

Decision No. 61354

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DOROTHY M. McGAUGHY,

Complainant,

vs.

Case No. 6989

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

J. T. Forno, attorney, for complainant.
Lawler, Felix & Hall, attorneys, by A. J. Krappman, Jr.,
for defendant.
Roger, Arnebergh, City Attorney, by Bernard Patrusky,
Deputy City Attorney, for Los Angeles Police Depart-
ment, intervenor.

O P I N I O N

By the complaint herein, filed on October 6, 1960,
Dorothy M. McGaughy requests an order of this Commission that the
defendant, The Pacific Telephone and Telegraph Company, a corporation,
be required to reinstall telephone service at her home at 958 Glen
Arbor Avenue, Los Angeles 41, California. The Commission, by Decision
No. 60887, in this proceeding, dated October 18, 1960, ordered
defendant to restore telephone service to the complainant pending
hearing herein.

On October 27, 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 September 27, 1960, had reasonable
cause to believe that the telephone service furnished to Dorothy M.
McGaughy under number CLinton 5-4832 at 958 Glen Arbor Avenue,
Los Angeles 41, 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 December 12, 1960, before Examiner Robert D. De Wolf.

Dorothy M. McGaughy testified that she is the subscriber and user of telephone service furnished by defendant under number CLinton 5-4832 at said address; that complainant did not use and does not now intend to use said telephone facilities as instrumentalities to violate the law nor in aiding or abetting such violation; that complainant is in poor health which necessitates her being in constant touch with her physician and will suffer great hardship if deprived of said telephone facilities.

The Police Department of the City of Los Angeles appeared and intervened by Bernard Patrusky, Deputy City Attorney.

Exhibit No. 1 is a letter dated September 26, 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 Dorothy M. McGaughy under number CLinton 5-4832, was, on September 21, 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. 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 complainant's telephone was used for any illegal purpose, and that therefore the complainant is entitled to restoration of telephone service.

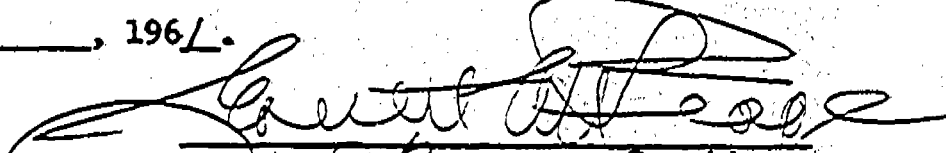
O R D E R

The complaint of Dorothy M. McGaughey 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,

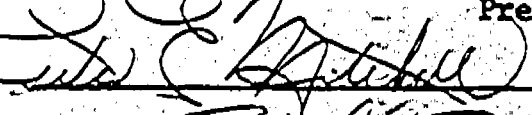
IT IS ORDERED that Decision No. 60887 ordering temporary restoration of telephone service be made permanent.

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

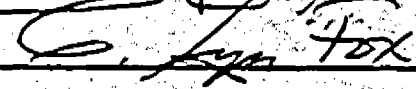
Dated at San Francisco, California, this 17th day of JANUARY, 1961.



President



Commissioner



Commissioner

Commissioners