

ORIGINAL

Decision No. 51459

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GEORGE FREENY,

Complainant,

vs.

PACIFIC TELEPHONE COMPANY,
a corporation,

Defendant.

Case No. 7016

Earl C. Broady and Kenneth Thomas, by Kenneth Thomas,
for the complainant.

Lawler, Felix & Hall, by A. J. Krappman, Jr., for the
defendant.

Harold W. Kennedy, County Counsel, by Peter Krichman,
for the Los Angeles County Sheriff's Department,
intervener.

O P I N I O N

By the complaint herein, filed on November 17, 1960,
George Freeny requests restoration of telephone service at his
home, 415 South Northwood Avenue, Compton, California.

On November 29, 1960, The Pacific Telephone and
Telegraph Company, a corporation, 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 July 19, 1960, had reasonable
cause to believe that the telephone service furnished to complainant
under number NEwmark 1-4488 at 415 South Northwood Avenue, Compton,
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 on the complaint was held before Examiner Kent C. Rogers in Los Angeles, California, on December 21, 1960.

Complainant testified that on July 17, 1960, the telephone was removed from his home, 415 South Northwood Avenue, Compton; that at the time of the removal he was absent at work; that he needs the telephone and that he will not permit it to be used illegally. Alma Freeny testified that she is the daughter of the complainant and is 17 years of age; that on or about July 15, 1960, she and her 13-year-old sister were home alone; that her sister received a telephone call and handed the telephone to her; that at the same time as the telephone was handed to her, deputy sheriffs entered the home; that the witness was arrested at that time and the telephone was removed; and that she did not use the telephone for any illegal purposes.

Exhibit No. 1 is a letter dated July 15, 1960, from the Commander of the Vice Detail of the Los Angeles County Sheriff's Department to the defendant advising the defendant that the telephone, under number NE 1-4488 at 415 South Northwood Avenue, was, on July 15, 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 telephone had been confiscated, and requesting that the defendant disconnect the service. It was stipulated that this

letter was received on July 19, 1960, and that pursuant thereto a central office disconnection was effected on July 27, 1960, and that the service has not been reconnected. 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.

A deputy sheriff connected with the vice detail of the Los Angeles County Sheriff's Department testified that on July 15, 1960, acting on information that bookmaking operations were being conducted at complainant's residence, he went to the vicinity of the complainant's residence; that one officer placed a telephone call to the complainant's home; that the witness and another officer, upon being informed of said act, entered the premises; that complainant's daughters, Alma Freeny and a younger sister were present; that Alma was by the telephone and when the officers entered Alma and her younger sister ran out of the home; that he found no bookmaking paraphernalia in the premises; that the telephone was removed and Alma Freeny was turned over to the juvenile authorities.

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 fails to show that the complainant's telephone was used for illegal purposes, and that the complainant is entitled to restoration of telephone service.

O R D E R

The complaint of George Freeny 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 of record,

IT IS ORDERED that complainant's request for restoration of telephone service be granted and that, upon the filing by complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall restore telephone service to complainant's home at 415 South Northwood Avenue, Compton, 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 7th
day of FEBRUARY, 1961.

Beverly R. Page
President
W. C. Ditchell
E. J. Fox
George B. Hoover
Frederick B. Holoboff
Commissioners