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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EDWARD H. ROSAUER and
MARTHA S. ROSAUER,)

Complainants,)

vs.)

Case No. 7106

PACIFIC TELEPHONE and TELEGRAPH
COMPANY, a Corporation,)

Defendant.)

Clete McCoy, for complainant.
Lawler, Felix & Hall, by Charles L. Rogers,
for defendant.
Roger Arnebergh, by Bernard
Patrusky, for Los Angeles City Police
Department, intervener.

O P I N I O N

By the complaint herein, filed May 1, 1961, Edward H. Rosauer and Martha S. Rosauer request an order of this Commission that the defendant be required to reinstall telephone service at their address at 14402 Hamlin Street, Van Nuys, California.

On May 10, 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 December 22, 1960, had reasonable cause to believe that the telephone service furnished to Edward H. Rosauer under number State 5-5128 at 14402 Hamlin Street, Van Nuys, 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, and that said telephone service was disconnected on December 30, 1960.

A public hearing was held in Los Angeles on July 14, 1961, before Examiner Robert D. DeWolf.

The complainant, Edward H. Rosauer, testified that he had great need for a telephone in his work. A member of his family is ill and needs to keep in touch with the doctor. Complainant admitted that he had been arrested for bookmaking and stated that all charges against the complainants have been dismissed; that the telephone is listed in his name and that his wife, Martha S. Rosauer, is not a necessary party to this proceeding as she was not a subscriber to telephone service.

Exhibit No. 1 is a letter dated December 21, 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 E. H. Rosauer under number State 55128, was, on December 16, 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.

The parties stipulated that the complaint should be dismissed as to the complainant Martha S. Rosauer.

Two police officers testified to the arrest of the complainants on December 16, 1960, at 10:15 in the forenoon on said premises and that they found numerous pieces of paper with notations about race horses and while on the premises the phone rang on several occasions and a party asked for Ed, stating that he had some action for him. Other horse racing paraphernalia was found on the premises.

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. We further find that the evidence discloses complainant's telephone was used for book-making purposes, that complainant has been without the use of said telephone since December 16, 1960, more than six months, and that complainant's telephone service at 14402 Hamlin Street, Van Nuys, California, should be reinstalled.

O R D E R

The complaint of Edward H. Rosauer 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 restoration of telephone service is granted, that the complaint is dismissed as to complainant Martha S. Rosauer, and that upon the

filing by the complainant, Edward H. Rosauer, of an application for telephone service, The Pacific Telephone and Telegraph Company shall reinstall telephone service at the complainant's place of residence at 14402 Hamlin Street, Van Nuys, 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 5th day of August, 1961.

Everett A. Page
President
John E. Mitchell
James Fox
George J. Hoover
Fredrick B. Halbach
Commissioners