

ORIGINAL

Decision No. 60744

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ARTHUR H. FARQUHARSON,
Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,
Defendant.

Case No. 6540

Joseph T. Forno, attorney, for the complainant.
Lawler, Felix and Hall, attorneys, by
A. J. Krappman, Jr., for the defendant.
Harold W. Kennedy, county counsel, by
Thomas Porter, deputy county counsel, for the
Los Angeles County Sheriff's Department,
intervener.

O P I N I O N

By the complaint herein, filed on June 13, 1960, Arthur H. Farquharson requests the restoration of telephone service at his home at 5244 Acacia Street, San Gabriel, California.

By Decision No. 60333, dated June 28, 1960, in Case No. 6540, the Commission ordered that the defendant, The Pacific Telephone and Telegraph Company, restore service to the complainant pending a hearing on the complaint herein.

On July 11, 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, 1943,

in Case No. 4930 (47 Cal. P.U.C. 853), on or about June 7, 1960, had reasonable cause to believe that the telephone service furnished to the complainant under number CUMberland 3-4261 at 5244 Acacia Street, San Gabriel, 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, California, on August 10, 1960, before Examiner Kent C. Rogers.

The complainant testified that he resides at 5244 Acacia Street, San Gabriel, California; that it is a large place and has a small house in the rear; that the main telephone was in the front house; that there were two telephone extensions, one of which was in the rear house; that in May, 1960, he rented the rear house to a Mr. Barber who was a salesman; that in complainant's absence Mr. Barber was arrested in June, and the telephones removed; and that he needs the telephone and did not permit Mr. Barber, or any other person, to use the telephone for any illegal purpose.

Exhibit No. 1 is a letter dated June 2, 1960, from the Captain of the Vice Detail of the Los Angeles County Sheriff's Department to the defendant advising the defendant that complainant's home telephone, under number CUMberland 3-4261, with an extension was, on June 2, 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 telephones were confiscated; and requesting that the defendant disconnect the service. The record shows that this letter was received by the defendant on June 7, 1960, and that a central office disconnection was effected pursuant thereto on June 13, 1960, and that the service was reconnected pursuant to Decision No. 60333 on July 2, 1960, and is presently connected. It was the position of the telephone company that it had acted with reasonable cause as that term is defined in Decision No. 41415, supra, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

A deputy sheriff connected with the Los Angeles County Sheriff's Department testified that he had information that a person could place a horse race bet by calling the complainant's telephone number; that on June 2, 1960, he called the complainant's telephone number and placed a horse race bet with a male who answered the telephone; that he and other officers immediately entered the rear house on the complainant's premises and found a Mr. Barber therein, together with one of the extensions of the telephone, a National Daily Reporter for that day, and betting markers for that day; that while the officers were on the premises the extension in the small house occupied by Mr. Barber rang on numerous occasions and the officers were given horse racing bets over the telephone; and that Mr. Barber told the witness that he was accepting horse race bets over said

telephone. It was stipulated between the parties that when the telephone rang any person could answer the telephone on any of the extensions on the premises.

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 evidence shows that the complainant's telephone was used for bookmaking purposes.

O R D E R

The complaint of Arthur H. Farquharson 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 having found that the complainant's telephone was used for bookmaking purposes and basing its decision upon said finding and upon the evidence of record,

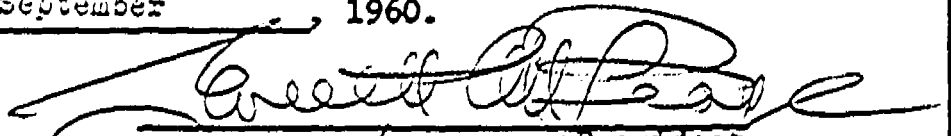
IT IS ORDERED that the complainant's request for restoration of telephone service is denied, and that the temporary interim relief granted by Decision No. 60333, supra, is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein may file an application for telephone service, and if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's residence

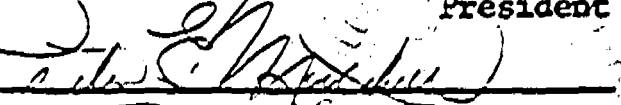
at 5244 Acacia Street, San Gabriel, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

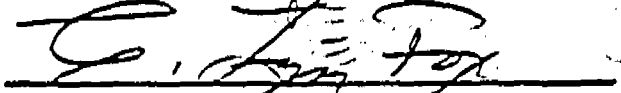
The effective date of this order shall be five days after the date hereof.

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



President





Commissioners

Matthew J. Dooley
Commissioners Theodore H. Jenner, being necessarily absent, did not participate in the disposition of this proceeding.