

ORIGINALDecision No. 55927

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROBERT L. ROSE,

Plaintiff

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,
Defendant.

Case No. 5962

Robert L. Rose, in propria persona.
Lawler, Felix & Hall by Gene Otsea, for the defendant.
Norman G. Oliver, Jr., Deputy County Counsel for the
Sheriff's Department, Los Angeles County, intervener.

O P I N I O N

The complaint, filed on August 7, 1957, alleges that Robert L. Rose, 1815 East Compton Boulevard, Compton, California, prior to May 6, 1956, was a subscriber to telephone service furnished by defendant under number Newmark 2-9200; that on or about May 8, 1956, telephone facilities for the complainant were disconnected by the telephone company because the complainant was arrested on suspicion of bookmaking; that the telephone was not removed that day but was removed three or four days later by the telephone company; that complainant has suffered, and will suffer, injury to his reputation and great hardship as a result of being deprived of said telephone facility; that complainant did not and does not intend to use said telephone facilities as an instrumentality to violate the law or to aid and abet such violation.

On August 26, 1957, the telephone company filed an answer, the principal allegation of which was that on or about May 8, 1956, it had reasonable cause to believe that the telephone service rendered

to Hazel Rose, the subscriber to telephone service under number Newmark 2-9200 at 1815 East Compton Boulevard, was being or was to be used as an instrumentality to violate or to aid and abet the violation of the law, and that having such reasonable cause it was required to discontinue 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 before Examiner Kent G. Rogers on November 1, 1957, and the matter was submitted.

The complainant, Robert L. Rose, testified that on or about May 6, 1956, and prior thereto and subsequent thereto to and including the present time, he has owned a cocktail bar at 1815 East Compton Boulevard, Compton; that on or about May 6, 1956 he resided in an apartment in the rear of said premises; that on or about said date he had a semipublic pay telephone on the wall in the cocktail bar with an extension thereof on the bar; that he opened the premises at or about 10:00 a.m. or thereabouts on May 6; that an officer, named "Bruce," came in, ordered a bottle of beer and commenced talking about the Kentucky Derby; that the officer asked the complainant if he could place a bet on a horse which was going to run in the Kentucky Derby; that the witness said "a man comes around..." and he thought he could "...place a bet" for this officer; that the officer gave the complainant a five-dollar bill and the name of a horse on which to bet; that the officer left and immediately returned and placed the witness under arrest; and that he was subsequently found guilty of forwarding a bet, a misdemeanor. In addition, the complainant stated that his liquor license was subsequently suspended for a period of 30 days; that he does not allow his telephone to be used for placing bets and will not allow it to be so used in

the future; that the telephone is necessary to the conduct of his business and its absence is detrimental thereto; and that the reason he filed a complaint over a year after the telephone was removed is that he formerly resided in an apartment in the rear of the premises and had a telephone therein, but that he moved out of the apartment about two months ago and needs a telephone in the bar. The witness also testified that Hazel Rose is his wife, and that is the reason why the telephone is in the name of Hazel Rose.

A deputy sheriff, attached to the Vice Detail of the Los Angeles County Sheriff's Office, testified that on May 4, 1956 he entered the complainant's premises, known as the "Doll House," at about 12:30 p.m.; that he had a conversation with the complainant concerning horse racing; that he stated he wanted to place a bet at Tanforan that day; that the complainant stated he would take the bet, after which the witness gave the complainant a marked five-dollar bill; that the witness left and returned with two deputies and placed the complainant under arrest; that the complainant admitted he had taken the bet and phoned the bet out to a telephone number and that he had also taken previous bets. The deputy also said that, on April 22, 1956, he had placed a horse race bet with the complainant and on this day, at the telephone number and premises involved, the complainant took the money, went to said telephone in the deputy's presence, talked over the telephone, returned to the deputy and stated that he had phoned the bet out. The witness further testified that after his arrest complainant told the witness that he phoned his bets out.

Exhibit No. 1 is a copy of a letter requesting that telephone facilities be disconnected for the reason that they were being used as an instrumentality to violate or aid and abet the violation

of the law. An employee of the telephone company testified that this letter was received by the telephone company on or about May 5, 1956, and that a central office disconnection was effected on May 11, 1957, pursuant to the request contained in Exhibit No. 1. The position of the telephone company was that it had acted with reasonable cause, as that term is used in Decision No. 41415, referred to supra, in disconnecting the telephone 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 that term is defined in Decision No. 41415, referred to supra. We further find that the telephone facilities in question were used for book-making purposes; that the complainant has been deprived of a telephone since May 4, 1956; and that the complainant has paid the penalty for the violation of the law and is therefore entitled to telephone service, and it will be so ordered.

O R D E R

The complaint of Robert L. Rose 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 complainant is entitled to have telephone service and that, upon the filing by complainant, or by his wife, Hazel M. Rose, of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at

the complainant's place of business at 1815 East Compton Boulevard, Compton, 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 10th day of December, 1957.

E. N. ...
 President

...

...

R. Hardy

E. ...
 Commissioners