

ORIGINAL

63435

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FRANCIS EGGIE,

Complainant,

vs.

Case No. 7249

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Paul K. Duffy, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Charles W.
Sullivan, for Los Angeles City Police
Department, intervener.

O P I N I O N

By the complaint herein, filed December 11, 1961, Francis Eggie requests restoration of telephone service at her place of business, 2707 West Olympic Boulevard, Los Angeles, California.

By Decision No. 62943, dated December 19, 1961, in Case No. 7249, the Commission ordered that the defendant, The Pacific Telephone and Telegraph Company, a corporation, restore telephone service to the complainant pending further order.

On January 2, 1962, 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 1, 1961, had reasonable cause to believe that the telephone service furnished to complainant under number DUnkirk 3-0798 at 2707 West Olympic Boulevard, 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 on the complaint in Los Angeles before Examiner Robert D. DeWolf on February 7, 1962, and the matter was submitted on the same date.

Philip Eggie testified that he is the complainant's son and is employed at the shop at 2707 West Olympic Boulevard by his mother, the complainant, as a clerk. The business is conducted in one room and consists of the sale of cigarettes, cigars, magazines and sundries, the paying of utility bills, cashing of checks and sale of money orders, and check signatures are verified on the telephone. He was arrested on the premises on November 28, 1961, while talking to a friend on the telephone. He testified he has not used the telephone for placing bets on horse races. Complainant did not testify.

Exhibit No. 1 is a copy of a letter dated November 30, 1961, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the telephone service under number DU 30798, at 2707 W. Olympic Blvd., Los Angeles, is being used for receiving and forwarding bets in violation of the law. It was stipulated that this letter was received by the defendant on December 1, 1961; that pursuant thereto a central office

disconnection was effected on December 16, 1961, and that pursuant to Decision No. 62943 the service was reconnected on December 21, 1961. It was the position of the telephone company 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.

A police officer testified that he had observed the premises at 2707 West Olympic Boulevard, Los Angeles, California, more than a week prior to November 28, 1961, and saw many people enter the premises, after which Philip Eggie would make a phone call and make marks on a piece of paper and receive money, and that he arrested Philip Eggie on said date; that after the arrest the telephone rang over 25 times while he was on the premises and that several times the calling party would ask to place a bet on a horse race. The officer further testified that he found betting markers on the premises, and equipment used in placing bets on horse races.

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, and 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 Francis Eggie 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 that the temporary interim relief granted by Decision No. 62943 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 2707 West Olympic Boulevard, 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 twenty days after the date hereof.

Dated at San Francisco, California, this 20th day of MARCH, 1962.

Ernest H. Page
President

George L. Trover

Frederick B. Halaby

Commissioners

C. Lyn Fox

Commissioner being necessarily absent, did not participate in the disposition of this proceeding.