

ORIGINAL

Decision No. 55880

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LENA E. HARRIGAN,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY,

Defendant.

Case No. 5987

Lena E. Harrigan, in propria persona.

Lawler, Felix & Hall, by Gene Otsea, for defendant.

Roger Arnebergh, City Attorney, by Patrick Coleman,
Deputy City Attorney, for the Police Department
of the City of Los Angeles, intervener.

O P I N I O N

The complaint, filed on September 18, 1957, alleges that Lena E. Harrigan resides at 827 West 82nd Street, Los Angeles, California; that prior to April, 1956, telephone service was furnished under number PLeasant 8-9041 to Robert Harrigan at 827 West 82nd Street; that in April, 1956, the telephone facilities were disconnected by the Los Angeles County Vice Detail due to use of the telephone for bookmaking and were disconnected at the time of the filing of the complaint; that the complainant has made demand on defendant to have telephone facilities restored but that defendant has refused to do so; that complainant has suffered irreparable injury to his (sic) reputation and great hardship as a result of being deprived of said telephone facilities; and that complainant

did not use and does not intend to use said telephone facilities as an instrumentality to violate the law, nor in aiding or abetting such violation.

On October 2, 1957, the telephone company filed an answer in which it alleged that prior to May 1, 1956, Robert J. Harrigan was a subscriber of telephone service furnished by defendant at 827 West 82nd Street, Los Angeles, California, under telephone number Pleasant 8-9041; that on or about May 1, 1956, it had reasonable cause to believe that the telephone service furnished to said Robert J. Harrigan at said address 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 and that having such reasonable cause, the defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on November 1, 1957, and the matter was submitted.

There are no disputes as to the facts. The telephone was in the name of Robert J. Harrigan who is the husband of the complainant Lena E. Harrigan; that both she and her husband are ill and had been ill for some time prior to April, 1956; that on or about April 26, 1956, in her absence her husband was arrested for bookmaking and the telephone was removed. The evidence is undisputed that the telephone of Robert J. Harrigan, number Pleasant 8-9041, was used for receiving a horse race bet on said date and that Robert J. Harrigan subsequently pleaded guilty to bookmaking. The evidence further shows that complainant and her husband have

been without telephone service since it was removed in April, 1956, and that the telephone is a necessity to the complainant and her husband because of the illness of the said parties.

Exhibit No. 1 is a letter dated April 27, 1956, from the Chief of Police of the Los Angeles Police Department to the telephone company advising it that the telephone of Robert J. Harrigan, number Pleasant 8-9041, at 827 West 82nd Street, Los Angeles, was on April 26, 1956, being used for disseminating horse racing information in connection with bookmaking; that the telephone was removed by the police officers; and requesting that the service be disconnected. An employee of the telephone company testified that the letter, Exhibit No. 1, was received on April 30, 1956, and that pursuant to the request contained therein a central office disconnection was effected on May 2, 1956. It was the position of the telephone company that it had acted with reasonable cause as that term is used in Decision No. 41415, supra, in disconnecting the service inasmuch as it had received the letter designated as Exhibit No. 1.

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, supra. We further find that the telephone facilities in question were used for bookmaking purposes. However, inasmuch as the subscriber and his wife, Lena Harrigan, have been without telephone service for a period of over one and one-half years, and since such service is a necessity because of the illness of the parties, and in view of the verified statement in the complaint that complainant does not intend to use the telephone for unlawful purposes, the defendant will be ordered to restore the telephone facilities.

ORDER

The complaint of Lena E. Harrigan 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 the complainant's request for telephone service be granted and that upon the filing by complainant or her husband, Robert J. Harrigan, of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's residence at 827 West 82nd Street, Los Angeles, 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 3rd day of December, 1957.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners