

ORIGINAL

Decision No. 62280

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CHARLES W. BATT,
Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,
Defendant.

Case No. 7109

Charles W. Batt, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Roger Arnebergh, by Bernard Patrusky, for the
City of Los Angeles, Intervener.

O P I N I O N

By the complaint herein, filed May 4, 1961, Charles W. Batt requests an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at his residence at 127 West 118th Street, Los Angeles, California.

On May 19, 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 March 9, 1961, had reasonable cause to believe that the telephone service furnished to Charles W. Batt under number PLYmouth 7-5979 at 127 West 118th Street, 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 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 June 22, 1961, before Examiner Robert D. DeWolf.

A police officer testified that he conducted a raid on the residence at 127 West 118th Street, Los Angeles, California, on March 4, 1961, and arrested the complainant; that after entry of the premises the telephone rang three times and the officer answered and each time the party calling asked to place a bet on a horse race; that the officer searched the premises and found the racing forms contained in the sports section of the Los Angeles Examiner.

The complainant testified that the bookmaking charges against him were dismissed; that he has not used the telephone for bookmaking purposes and will not do so in the future. Complainant also testified that he had recently received numerous wrong number phone calls. Complainant stated that he has great need for the phone for the reason that his wife is pregnant and has need for calling her doctor, and also that his daughter was recently married, is staying with him and is also pregnant, and has need to keep in touch with her doctor.

A witness for the telephone company testified to a disconnection of the telephone on March 15, 1961, upon receipt of a letter dated March 7, 1961, from the office of the Chief of Policy of Los Angeles, to the effect that said telephone was used to violate Penal Code Section 337a. Said letter was received in evidence and marked Exhibit No. 1.

After full consideration of this record the Commission finds and concludes 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; that complainant's telephone has now been disconnected more than 90 days and that complainant has stated he will not use or permit the use of his telephone for any illegal purpose and that there is urgent need for a telephone by complainant's family and that, therefore, the complainant should have telephone service at his residence at 127 West 118th Street, Los Angeles, California, restored.

O R D E R

The complaint of Charles W. Batt 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 complainant's request for restoration of telephone service is granted, and that upon the filing by the complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall reinstall telephone service at the complainant's place of residence at 127 West 118th Street, 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 five days after the date hereof.

Dated at San Francisco, California, this 18th day of July, 1961.

Carroll W. Boyd
President

W. J. [unclear]

[unclear]

George H. [unclear]

Frederick B. [unclear]
Commissioners