

ORIGINAL

Decision No. 57466

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AVIS JOHNSON,

Complainant,

vs.

Case No. 6150

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Joseph Forno, for complainant.

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

Harold Kennedy, County Counsel, by Alister MacAlister,
Deputy County Counsel, for the Sheriff's Depart-
ment of Los Angeles County, intervenor.

O P I N I O N

The complaint of Avis Johnson, filed on July 10, 1958, as amended at the hearing herein, alleges that she resides at 6318 Loma Vista Avenue, Bell, California; that prior to December 13, 1957, Thomas Johnson, her husband, was a subscriber and user of telephone service furnished by defendant under number Ludlow 3-5287 at said address; that on or about December 13, 1957, the telephone services of the complainant were disconnected by the police department and were disconnected at the time the complaint was filed; that complainant and her husband were arrested for violation of Section 337 (sic) of the Penal Code and the telephone was removed; that complainant is seriously ill and under a

doctor's care and a telephone is necessary; that complainant has demanded that the telephone be installed and that defendant refuses to do so.

On July 25, 1958, the telephone company filed an answer, the principal allegation of which was that on or about December 17, 1957, it had reasonable cause to believe that the telephone service furnished to Thomas Johnson under number LUdlow 3-5287 at 6318 Loma Vista Avenue, Bell, 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 the service pursuant to this Commission's Decision No. 41415 dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

The matter was called for hearing in Los Angeles before Examiner Kent C. Rogers on August 27, 1958, and was continued for hearing to September 23, 1958. On the latter date the matter was heard and submitted.

The complainant testified that she is the wife of Thomas Johnson, who was the subscriber to the telephone service above referred to; that she and Thomas Johnson resided at 6318 Loma Vista Avenue, Bell, California, on December 13, 1957, and still reside at that address; that on December 13, 1957, she was using the telephone service for bookmaking purposes; that on that date she was arrested and the telephone was removed; that subsequently she pleaded guilty to the charge and was fined \$500 with no probation or jail sentence; that she will not use the telephone for illegal purposes in the future; and that she is under a doctor's care for heart trouble and high blood pressure, and needs a telephone. She and her husband

agreed that if telephone service is permitted it should be provided with her as the subscriber.

Exhibit No. 1 is a copy of a letter from the Sheriff's Department of the County of Los Angeles to the telephone company advising that the telephone at 6318 Loma Vista Avenue, Bell, California, had been confiscated; that on or about December 13, 1957, the telephone was being used for the purpose of disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337a of the Penal Code and requesting that the telephone service be disconnected. It was stipulated that this letter, which was dated December 14, 1957, was received by the telephone company on December 17, 1957, and that the telephone service was disconnected on December 19, 1957, and that the service has 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, supra, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

The intervenor presented no evidence.

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 the telephone service in question was used for an unlawful purpose and that the complainant has paid a penalty for the violation of the law and that the complainant and her husband have been without telephone service since December 13, 1957. For those reasons the defendant will be ordered to install telephone service at complainant's residence.

O R D E R

The complaint of Avis Johnson 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 findings herein,

IT IS ORDERED that complainant's request for telephone service be granted and that, upon the filing by complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at the residence of Avis Johnson, 6318 Loma Vista Avenue, Bell, 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 15th day of October, 1958.

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