

61844

ORIGINAL

Decision No. ....

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

KATHERINE QUIRINO,

Complainant,

vs.

Case No. 7046

THE PACIFIC TELEPHONE  
AND TELEGRAPH COMPANY,  
a corporation,

Defendant.

Katherine M. Quirino in propria persona.  
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, intervener.

O P I N I O N

By the complaint herein, filed on January 9, 1961, Katherine Quirino, 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 428 North Benton Way, Los Angeles 26, California. The Commission, by Decision No. 61370 in this proceeding, dated January 24, 1961, ordered defendant to restore telephone service to the complainant pending hearing herein.

On February 1, 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 January 19, 1960, had reasonable cause to believe that the telephone service furnished to Katherine Quirino under number DUnkirk 9-1594 at 428 North Benton Way, Los Angeles 26, 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.

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

Katherine Quirino testified that she is the subscriber and user of telephone service furnished by defendant under number DUnkirk 9-1594 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 did not know that taking a bet over the phone from a friend for the purpose of placing a bet at the race track was a violation of the law; 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 January 18, 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 Katherine Quirino under number DUnkirk 9-1594, was, on January 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, 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 in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

An officer from the Los Angeles Police Department testified that he made a phone call to complainant's number and placed a bet on a horse race with a female voice, later identified as applicant, during which time other officers entered the premises, and that they found a scratch sheet and the racing section of the newspaper; that there were betting markers near the telephone and notations regarding bets on horses then running at Santa Anita; that the telephone rang several times while he was on the premises and parties asked to make bets on horse races.

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, and 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

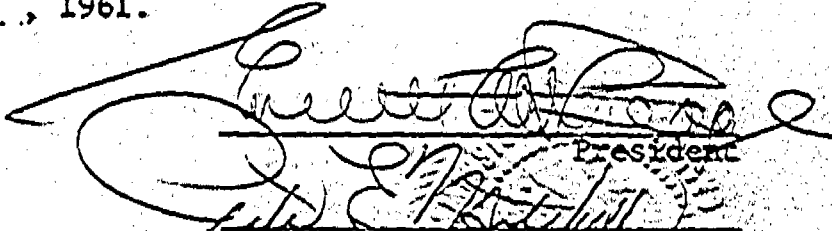
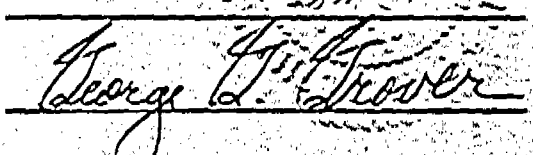
The complaint of Katherine Quirino against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence herein,

IT IS ORDERED that the complainant's request for telephone service is denied and that the temporary interim relief granted by Decision No. 61370 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 428 North Benton Way, Los Angeles 26, 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 19th day of APRIL, 1961.

  
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President  
  
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Commissioners

C. Lyn Fox  
Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.