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Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WILBERT W. KENDALL,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 7095

Walter L. Gordon, Jr., for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, by Bernard Patrusky, for the
City of Los Angeles, intervenor.

O P I N I O N

By the complaint, filed on April 12, 1961, Wilbert W. Kendall 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 home at 1937 1/4 Carmona Avenue, Los Angeles, California.

On April 26, 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 22, 1961, had reasonable cause to believe that the telephone service furnished to Wilbert W. Kendall under number WEBster 4-9838 at 1937 1/4 Carmona Avenue, 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. Defendant denied the other allegations of the complaint.

A public hearing was held in Los Angeles on June 22, 1961, before Examiner Robert D. DeWolf.

A police officer testified that he dialed complainant's telephone number on March 9, 1961, and placed wagers on horse races; that thereafter he entered the premises and found papers and equipment used in making bets on horse races, and arrested Wilbert W. Kendall; that thereafter, while he was on the premises, the telephone rang and he answered it and talked to a party who asked to place a bet on a horse in a race at Santa Anita race track.

Exhibit No. 1 is a letter dated March 10, 1961, from the Police Department of the City of Los Angeles to the defendant, advising that the telephone furnished to Wilbert W. Kendall under number WE 49838 at 1937 1/4 Carmona Avenue, Los Angeles, California, was being used for the purpose of disseminating horse racing information in violation of Section 337a of the Penal Code, and requesting that the telephone company disconnect the service. Pursuant thereto a central office disconnection was effected.

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 for bookmaking purposes in connection with horse racing.

O R D E R

The complaint of Wilbert W. Kendall 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 upon the expiration of sixty days after the effective date of this order, the complainant herein may file an application with the utility for telephone service, and, if such application is made, The Pacific Telephone and Telegraph Company shall reinstall telephone service at the complainant's place of residence at 1937 1/4 Carmona Avenue, 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 8th day of AUGUST, 1961.

Carroll A. Ruge
President

John E. Hatcher

John Fox

George A. Hoover

Frederick B. Holdcroft
Commissioners