

Decision No. 52839

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILLIAM R. CIANCIO
332 No. Jackson
Glendale, California

Complainant,

vs.

Case No. 6258

PACIFIC TELEPHONE & TELEGRAPH CO.,
213 So. Orange, Glendale, Calif.,

Defendant.

William R. Ciancio, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Neal McClure, City Prosecutor of the City of
Glendale, for the Glendale Police Depart-
ment, intervenor.

O P I N I O N

The complaint of William R. Ciancio, filed with this Commission on April 15, 1959, alleges that prior to February 27, 1959, complainant was a subscriber to telephone service at 332 North Jackson, Glendale, under telephone number Citrus 4-9107; that on or about February 27, 1959, the telephone facilities were disconnected by the defendant upon order from the Police Department of the City of Glendale; that complainant has demanded that the telephone be restored; that complainant has suffered hardship as a result of the loss of the telephone facilities; and that complainant did not use and does not intend to use the telephone facilities to violate the law.

On April 21, 1959, by Decision No. 58301 in Case No. 6258, this Commission issued an order directing the telephone company to restore service to complainant pending a hearing on the matter.

On April 30, 1959, 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), defendant, on or about March 10, 1959, had reasonable cause to believe that the telephone service furnished by defendant under number CITRUS 4-9107 at 332 North Jackson Street, Glendale, California, was being used 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, defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held in Los Angeles before Examiner Kent C. Rogers on May 26, 1959, and the matter was submitted. The complainant testified that the allegations of the complaint are true; that the telephone was removed on or about February 27; that he was arrested by the Vice Squad of the City of Glendale; that the telephone service was reinstalled on or about May 1, 1959; that the telephone is used for personal business and that he needs a telephone.

A police officer attached to the Vice Detail of the City of Los Angeles testified that on or about February 27, in conjunction with the Police Department of the City of

Glendale, he placed a bet over complainant's telephone number, with a woman who was subsequently determined to be complainant's wife; that he and the Glendale officer forthwith went to complainant's residence; that complainant's wife was there and admitted that she had received the bet but said she had never done it before; and that on the premises by the telephone was a scratch sheet for the date of the arrest and a pad on which the bets that the police officer had called in were recorded. The officer further testified that approximately 30 minutes later the complainant came in and said to the witness that complainant was the only one who took bets over the telephone and that the complainant had been using the telephone for receiving horse race bets for approximately two months' time; and that complainant was taken into custody and subsequently pleaded guilty to the charge of bookmaking and paid a fine of \$300.

Exhibit No. 1 is a copy of a letter dated March 9, 1959, from the Chief of Police to the telephone company, advising the telephone company that the telephone facilities furnished to complainant at 332 North Jackson Street, Glendale, were on February 27, 1959, being used for disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337(a) of the Penal Code, requesting that the service at said address be disconnected, and advising that the telephone had been confiscated. A witness for the telephone company testified that the service was disconnected

pursuant to this letter, and reinstalled on April 24, 1959, pursuant to order of this Commission. The position of the telephone company was that it had acted with reasonable cause, as that term is used in Decision No. 41415, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After 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 complainant is entitled to telephone service on the same basis as any other subscriber, inasmuch as he has paid the penalty for any violation of the Penal Code that may have been committed, and there is no indication that he will in the future use the telephone facilities in an unlawful manner.

O R D E R

The complaint of William R. Ciancio against The Pacific Telephone and Telegraph Company 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 the order of the Commission, Decision No. 58301, dated April 21, 1959, in Case No. 6258, shall be made permanent, and it is so ordered, 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 23rd day of June, 1959.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners