

ORIGINAL

Decision No. 60725

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CLYDE G. BARMORE AND ANNETTE M. BARMORE,
Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH COMPANY,
a corporation,
Defendant.

Case No. 6565

Annette M. Barmore, for complainants.
Lawler, Felix & Hall, attorneys, by A. J. Krappman, Jr.,
for the defendant.

O P I N I O N

By the complaint herein, filed on June 24, 1960,
Clyde G. Barmore and Annette M. Barmore request an order of this
Commission that the defendant, The Pacific Telephone and Telegraph
Company, a corporation, be required to reinstall telephone service
at their home at 2616 Van Buren Place, Los Angeles, California.

On July 7, 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 May 20, 1960, had
reasonable cause to believe that the telephone service furnished to
Clyde Barmore under number REpublic 5-6214 at 2616 Van Buren Place,
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 the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held in Los Angeles on August 8, 1960, before Examiner Kent C. Rogers.

Annette M. Barmore testified that she is the wife of Clyde G. Barmore; that she and her husband reside at 2616 Van Buren Place, Los Angeles, California; that her husband was a subscriber to telephone service furnished by the defendant; that she is ill and needs a telephone; that on or about May 14, 1960, she was arrested for suspicion of bookmaking and the telephone was removed; that the case was dismissed; and because of her illness she needs the telephone.

There was no appearance for any law enforcement agency.

Exhibit No. 1 is a letter dated May 18, 1960, from the Commander of the Vice Division of the Police Department of Los Angeles to the defendant advising the defendant that the telephone furnished to Clyde Barmore under number REpublic 5-6214 was, on May 14, 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, and requesting that the telephone company disconnect the service. An employee of the telephone company testified that this letter was received on May 20, 1960, and that pursuant thereto a central office disconnection was effected on June 1, 1960. 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.

After full consideration of this record we find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, supra, and we further find that the evidence fails to show that the complainants' telephone was used for any illegal purpose, and that therefore the complainant is entitled to restoration of telephone service.

O R D E R

The complaint of Clyde G. Barnmore and Annette M. Barnmore 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 herein,

IT IS ORDERED that complainants' request for telephone service is granted and that upon the filing by the complainants, or either of them, of an application for telephone service The Pacific Telephone and Telegraph Company shall install telephone service at the complainants' residence at 2616 Van Buren Place, 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 five days after the date hereof.

Dated at San Francisco, California, this 13th day of September, 1960.

President

Commissioners

Matthew J. Dooley

Commissioner Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.