

Decision No. 54098

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOHN TOSCANO, DBA ROSEMEAD &
TEMPLE CITY TAXI CO.,)

Complainant,)

vs.)

Case No. 5809

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,)

Defendant.)

Harry E. Tullar, for complainant.

Pillsbury, Madison & Sutro, and Lawler, Felix & Hall,
by L. B. Conant for defendant.

Roland J. Worthy, Deputy County Counsel, for the
Los Angeles County Sheriff's Department,
intervener.

O P I N I O N

The complaint of John Toscano, doing business as Rosemead and Temple City Taxi Co., filed on August 14, 1956, alleges, inter alia, that his business address is 9019 East Valley Boulevard, Rosemead, California; that for several years last past complainant has been a subscriber of the defendant under the number ATLantic 6-0694; that on or about July 19, 1956, complainant was arrested by deputies of the Sheriff's Office of Los Angeles County for alleged bookmaking, and his telephone was cut and disconnected by them; that thereby complainant's taxi business has been greatly damaged by loss of patronage; that the bookmaking charge was

dismissed at the preliminary hearing; and that complainant has not used or permitted to be used, his telephone for bookmaking or taking bets in any way, or for any illegal purpose, and has not countenanced the same.

On August 29, 1956, by Decision No. 53667, in Case No. 5809, this Commission issued an order directing the telephone company to restore service to complainant pending a hearing on the matter.

On September 7, 1956, 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 July 23, 1956, had reasonable cause to believe that the use made or to be made of the telephone service furnished to complainant under number ATLantic 6-0964 at 9019 East Valley Boulevard, Rosemead, California, was prohibited by law and that said service 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 October 15, 1956, and the matter was submitted.

Complainant John Toscano testified that he has been conducting a taxi business at 9019 East Valley Boulevard, Rosemead, for eleven years; that he has one taxicab; that the telephone is kept locked and gets incoming calls only; that on July 19, 1956, he was arrested by Los Angeles County Deputy Sheriffs and his telephone was removed; that it was reinstalled at the order of this Commission on about August 29, 1956; that the complaint

against him for using the telephone for bookmaking purposes was dismissed at the preliminary hearing; and that he permitted no one else to occupy his place of business, or to use the telephone for bookmaking purposes.

Exhibit No. 2 is a copy of a letter dated July 19, 1956, from the Sheriff of Los Angeles County to the defendant advising it that the complainant's telephone was being used for the purpose of disseminating horse racing information in connection with bookmaking in violation of Section 337a of the Penal Code and requesting that the telephone service be disconnected. An employee of the defendant testified that this letter was received by the defendant on July 23, 1956, and a central office disconnection was effected. 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. 2.

A deputy sheriff testified that on July 19, 1956, he and two other deputies watched the complainant at a hot dog stand near complainant's place of business at 9019 East Valley Boulevard, Rosemead; that complainant talked to various men at the hot dog stand and placed money in the glove compartment of his taxi; that this happened several times between 10 a.m. and 2:15 p.m.; that the witness placed Toccane under arrest and took him to his taxi stand; that the witness found two betting markers in the glove compartment of the complainant's taxi (Exhibits Nos. 3 and 4); that he found one or two betting markers in complainant's taxi stand; that while he was in the complainant's taxi stand the telephone rang on numerous occasions and on one occasion the

witness was given a bet on a horse race; and that complainant told the witness that he took bets over the telephone and phoned them to his friends.

On rebuttal the complainant stated that any bets he received over the telephone he took to the race track and placed them there.

In the light of this record we find that the action of the telephone company was based upon reasonable cause as that term is used in Decision No. 41415, referred to supra. We further find that the telephone facility in question was used for book-making purposes.

O R D E R

The complaint of John Toscano 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,

IT IS ORDERED that complainant's request for restoration of telephone service be denied and that the said complaint be and it hereby is dismissed. The temporary interim relief granted by Decision No. 53667 in Case No. 5809 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 place of business at 9019 East Valley Boulevard, Rosemead, Los Angeles County, 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 19th day of December, 1956.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners