

ORIGINAL

Decision No. 52713

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MRS. ANNIE P. SPENCER,

Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH CO.,
a corporation,

Defendant.

Case No. 5702

Mrs. Annie P. Spencer, in propria persona,
Pillsbury, Madison & Sutro and Lawler, Felix &
Hall, by L. B. Conant, for defendant.

O P I N I O N

The complaint herein, filed on December 6, 1955, alleges the following: that the complainant Mrs. Annie P. Spencer resides at 1642 West 65th Street, Los Angeles, California; that she gave an acquaintance of hers permission to use her home telephone for two to three weeks until said acquaintance could get an apartment and a telephone of her own; that she understood the acquaintance needed the telephone for an advertising business; that the acquaintance used the telephone only while the complainant was at work; that one day complainant returned from work and found that the telephone had been detached from the wall and removed from her house; that she called the defendant, and the defendant installed another telephone; that a day or two later she returned from work and found the service disconnected although the telephone was still

there; that she called the Los Angeles City police and was told that the telephone had been used for illegal purposes and that she would be required to wait one year before applying for reinstatement of service; and that she subsequently contacted the police and was advised to contact this Commission relative to a reinstatement of service. The complainant requests that this Commission order the defendant to provide her with a telephone at her home address.

On December 20, 1955, the telephone company filed an answer, the principal allegation of which was that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853) defendant on or about February 25, 1955, had reasonable cause to believe that the telephone service furnished by defendant under number TWinoaks 5292, at 1642 West 65th 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.

The matter was set for public hearing in Los Angeles on December 27, 1955. On that date, at the request of the complainant, the matter was called and continued to February 14, 1956. On February 14, 1956, a public hearing was held in Los Angeles before Examiner Kent C. Rogers, and the matter was submitted.

The complainant testified that she resides at 1642 West 65th Street, Los Angeles, California; that this address is her private home; that she works at a laundry located at Slauson and Western Avenues; that on February 22, 1955, she went to work and when she returned, at about 4:45 p.m., her telephone was missing;

that she contacted the defendant and the defendant reinstalled her telephone about February 23, 1955; that the next day her telephone was disconnected and she subsequently received word from the telephone company that it had been disconnected because it had been used for illegal purposes; that she contacted the Los Angeles Police Department and was informed that her telephone had been disconnected because it was used for bookmaking. The complainant further testified that about two weeks prior to February 22, 1955, she had given a Mrs. Sprague permission to use her telephone during the day for advertising; that Mrs. Sprague paid her nothing for the use of the telephone; that she had never given Mrs. Sprague permission to use the telephone for bookmaking or any other illegal purposes; that the complainant had never used the telephone for bookmaking or any other illegal purposes; that she lives alone and needs a telephone; and that she has not had a telephone since it was disconnected in February 1955.

A police officer attached to the vice detail of the Los Angeles Police Department testified that on February 22, 1955, he and another police officer went to the complainant's residence at about 2:40 p.m.; that he looked through the window and observed Mrs. Vera Sprague with the telephone in her hand, making notations on a pad; that he and the other officer entered the premises and placed Mrs. Sprague under arrest; that he found betting markers and a list of telephone numbers in the room; that Mrs. Sprague said she had been conducting bookmaking operations at that location for about two weeks; that he and the other officer remained in the room about 45 minutes and received several horse race bets over the

telephone; and that Vera Sprague was arrested and later convicted of bookmaking.

Exhibit No. 1 is a copy of a letter from the captain in charge of the administrative vice division of the Los Angeles Police Department, requesting that the telephone be disconnected and advising the defendant that the telephone had been confiscated. A supervising special agent of the telephone company testified that this letter was received on February 25, 1955, and that the complainant's service was forthwith disconnected as a result thereof. 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 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. 41415, referred to supra. We further find that there is no evidence that complainant was engaged in, was directly connected with, or permitted the telephone facilities to be used for bookmaking or other illegal activities. Therefore, the complainant is now entitled to restoration of telephone service. Inasmuch as the complainant has been deprived of telephone service for an extended period of time, and the uncontradicted evidence of record shows that she had no knowledge of any unlawful use of the telephone, the defendant will be required to reinstall such service forthwith.

ORDER

The complaint of Mrs. Annie P. Spencer 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 upon the evidence of record and the findings herein,

IT IS ORDERED that The Pacific Telephone and Telegraph Company be, and it hereby is, directed to forthwith install telephone service for complainant at her residence, 1642 West 65th Street, Los Angeles, California, pursuant to defendant's filed tariffs, rates and rules applicable thereto.

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

Dated at San Francisco, California,
this 16th day of March, 1956.

John L. Mitchell
President

Justus J. Craven

Paul J. Winterstein

William J. [unclear]

R. Hardy
Commissioners