

ORIGINAL

Decision No. 54478

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RALPH I. BEAVER,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 5851

Wilson, Selig & Cotter, by Frank T. Cotter,  
for complainant.

Lawler, Felix & Hall, by L. B. Conant, for  
defendant.

Norman O. Oliver, Jr., Deputy County Counsel,  
for the County of Los Angeles, intervener.

O P I N I O N

The complaint, filed on November 16, 1956, alleges that prior to April 20, 1956, Ralph I. Beaver, doing business as Art's Pool Hall, was a subscriber and user of telephone service furnished by defendant under number Lorraine 6-9332 at 3730 Tweedy Boulevard, South Gate, California; that on or about April 20, 1956, the said telephone facilities were disconnected by the Los Angeles County Vice Detail due to others using said telephone for alleged book-making; that complainant has made demands upon defendant to have the said telephone facilities restored, but the defendant refuses to restore the service; that complainant has suffered and will

suffer irreparable injury to his reputation and great hardship as a result of being deprived of said telephone; 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 violations.

On November 27, 1956, by Decision No. 54146 in Case No. 5851, this Commission issued an order granting temporary interim relief, directing the telephone company to restore service pending a hearing on the matter.

On December 6, 1956, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, 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 Lorraine 6-9332 at 3730 Tweedy Boulevard, South Gate, Los Angeles County, 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 on January 7, 1957, before Examiner Kent C. Rogers.

The complainant testified that he owns the premises known as Art's Pool Hall, at 3730 Tweedy Boulevard, South Gate, California; that prior to April 20, 1956, he was a subscriber to a telephone service furnished by the defendant at said premises under the number Lorraine 6-9332; that on or about April 20, 1956, the telephone was disconnected by deputies of the Los Angeles County Sheriff's Department; that the deputies told him the reason

the telephone was disconnected was that a man named McCall and one of complainant's employees named Boyet were taking horse race bets over the telephone; that if any bets were placed or taken over the telephone it was without his knowledge, consent or approval; that he did not permit the telephone to be used for illegal purposes; and that the telephone has been restored pending action by this Commission.

A deputy sheriff attached to the Vice Detail of the Los Angeles County Sheriff's office testified that on April 11, 1956, he and another deputy sheriff entered complainant's premises at approximately noon; that he observed several men with the horse racing section of a newspaper talking to complainant's employee Boyet; that he heard the group talking about horse racing; that Boyet handed slips of paper and money to a man named McCall; that McCall left the premises and was arrested by the partner of the witness and returned to the premises; that the witness placed Boyet under arrest; that both McCall and Boyet had betting markers on their persons; that thereafter the telephone on the complainant's premises rang, the witness' partner answered the telephone and was given a horse race bet over the telephone by the caller; and that after the arrests, but prior to the telephone call, the complainant entered the premises.

An employee of the telephone company presented Exhibit No. 1 which is a letter from the Los Angeles County Sheriff's Office to the telephone company requesting that the telephone facilities of the complainant at 3730 Tweedy Boulevard, South Gate, California, be disconnected for the reason that such service was

being used as an instrumentality to violate or to aid and abet the violation of the law of the State of California. The witness stated that pursuant to said request the facilities were disconnected on or about April 18, 1956. 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 such term is used in Decision No. 41115, referred to supra. We further find that the telephone facilities in question were used for bookmaking purposes.

#### O R D E R

The complaint of Ralph I. Beaver, doing business as Art's Pool Hall, 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 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. 54146 in Case No. 5851 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 3730 Tweedy Boulevard, South Gate, 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 service of a copy thereof on the complainant.

Dated at San Francisco, California,  
this 5<sup>th</sup> day of FEBRUARY, 1957.

[Signature]  
President

[Signature]

[Signature]

[Signature]

Commissioners

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