

ORIGINAL

Decision No. 56308

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EARL COOK, dba RELIABLE REFRIGERATION )  
SERVICE COMPANY, formerly known as )  
STAR REFRIGERATION COMPANY, )

Complainant, )

Case No. 6028

vs. )

THE PACIFIC TELEPHONE AND TELEGRAPH )  
COMPANY, a corporation, )

Defendant. )

Forno and Ulmann, by Joseph T. Forno, for the complainant.

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 12, 1957, Earl Cook, doing business as Reliable Refrigeration Service Company, alleges that prior to December 4, 1957, he was a subscriber and user of telephone service furnished by defendant under number TUCKER 2907 at 728 South San Pedro Street, Los Angeles, California; that on December 4, 1957, the telephone facilities of complainant were removed and disconnected by the defendant pursuant to instructions from the Vice Division of the Los Angeles Police Department, which department caused June Cook, the wife of complainant, to be arrested on said date on a charge of violation of Section 337a of the Penal

Code; that this arrest was without reasonable cause and provocation in that no paraphernalia or recordations of wagers of any kind were found on the premises, nor was there any evidence that said telephone facilities, and particularly the number TUCKER 2907, were used for bookmaking or betting purposes; that neither said June Cook nor the complainant has used nor does either intend to use said telephone as an instrumentality to violate the law or in aiding or abetting such violation; that complainant has made demand on the defendant to have said telephone facilities restored, but defendant has refused and does now refuse to do so; and that complainant has suffered and will suffer irreparable injury to his business and to his reputation and great hardship as a result of being deprived of said telephone.

On December 19, 1957, by Decision No. 65013, in Case No. 6028, this Commission issued an order restoring said telephone service to the complainant pending a hearing on the matter.

On December 30, 1957, the telephone company filed an answer the principal allegation of which was that the telephone company pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), on or about December 6, 1957, had reasonable cause to believe that the telephone service furnished to complainant under number TUCKER 2907, at 728 South San Pedro Street, Los Angeles, California, 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 said telephone service on or about said date pursuant to said Decision No. 41415.

A public hearing was held in Los Angeles on January 31, 1958, before Examiner Kent C. Rogers.

Earl Cook testified that he has been doing business as a refrigeration repair man for 28 years at the 728 South San Pedro Street address; that during that time he has had a telephone there furnished by the defendant; that on December 4, 1957, he left the premises in the morning leaving his wife, Martha June Cook, on the premises; that he has never permitted the telephone to be used for illegal purposes and that he has never observed it being used for illegal purposes; that when he left on December 4, 1957, he did not notice any betting paraphernalia on the premises; that on the morning of December 4, prior to the time he left he did not receive any telephone calls attempting to place wagers over the telephone; that the only employees on the premises are himself, his wife, and four other men, and that the telephone is necessary for the conduct of his business.

The wife of the complainant, Martha June Cook, testified that on December 4, 1957, she was employed at her husband's place of business at 728 South San Pedro Street, Los Angeles; that at about 3:30 p.m. of that day she was arrested at the place of business; that she had not received any wagers over the telephone; that she went out to eat and was gone about one-half hour; that when she returned there was a woman named Marie sitting at her desk and that as she came in the woman got up and left; that this woman was a friend of one of the employees; that after this woman left the premises the police came in and arrested her; and that she never used the telephone for any illegal purposes.

On cross-examination she testified that it had been about seven minutes since this woman named Marie had left before the police arrived at her premises and arrested her; that after this woman left she had received no telephone calls; that she did not take any bets over the telephone, that she never went by the name of June Douglas, and that she had a National Reporter scratch sheet on the premises.

The parties stipulated that on December 5, 1957, the telephone company received a letter from the Chief of Police of the City of Los Angeles advising the telephone company that the complainant's telephone was being used for bookmaking purposes; that the telephone had been removed by the police and requesting that the telephone be disconnected. It was further stipulated that the telephone was disconnected within five days after receipt of this letter, and that the telephone service was restored subsequently pursuant to the order of this Commission.

A Los Angeles City police officer attached to the Vice Detail stated that on December 4, 1957, he went to the complainant's place of business at 728 South San Pedro Street, Los Angeles; that he and his partner arrived in the vicinity of the place about 2:00 p.m. and that he and his partner watched at the door about 20 to 25 minutes during which time he saw Mrs. Cook inside; that in that period three men entered and left the premises; that he went to a public telephone two blocks away and dialed the complainant's telephone number, TUcker 2907, and that a female voice answered; that the witness placed several horse racing bets with the woman talking on the telephone; that he thereupon immediately drove to the

complainant's premises arriving there within approximately one minute of the time he placed the telephone call; that June Cook was at the desk with the telephone; that he asked June Cook if there were any other women on the premises and she said no; that thereupon June Cook was arrested; that a National Daily Reporter scratch sheet was under the cushion of the chair where she was seated; that he and his partner remained on the premises for approximately thirty minutes; that at first Mrs. Cook said that no other woman had been there and later on she said a woman named Marie had been on the premises and that Mrs. Cook said she answered the telephone; that during the conversation with Mrs. Cook she was asked if she took bets and she said no; that the witness found no betting markers or recordation of bets; that the only betting paraphernalia that was found was the scratch sheet which had no notations thereon. The witness further testified that during the time he was there, 20 to 30 minutes, only one call came in on the telephone.

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.

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 the complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing.

O R D E R

The complaint of Earl Cook 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 upon the evidence of record and the findings herein,

IT IS ORDERED that complainant's request for restoration of telephone service be denied and that the said complaint be and it is hereby dismissed. The temporary interim relief granted by Decision No. 56013 in Case No. 6028 is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant 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 728 South San Pedro Street,

Los Angeles, 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 Los Angeles, California, this 3<sup>rd</sup> day of MARCH, 1958.

[Signature]  
President

[Signature]

[Signature]

[Signature]

Commissioners