

ORIGINALDecision No. 57007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CLAUDIO DAGANPAT,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 6111

Joseph T. Forno, for complainant.
Lawler, Felix and Hall, by Thomas E. Workman, Jr.,
 for the defendant.
Roger Arnebergh, City Attorney, by John Neville,
 Deputy City Attorney, for the Los Angeles
 Police Department, intervener.

O P I N I O N

The complaint of Claudio Daganpat, proprietor of a barber shop at 904 West 2nd Street, Los Angeles, California, filed on May 21, 1958, alleges that prior to April 9, 1958, complainant was a subscriber to telephone service furnished by the defendant under number MADison 5-0126 at said address; that on or about April 9, 1958, the telephone facilities of complainant therein were removed and disconnected by the defendant; that on said date complainant was arrested on a charge of suspicion of bookmaking; that no complaint was ever filed against complainant; that complainant has made demand upon defendant to have said telephone facilities restored but

the defendant has refused and still refuses to do so; that complainant has suffered and will suffer loss of business and damage unless said telephone service is restored.

On June 9, 1958, the telephone company filed an answer, the principal allegation of which was that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), the defendant, on or about April 16, 1958, had reasonable cause to believe that the telephone service furnished by defendant under number MADison 5-0126 at 904 West 2nd 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 it was required to disconnect the telephone service.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on June 27, 1958.

The complainant testified that on or about April 9, 1958, he was arrested in his barber shop at 904 West 2nd Street, Los Angeles, California, and his telephone facilities were disconnected and removed; that he was arrested on a charge of bookmaking; and that he has never conducted such type of operations and does not allow his telephone to be used for such purposes; that the majority of his customers make appointments over the

telephone; that the telephone is necessary in his business and he desires to have it restored.

Exhibit No. 2 is a letter dated April 14, 1958, from the Chief of Police of the City of Los Angeles to the defendant advising defendant that complainant's telephone, MADison 5-0126, located at 904 West 2nd Street, Los Angeles, California, was being used for receiving and forwarding bets. This letter was received on April 15, 1958, and the telephone services were disconnected on April 18, 1958, pursuant to that letter, and have not been reconnected. 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 service, inasmuch as it had received the letter designated as Exhibit No. 2.

A police officer of the City of Los Angeles testified that on April 9, 1958, he went to complainant's barber shop at approximately one o'clock in the afternoon; that there was a wall telephone there with an extension in the rear room; that he went into the rear room and there were newspaper racing sections and a National Reporter scratch sheet; that in complainant's coat he found a betting marker; that he was on the premises approximately one hour; that during that time the telephone only rang once and he answered the telephone and the

calling party hung up; that thereafter he found the telephone had been fixed so that no calls could come in; that he then arrested the complainant and removed the telephone and took complainant to jail.

After full consideration of this record, we now find that the telephone company's action was based upon reasonable cause, as that term is used in Decision No. 41415, supra. We further find that there is no evidence that the telephone facilities of complainant were used in connection with bookmaking activities. Therefore, the complainant is entitled to restoration of telephone service.

O R D E R

The complaint of Claudio Daganpat 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 complainant's request for restoration of telephone service at 904 West 2nd Street, Los Angeles, California, be granted and that upon the filing of an

application by him for telephone service The Pacific Telephone and Telegraph Company shall restore telephone service at the complainant's place of business at 904 West 2nd Street, Los Angeles, California, 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 from the date hereof.

Dated at San Francisco, California,
this 22nd day of July, 1958.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.