

ORIGINAL

Decision No. 60425

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

BIRDIE L. JOHNSON,

Complainant,

vs.

Case No. 6469

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Birdie L. Johnson, in propria persona.
Lawler, Felix & Hall, by David A. Workman, for
the defendant.
Roger Arnebergh, City Attorney, by Samuel C.
Palmer III, Deputy City Attorney, for the
Los Angeles Police Department, intervener.

O P I N I O N

By the complaint herein, filed on April 29, 1960, Birdie L. Johnson requests that the telephone service formerly furnished to her at 711 West 82nd Street, Apartment 6, Los Angeles, California, be ordered restored.

On May 13, 1960, 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 January 29, 1960, had reasonable cause to believe that the telephone service furnished to Birdie L. Johnson under number PLYmouth 1-2851 at 711 West 82nd Street, Apartment 6, 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 having such reasonable cause was required to disconnect the service pursuant to Decision No. 41415, supra.

A public hearing was held on June 16, 1960, in Los Angeles, before Examiner Kent C. Rogers.

The complainant testified that she was the subscriber to the telephone service; that she had an employee named Margaret Pointer who cleaned the premises in her absence; that she works from 8 a.m. to 4 p.m.; that on January 23, 1960, she went to work and when she returned the door was broken and the telephone removed; that she at no time gave anyone permission to use the telephone for illegal purposes; and that she needs the telephone in her work.

Exhibit No. 1 is a copy of a letter dated January 27, 1960, from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant advising the defendant that the telephone service being provided to Birdie L. Johnson under telephone number PLYmouth 1-2851 at 711 West 82nd Street, Apartment 6, Los Angeles, was on January 23, 1960, 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; that the complainant's telephone had been removed; and requesting that the service be disconnected.

The record shows that this letter was received by the defendant on January 29, 1960, and that pursuant thereto a central

office disconnection of complainant's telephone service was effected on February 3, 1960, 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.

A police officer connected with the Vice Division of the Los Angeles Police Department testified that on January 27, 1960, he dialed complainant's telephone number, PLymouth 1-2851; that a female voice answered; that he placed horse race bets with the female; that another officer immediately went to the complainant's residence and arrested therein a Margaret Pointer; and that she had in her possession professional-type betting markers showing the bets telephoned in by the witness.

After full consideration of this record we now find that the telephone company's action is based upon reasonable cause as that term is used in Decision No. 41415, supra. We further find that the evidence shows that the complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes.

O R D E R

The complaint of Birdie L. 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 upon the evidence of record,

IT IS ORDERED that the complainant's request for restoration of telephone service be and it hereby is denied.

IT IS FURTHER ORDERED that upon the expiration of five days after the effective date hereof the complainant may file an application for telephone service and if such application is filed The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 711 West 82nd Street, Apartment 6, Los Angeles, 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 five days after the date hereof.

Dated at San Francisco, California, this 26th day of July, 1960.

[Signature] President
[Signature]
[Signature]
Theodore J. Jensen Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.