

ORIGINAL

Decision 50272

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOAN A. CALLAHAN,

Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 6030

Joan A. Callahan, in propria persona.

Lawler, Felix & Hall, by Thomas E. Woodward, Jr.
for the defendant.

John T. Neville, Deputy City Attorney, for the
Los Angeles Police Department, Intervener.

O P I N I O N

By the complaint herein, filed on December 16, 1957, Joan A. Callahan alleges that she resides at 3368 San Marino Street, Los Angeles; that prior to December 4, 1957, defendant furnished complainant with a telephone at said address under the number DUnkirk 3-0842; that prior to November 25, 1957, she knew a man by the name of Steve; that this person named Steve advised her that a friend of his needed a telephone for the purpose of receiving answers for an advertisement for work; that she said she would permit his friend to use the telephone for said purpose; that the next day a man by the name of Al Meegel called at the complainant's residence and stated that he was the man mentioned by Steve; that she left Al Meegel at her apartment while she was gone and when she

returned to her apartment at about 2:15 o'clock in the afternoon of November 25, 1957, there were police officers in her apartment who told her they had removed the telephone instrument because it was being used unlawfully; that the police officer notified her that the telephone was being used by Al Meegel to take bets on horse races; that if such use was made of the telephone it was without her knowledge or consent and that she is in ill health and needs the telephone so that she can be in contact with her doctor at all times.

On December 30, 1957, by Decision No. 56017 in Case No. 6030, this Commission issued an order directing the telephone company to restore telephone service to complainant pending a hearing on the matter.

On January 10, 1957, the telephone company filed an answer the principal allegation of which was that on or about November 29, 1957, it had reasonable cause to believe that the telephone service furnished to complainant under number DUnkirk 3-0842 at 3368 San Marino Street, 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 31, 1958, and the matter was submitted.

The complainant testified that the allegations of the complaint were true. She further testified that when she returned home on November 25, 1957, at approximately 3:00 p.m., police

officers were in her apartment together with a man named Al; that they asked her if she knew that Al was taking bets on horse races over her telephone; that she said she did not know of this activity, and that she was arrested; that she and Al Meegel were held to answer at the preliminary hearing and that they are to be tried in the Superior Court.

Exhibit No. 1 is a copy of the letter from the Commissioner of Administrative Vice Division of the Los Angeles City Police Department to the telephone company advising the telephone company that complainant's telephone number DUnkirk 3-0842 was being used on November 25, 1957, for the purpose of disseminating horse racing information which was used in connection with bookmaking; that the telephone had been removed by officers of the vice squad, and requesting that the telephone company disconnect service. A telephone company employee testified that this letter was received on November 29, 1957, and a central office disconnection was effected pursuant to that request. 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 service inasmuch as it had received the letter designated as Exhibit No. 1.

A police officer connected with the central vice division at the Los Angeles police department testified that on November 25, 1957, he went to the vicinity of the complainant's residence upon information that the telephone was being used for bookmaking purposes; that prior to entering the premises he made a telephone call from three blocks away to the complainant's telephone; that a

male voice answered the telephone and that this male voice would not accept a bet because he did not know the witness' voice; that thereupon the witness and his partner went to the rear door of the complainant's apartment; that looking through the window in the kitchen door he could see a man, subsequently determined to have been Al Meegel, standing by a table where there was a National Daily Reporter scratch sheet; that the officers entered after identifying themselves and asked Meegel if he lived there, and he said he did not; that the witness observed a light under the bedroom door; that he took Al Meegel with him and went into the bedroom; that the complainant's telephone was in the bedroom on a table together with over 30 betting markers recording bets of horse races being run that day; that while he was in there talking to Meegel, the complainant returned at about 2:50 p.m.; that on a small desk by a table in the livingroom the police officer found a pad with numerous wagers for horse races run on the previous day; that he showed the complainant the pad recording the races for the previous day and she said that they were her own bets; that also there were indications of bettor's names on the markers and that complainant said she did not know how those got there; and complainant said she had not met Meegel prior to the time that Steve had brought him there that day. In rebuttal the complainant testified that she does not take horse racing bets.

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, referred to supra. We further find that there is no evidence that complainant's telephone was used for any illegal purposes, therefore the complainant is now entitled to restoration of telephone service.

O R D E R

The complaint of Joan A. Callahan against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully informed in the premises and basing its decision upon the evidence of record and the findings herein,

IT IS ORDERED that the order of the Commission in Decision No. 56017, dated December 30, 1957, in Case No. 6030, temporarily restoring telephone service to the complainant be made permanent, such restoration 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 25th day of FEBRUARY, 1958.

E. J. Mitchell President
Paul J. Winter
Michael J. ...
R. Hardy
E. J. Fox Commissioners.