

Decision No. 61822

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EMMYRT FEENEY, dba Bart
Feeney, Union Oil Dealer
Service Station,

Complainant,

vs.

Case No. 7032

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
California corporation,

Defendant.

Thomas H. Ludlow, Jr., for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, by Bernard Patrusky, for City
Attorney on behalf of Los Angeles Police
Department, intervenor.

O P I N I O N

By the complaint herein, filed on December 8, 1960,
Emmyrt Feeney requests the restoration of telephone service at
his place of business, 5902 West Pico Boulevard, Los Angeles,
California.

By Decision No. 61245, dated December 28, 1960, in
Case No. 7032, the Commission ordered that the defendant restore
telephone service to the complainant pending a hearing on the
matter.

On January 5, 1961, 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 November 14, 1960, had reasonable cause to believe that the telephone service furnished to complainant under number WEBster 1-0708, at 5902 West Pico Boulevard, Los Angeles, 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 having such reasonable cause the defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415.

A public hearing was held on the complaint in Los Angeles before Examiner Robert D. DeWolf on March 10, 1961.

The complainant testified that he is the proprietor of a gasoline service station at 5902 West Pico Boulevard, Los Angeles, California; that he uses the telephone service in his business, and same is essential for contacting his customers; that he has never used the telephone for bookmaking purposes and did not know that his brother, who was employed by him as an attendant, was using it for that purpose until the day that the brother was arrested and filed a plea of guilty under Section 337a of the Penal Code.

Exhibit No. 1 is a copy of a letter dated November 10, 1960, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the telephone service under number WEBster 1-0708, at 5902 West Pico Boulevard, Los Angeles is being used for receiving and forwarding bets in violation of the law. It was stipulated that this letter was received by the defendant on November 14, 1960; that pursuant thereto a central

office disconnection was effected on November 18, 1960, and that pursuant to Decision No. 61245 the service was reconnected. on January 3, 1961. It was the position of the telephone company that it had acted with reasonable cause as that term is used in Decision No. 41415 in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

Attorney for intervenor offered in evidence a copy of the arrest report of the Los Angeles Police Department of James Bryan Feeney on November 9, 1960, and attorney for complainant stated that he had no objection to receiving it in evidence. Said arrest report was admitted in evidence as Exhibit No. 2. The arrest report discloses that the police officer placed bets on the horse races over the telephone number WEBster 1-0708 at 5902 West Pico Boulevard, Los Angeles, California, on November 9, 1960.

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. 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


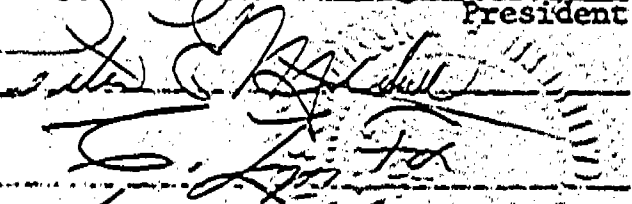
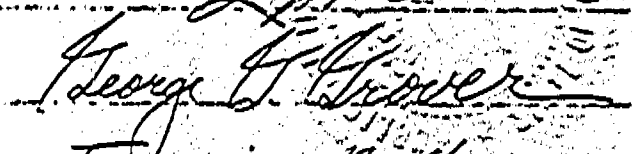
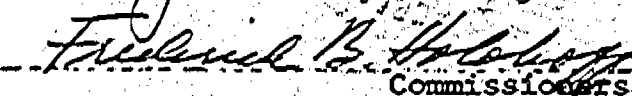
The complaint of Emmyrt Feeney against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision on the evidence of record,

IT IS ORDERED that the complainant's request for telephone service is denied and that the temporary interim relief granted by Decision No. 61245 is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of sixty 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 address at 5902 West Pico Boulevard, Los Angeles, 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 11th day of APRIL, 1961.


President

for


Commissioners