 1955 the telephone services under number Adams 4-9649, furnished to Ethel W. Nolan at 1332 East 23d Street, were being used for disseminating horse-racing information used in connection with bookmaking; that the telephone had been confiscated, and requesting that the services be disconnected. A supervisory special agent of the telephone company testified that as a result of the receipt of Exhibit No. 1 the telephone company made a central office disconnection of the telephone on March 14, 1955 and the service is still disconnected.

The position of the telephone company was that as a result of the receipt of Exhibit No. 1 it acted with reasonable cause, as that term is defined in Decision No. 41115, supra, in disconnecting and refusing to reconnect the service until ordered to do so by this Commission.

After consideration of the record we now find that the telephone company's action was based upon reasonable cause, as such term is used in Decision No. 41115, supra. We further find that the telephone facilities were used for bookmaking purposes.

O R D E R

The complaint of Ethel W. Nolan against The Pacific Telephone and Telegraph Company having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision on the evidence of record,

IT IS ORDERED that the complainant's request for restoration of telephone service is denied, and that the said complaint be and it hereby is dismissed.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order, the complainant 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 1332 East 23d Street, 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 San Francisco, California,  
this 6th day of September, 1955.

[Signature]  
President  
[Signature]  
[Signature]

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Commissioners

Ray E. Untereiner  
Commissioner Matthew J. Dooley, being  
necessarily absent, did not participate  
in the disposition of this proceeding.