

Decision No. 61087

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ROY GARLET,)
)
 Complainant,)
)
 vs.)
)
 THE PACIFIC TELEPHONE AND)
 TELEGRAPH COMPANY, a corporation,)
)
 Defendant.)

Case No. 6594

Raymond L. Marsh, for complainant.
Pillsbury, Madison & Sutro, John A. Sutro
 by Dudley A. Zinke, for The Pacific
 Telephone and Telegraph Company, defendant.

O P I N I O N

A public hearing was held in the above-entitled matter before Examiner Thomas E. Daly on October 11, 1960, at San Francisco. Because Thelma Garlet was not a subscriber of the telephone service in question, the complaint was amended by deleting her name.

The record indicates the following: that Roy Garlet operates a scrap metal business located at 873 - 77th Avenue, Oakland, and is a subscriber and user of telephone services furnished by defendant; that on or about June 16, 1960, defendant, acting upon receipt of a letter from the Chief of Police of the City of Oakland, discontinued service on the ground that said facilities were being used for the purpose of bookmaking; that pursuant to an interim order of this Commission signed July 12, 1960, defendant was ordered to restore telephone service to complainant pending hearing on his complaint; that on or about June 8, 1960, a police officer testified that he observed an individual who dialed complainant's telephone number from a public telephone and overheard him place a bet; that on or about June 10, 1960, complainant's place of business was raided and racing markers were found on the premises; that during the time

that the police officers were on the premises the telephone was not used; that the matter is now pending trial in the Superior Court.

The only evidence relating to complainant's telephone is the testimony that an unidentified party was observed dialing complainant's number from a public telephone for the alleged purpose of placing a bet. The inherent difficulty of accurately detecting a number dialed under such circumstances creates a doubt which must be resolved in favor of complainant. The Commission, therefore, finds that the evidence presented does not conclusively prove that complainant's telephone was used for an unlawful purpose. The Commission further finds and concludes that defendant acted upon reasonable cause in discontinuing complainant's telephone service.

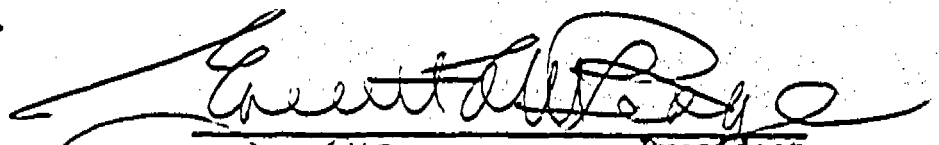
O R D E R

A complaint having been filed and the Commission being informed in the premises,


IT IS ORDERED that Decision No. 60413 ordering temporary interim relief be made permanent.

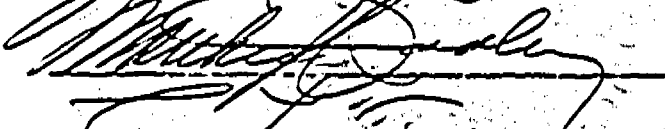
The effective date of this order shall be twenty days after the date hereof.

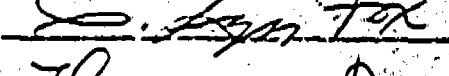
Dated at San Francisco, California, this 22nd day of November, 1960.

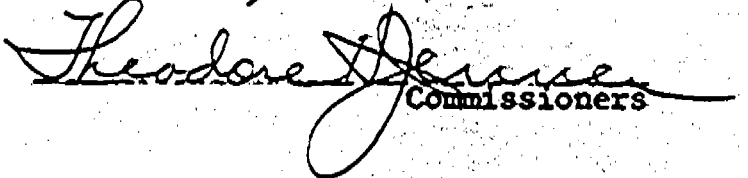


 President









 Commissioners