

62410

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MILDRED MAHAFFEY,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Case No. 7077

Joseph T. Forno, by Arthur Lewis, for complainant.
Lawler, Felix & Hall, by Charles L. Rogers, for
defendant.

Roger Arnebergh, by Bernard Patrusky, for the
Police Department of the City of
Los Angeles, intervener.

O P I N I O N

By the complaint herein, filed March 14, 1961, Mildred Mahaffey requests the restoration of telephone service at her home, 15627 Cerise Street, Gardena, California.

By Decision No. 61724, dated March 28, 1961, in Case No. 7077, the Commission ordered that defendant restore telephone service to the complainant pending a hearing on the matter.

On April 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 March 10, 1961, had reasonable cause to believe that the telephone service furnished

to complainant under number SPring 2-2609 at 15627 Cerise Street, Gardena, 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 R. D. De Wolf on July 14, 1961.

The attorneys for the complainant, the defendant, and the intervener stipulated for the receipt in evidence of Exhibits Nos. 1 and 2 and that the matter be submitted upon the complaint, Exhibit No. 1 offered in evidence by the defendant, and Exhibit No. 2, a police report offered by the intervener.

Exhibit No. 1 is a copy of a letter dated March 3, 1961, from the Chief of Police of the City of Los Angeles to the defendant advising the defendant that the telephone service under number SPring 2-2609 at complainant's residence at 15627 Cerise Street, Gardena, California, was being used for receiving and forwarding bets in violation of the law. Pursuant thereto a central office disconnection was effected on March 10, 1961, and pursuant to Decision No. 61724 the service was reconnected on April 7, 1961. It was the position of the telephone company that in disconnecting the telephone service it had acted with reasonable cause as that term is used in Decision No. 41415 inasmuch as it had received the letter designated as Exhibit No. 1.

Exhibit No. 2 is a police report of the arresting officers who entered the premises at 15627 Cerise Street,

Gardena, California, on March 2, 1961, at 3:00 p.m., and arrested two suspects. This report shows that the complainant was not present and did not appear at the time of the arrest; that the telephone rang on said premises on numerous occasions and the calling party would hang up when the phone was answered by the officer, except on one occasion when a horse racing bet was placed with the officer on the phone; and that the officers found on the premises notebooks, betting markers, books of account concerning over 500 wagers, and other horse racing paraphernalia and material connected therewith.

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 book-making purposes in connection with horse racing.

O R D E R

The complaint of Mildred Mahaffey 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,

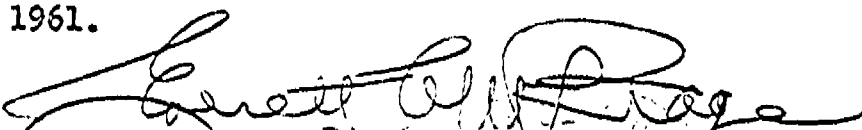
IT IS ORDERED that the complainant's request for telephone service is denied and the temporary interim relief granted by Decision No. 61724 is vacated and set aside.


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 with the utility for telephone service, and, if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's address at 15627 Cerise Street, Gardena, 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 15th day of AUGUST, 1961.



President







Commissioners