

ORIGINAL

Decision No. 61336

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FELICE PHILIP OREFICE,
Complainant,

vs.

Case No. 6996

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

Philip Erbsen, for the complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Roger Arnebergh, City Attorney, by Bernard
Patrusky, Deputy City Attorney, for the
Los Angeles Police Department, intervenor.

O P I N I O N

By the complaint herein, filed on October 10, 1960, Felice Philip Orefice requests the restoration of telephone service at his residence, 7348 Ranchito Avenue, Van Nuys, California.

By Decision No. 60967, dated October 25, 1960, in Case No. 6996, the Commission ordered that the defendant restore telephone service to the complainant pending a hearing on the matter.

On November 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 June 7, 1960, had reasonable cause to believe that the telephone service furnished to complainant under number State 0-7644 at 7348 Ranchito Avenue, Van Nuys, 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 on the complaint in Los Angeles, California, before Examiner Kent C. Rogers on December 5, 1960.

The complainant testified that he had been a subscriber to telephone service, with two separate telephones and telephone numbers, furnished by the defendant at 7848 Ranchito Avenue, Van Nuys, California, for several years prior to May 27, 1960; that he is employed and needs a telephone; that on or about May 27, 1960, his brother-in-law and complainant's wife were home and complainant was at work; that on that day the complainant's brother-in-law was arrested in complainant's absence and the telephones removed; that subsequently complainant and his wife were arrested and the charges against the complainant were thereafter dismissed, but his wife was convicted of bookmaking; that he needs the telephone and will not permit its use by his wife or any other person for illegal purposes.

Exhibit No. 1 is a letter dated June 6, 1960, from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the defendant advising the defendant that the telephones under numbers TRiangle 3-1143 and STate 0-7644 at 7848 Ranchito Avenue, Van Nuys, California, were on May 27, 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 removed by

police officers and requesting that the defendant disconnect the services. It was stipulated that this letter was received by the defendant on June 7, 1960; that pursuant thereto a central office disconnection was effected on June 10, 1960, and that pursuant to Decision No. 60967, supra, the service was reconnected on November 15, 1960. It was the position of the telephone company 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.

Two police officers connected with the Vice Detail of the Los Angeles Police Department testified. One officer testified that on May 27, 1960, acting on information that bookmaking was being conducted at complainant's premises, he placed a horse race bet over complainant's telephone with a male person and that thereafter on that day, he went to complainant's premises and saw therein betting markers and scratch sheets by the telephone at that address. The other police officer testified that on May 27, 1960, he went to the complainant's premises upon receiving a signal from the first officer and arrested complainant's brother-in-law; that the brother-in-law was at the telephone with betting markers reflecting bets on horse races being run that day and scratch sheets; that the telephone rang on several occasions while the officer was there and that he received a horse race bet over the telephone; that he asked the brother-in-law how long he had been making book at the complainant's premises and the complainant said he had been making book since Hollywood Park had opened; that the telephones were removed and the brother-in-law was arrested.

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 complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing.

O R D E R

The complaint of Felice Philip Orefice 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 on the evidence of record,

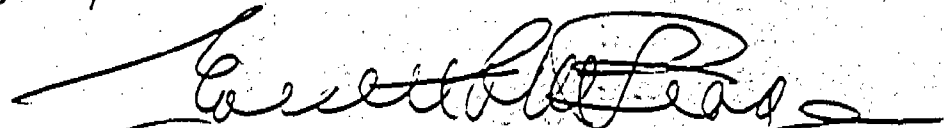
IT IS ORDERED that the complainant's request for telephone service is denied and that the temporary interim relief granted by Decision No. 60967 is vacated and set aside.

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 complainant's residence at 7648 Ranchito Avenue,

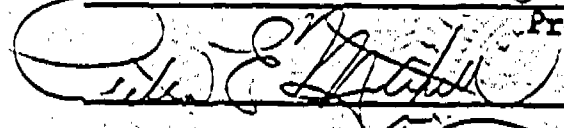
Van Nuys, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

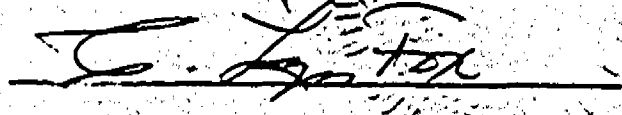
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 10th day of January, 1961.



President





Commissioners