

ORIGINAL

Decision No. 56245

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILLIE GANT and MARY GANT,
)
 Complainants,)
 vs.)
 PACIFIC TELEPHONE AND TELEGRAPH)
 COMPANY, a corporation,)
 Defendant.)

Case No. 6020

H. Clay Jacke, attorney for complainants.
Lawler, Felix and Hall, by Thomas E. Workman, Jr.,
 for the defendant.
 Roger Arnebergh, City Attorney, by Patrick Coleman,
 Deputy City Attorney for the Los Angeles Police
 Department, intervener.

O P I N I O N

The complaint, filed December 2, 1957, alleges that complainants, Willie Gant and Mary Gant, are husband and wife and reside at 325 North Occidental, Los Angeles, California; that they have and had prior to September 5, 1957, a meat and grocery store at 4331 South Long Beach Avenue, in the City of Los Angeles; that prior to September 5, 1957, they had a telephone on the premises for the use and convenience of their customers; that on or about September 5, 1957, a person known as "Doc." was arrested at the 4331 South Long Beach Avenue premises for bookmaking; that thereafter and on or about September 30, 1957, the telephone at said store premises was removed; that complainants did not permit such activities on the premises;

that the existence of such activities was unknown to the complainants prior to the date of said arrest; and that they request restoration of their telephone at their place of business.

On December 19, 1957, the defendant filed its answer, the principal allegation of which was that on or about September 17, 1957, it had reasonable cause to believe that the telephone service furnished to the complainants under number ADams 2-9182 at 4331 Long Beach Avenue West (sic), Los Angeles, 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 January 22, 1958, and the matter was submitted.

Complainant Mary Gant testified that she is the wife of Willie Gant; that she has a grocery store at 4331 South Long Beach Avenue, Los Angeles; that she works there in the evenings and that her husband, Willie, and her brother, Preston Menefee, work in the store during the daytime; that she has never authorized any bookmaking activities on the premises and has no knowledge of any such activities; that on or about September 5, 1957, a person known to her only as "Doc" was arrested for bookmaking on the premises and subsequently thereto and on or about September 30, 1957, the semi-public pay telephone on the premises was removed; and that she had no knowledge that "Doc" was using the telephone for any illegal purposes.

On cross-examination by the deputy city attorney the complainant testified that she worked on the premises in the evenings only; that the rear of the premises is separated from the front by a refrigerator, making a small room in back; that the semi-public pay telephone was on a post in the front of the store and there was an extension on a table in the portion of the store in the rear of the refrigerator; that numbers cannot be dialed from this extension telephone; and that there is a rest room in the rear behind the refrigerator which store customers use, and they pass the telephone on the way.

A police officer attached to the Vice Detail of the Police Department of the City of Los Angeles testified that on September 5, 1957, he went to the rear of the premises about 1:30 p.m. and heard race horse bets being placed by a man and woman in the rear of the premises; and went behind the refrigerator where the extension telephone was; that a man named Richard Cooper was in the rear by the extension telephone; that the telephone rang and he answered and received two series of horse racing bets over the telephone from a woman; that this woman in calling asked for Richard; that Richard Cooper was placed under arrest and the extension telephone was removed; and that at the time the calls were received the complainant, Willie Gant, was on the premises but in front of the refrigerator on the counter side. On cross-examination by the complainants' attorney the officer testified that he had been at the premises on previous occasions and on some occasions Willie Gant had been in the back, but that he never saw him take money for bets and that at the time of the arrest Mary Gant was not on the premises.

In rebuttal Willie Gant testified that he is the husband of Mary Gant; that on September 5, 1957, police officers arrested a Richard Cooper on the premises and that he did not know Mr. Cooper prior to that date.

Exhibit No. 1 is a letter dated September 12, 1957, from the Chief of Police of the City of Los Angeles to the defendant advising it that complainants' telephone at 4331 Long Beach Avenue, Los Angeles, California, was being used for receiving and forwarding bets in violation of the law, and advising that the extension telephone had been removed by police officers.

The parties stipulated that this letter was received on September 17, 1957, and that the telephone service was disconnected on October 2, 1957, pursuant to information contained in said letter. The position of the telephone company was that it had acted on reasonable cause as that term is defined in Decision No. 41115, referred to supra, in disconnecting the telephone service inasmuch as it had received the letter designated as "Exhibit No. 1".

After full consideration of this record, we find that the telephone company's action was based upon reasonable cause as that term is defined in Decision No. 41115, referred to supra. While the evidence is conclusive that the complainants' telephone was used for illegal purposes, the record in this proceeding does not contain facts upon which the Commission could conclude that the complainants were engaged in, were directly connected with, or permitted the telephone facilities to be used for, illegal purposes. The evidence shows that they have been without telephone service since on or about September 30, 1957. Such service will be restored to complainants by the order which follows.

O R D E R

The complaint of Willie Gant and Mary Gant against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises, and basing its decision on the evidence of record and the findings herein,

IT IS ORDERED that complainants' request for restoration of telephone service be granted and that upon the filing by complainants of an application for telephone service The Pacific Telephone and Telegraph Company shall install telephone service at the complainants' place of business at 4331 South Long Beach Avenue, 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 18th day of February, 1958.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners