

ORIGINAL

Decision No. 54276

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILLIAM F. MYHRE,
Petitioner

vs.

THE
PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
Corporation,
Respondent.

Case No. 5836

Louis W. Shaffer, attorney for petitioner.

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

Roger Arnebergh, City Attorney, by Eugene J. Didak,
Deputy City Attorney, for the City of Los
Angeles Police Department, intervener.

O P I N I O N

The complaint of William F. Myhre, filed on October 19, 1956, alleges that petitioner, hereinafter referred to as complainant, is a subscriber and user of telephone service furnished by respondent, hereinafter referred to as defendant, at 9915 Roscoe Boulevard, Sun Valley, Los Angeles County, California, under number CHase 7-7709; that on or about October 11, 1956, he was advised by the defendant that it had received information that the said telephone was being used as an instrumentality to violate the law or in aiding or abetting such violation and that defendant was disconnecting such facility immediately; that the

telephone was disconnected and was disconnected when the herein petition was filed; and that he has suffered and will suffer irreparable injury to his reputation and great hardship as a result of the disconnection of the telephone.

On November 5, 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 October 11, 1956, had reasonable cause to believe that the telephone service furnished to complainant under number CHase 7-7709 at 9915 Roscoe Boulevard, Sun Valley, 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 November 23, 1956, and the matter was submitted.

William F. Myhre testified that on October 3, 1956, in his absence, the telephone was removed; that he contacted the telephone company and was told that the service would not be restored; and that his health is poor, he was recently hospitalized, and he needs the telephone service. He further testified that he and his wife are the only persons residing on the premises; that years ago he was a bookmaker in Florida, but is not now and has no interest in horse racing; that he bets on the horses occasionally; and that he is familiar with betting markers, and Exhibit No. 1 herein could indicate a bet on a horse. Exhibit No. 1, he said, is not in his handwriting and he does not recognize the

writing. The complainant further testified that on September 30, 1956, he and his wife had an anniversary party at his house and thirty to thirty-five people were present; that on October 3, 1956, he was arrested in a bar at about 8:30 p.m. on suspicion of bookmaking; and that he was held for about forty-eight hours and no charges were preferred against him.

Idelle Myhre, complainant's wife, testified that several police officers entered her home in the afternoon of October 3, 1956, arrested her and searched the premises; that Exhibit No. 1 is not in her handwriting; and that her husband was in the hospital for a period after her arrest and the closest telephone is about one-half mile from her home. She further testified that she was home alone all day October 3, 1956; that she was the only one who answered the telephone when it rang; that the police arrived about 3:45 p.m.; that she has bet on the horse races; that she gives her bets to some one to place with the bookies; and that within the past year she has used the telephone for this purpose. She further testified that if the telephone is reinstalled she will not place bets over the telephone; that the bets she placed over the telephone were her own bets; and that she has not accepted bets for her friends. She does not, she said, know the name of the person with whom she places her bets and on October 3, 1956, she made notes on a piece of paper concerning which bets she would make that day, but did not like anything so she burned up the record. No one, she said, called in any bets on October 3, 1956. The officers were at her home from about 3:45 p.m. to 6 p.m. that day, she said, and her telephone rang about three times.

Exhibit No. 2 is a copy of a letter dated October 5, 1956, from the Los Angeles Police Department to the respondent advising it that petitioner'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, advising that the telephone had been removed and requesting that the telephone service be disconnected. An employee of the defendant testified that the letter was received on October 9, 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 police officer attached to the vice detail of the Los Angeles Police Department testified that on and prior to October 3, 1956, he was investigating possible bookmaking activities at complainant's residence; that on October 3, 1956, he and three other police officers from Los Angeles, Glendale and Burbank, went to the vicinity of complainant's home; that he called complainant's telephone number, a female voice answered, and he gave the answering party a horse race bet which the party said she had; that he and the other officers went to complainant's residence, arriving there about five minutes after he had called; that Idelle Myhre admitted the officers and was arrested; that he searched the house and found a telephone on a table in the den and a telephone on the wall in the kitchen; that he found the sporting section of the Los Angeles Times by the den telephone; that on a table by the kitchen telephone there was a three-inch

by four-inch pad of paper; that this pad showed the impressions made by writing and these impressions are shown in Exhibit No. 1 herein; and that these impressions show the recording of a \$2.00 to win bet on War Reporter, a horse running at Golden Gate field in California on October 3, 1956, and the names of three other horses running in California on that date. Another Los Angeles police officer testified that he was present at complainant's home on October 3, 1956, when Idelle Myhre was arrested; that he answered the telephone on two occasions when it rang; and that on each occasion he was given a horse race bet over the telephone.

In rebuttal, Idelle Myhre testified that she received no call over the telephone in the hour preceding her arrest; that after the officers arrived there were three telephone calls which were answered by the officers; that on two of those occasions she heard no conversations; and that she ascertained that a friend, Kenny Waters, called the third time.

Mr. Kenny Waters testified that he called Mr. Myhre at his home on October 3, 1956, at about 5 p.m.; that a male voice answered and he asked if Bill was home and the male voice answered "no".

While it is true that both the complainant and his wife testified that Exhibit No. 1 is not in either one's handwriting, the wife testified that she was at home alone during the day of October 3, 1956, and the evidence shows that the exhibit reflects a bet on a horse race being run that day. There is, however, no evidence that the bet reflected by Exhibit No. 1 resulted from,

or resulted in, a telephone call. On the other hand, a police officer testified that on October 3, 1956, he placed a bet over the telephone to complainant's home during a time when Idelle Myhre was alone on the premises. While the complainant's wife denied she received such call, we believe the testimony of the police officer. In addition, one of the police officers testified that while he was on the complainant's premises on the day of the arrest he was given two horse race bets over the telephone. There is no satisfactory rebuttal of this testimony.

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. 41115, referred to supra. We further find that the telephone facility in question was used for bookmaking purposes.

O R D E R

The complaint of William F. Myhre 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.

IT IS FURTHER ORDERED that upon the expiration of sixty 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 residence at 9915 Roscoe Boulevard, Sun Valley, 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 18th day of DECEMBER, 1956.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners