

**ORIGINAL**

Decision No. 55619

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

L. ROBERT BILLS and EARL V. WHITEHEAD, )  
Complainants, )

vs. )

Case No. 5939

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation, )

Defendant. )

Jack P. Wong, for complainants.  
Pillsbury, Madison and Sutro by John A.  
Sutro and Dudley A. Zenke, for  
defendant.

O P I N I O N

Complainants allege that prior to March 21, 1956, they were subscribers and users of telephone service furnished by defendant under the numbers of GARfield 1-1143 and GARfield 1-2232 at 82 Ellis Street, San Francisco, California, and that on said date defendant disconnected these telephone facilities upon the assertion that they were being used as instrumentalities to violate the law.

The telephone company filed an answer on May 27, 1957, the principal allegation of which was that it had reasonable cause to believe that the telephone facilities in question were being used to violate the law and that, accordingly, the telephone company disconnected and discontinued the telephone service pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930, (47 Cal. P.U.C. 853).

A public hearing was held before Examiner Thomas E. Daly on August 27, 1957, at San Francisco and the matter was submitted.

The telephones were disconnected by defendant in compliance with a written request by the Chief of Police of San Francisco wherein it was stated that the telephones were being used for the purpose of bookmaking in violation of Section 337(a) of the Penal Code.

The record indicates that complainants operate the Wright's Billiard Parlor at 82 Ellis Street, San Francisco. On March 21, 1956, officers of the San Francisco Police Department conducted a raid upon the premises and in the attic section of said premises discovered one William Eastman, now deceased, in the possession of betting records. Mr. Eastman and complainants were placed under arrest and charged with violating the provisions of Section 337 of the Penal Code. On September 11, 1956, complainants pleaded guilty in the Superior Court of the State of California in and for the City and County of San Francisco. Each was fined \$250 and their permit to operate a billiard parlor, which is issued by the San Francisco Police Department, was revoked for a period of thirty days.

According to complainant Whitehead the unlisted telephone under number GARfield 1-2232 was located in the attic section and was admittedly used for the purpose of receiving bets. The listed telephone under number GARfield 1-1143 was located in the office and assertedly was not used for any illegal purpose. A San Francisco police inspector, however, testified that according to their investigation the office phone was used to relay bets made upon the premises to Mr. Eastman in the attic.

Complainant Whitehead stated that since the license was reinstated the premises have not been used for any unlawful purpose. At the present time a public pay phone is located upon the premises. Being an unlisted phone, however, the patrons of the establishment are extremely inconvenienced by lack of a listed telephone to receive

incoming communications from their families. It is therefore requested that the office telephone facilities be restored.

After consideration the Commission is of the opinion and so finds that defendant herein acted upon reasonable cause in disconnecting the telephone communication facilities above mentioned and that said telephone facilities were used for the purpose of violating Section 337(a) of the Penal Code.

O R D E R

A complaint having been filed and the Commission being advised in the premises,

IT IS ORDERED that complainants' request for an order directing The Pacific Telephone and Telegraph Company, a corporation, to re-establish complainants' telephone service at 82 Ellis Street, San Francisco, California, is hereby denied.

IT IS FURTHER ORDERED that upon the expiration of 180 days after the effective date of this order the complainants 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 complainants' business establishment at 82 Ellis Street, San Francisco, 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 1st day of October, 1957.

*W. E. McNeill*  
President  
*Ray L. Lintner*  
*Marshall Dooler*  
*R. Hardy*  
*E. Lynn Fox*  
Commissioners