

ORIGINAL

Decision No. 63688

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

YOSHIKO ARAKAWA,

Complainant,

vs.

Case No. 7283

THE PACIFIC TELEPHONE  
AND TELEGRAPH COMPANY,  
a corporation,

Defendant.

Joseph Forno, attorney, for complainant.  
Lawler, Felix & Hall, by Charles L. Rogers,  
for defendant.  
Harold W. Kennedy, by DeWitt Clinton, Deputy  
County Counsel, for the Sheriff of Los  
Angeles County, intervener.

O P I N I O N

By the complaint herein, filed on February 19, 1962, Yoshiko Arakawa requests an order of this Commission that the Defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at her home at 988½ South Irolo Street, Los Angeles, California.

By Decision No. 63359, dated March 6, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On March 14, 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 16, 1961, had reasonable cause to believe that the telephone service furnished to Yoshiko Arakawa under number DUnkirk 9-0327 at 988½ South Irolo 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 April 11, 1962, before Examiner Robert D. DeWolf and the matter was submitted on the same date.

Exhibit No. 1 is a copy of a letter dated December 16, 1961, from the Sheriff's Office of the County of Los Angeles to the defendant, advising the defendant that the telephone furnished to Yoshiko Arakawa under number DU 90327 and extension was 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.

Complainant testified that all of the allegations contained in the complaint are true and correct; that she did not

use and does not now intend to use said telephone facilities as instrumentalities to violate the law; and that she has great need for a telephone for her eleven-year-old blind child who has need for special activities.

The Sheriff of Los Angeles County appeared and intervened by deputy county counsel, but offered no testimony in opposition to the complaint.

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, and we further find that the evidence fails to show that the complainant's telephone was used for any illegal purpose, and that therefore the complainant is entitled to restoration of telephone service.

O R D E R

The complaint of Yoshiko Arakawa 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 order of the Commission in Decision No. 63359, dated March 6, 1962, in Case No. 7283, temporarily restoring telephone service to the complainant, be made

permanent, such restoration 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 14<sup>th</sup> day of MAY, 1962.

Everett C. Lee  
President

J. H. Smith

C. J. Fox

George D. Grover

Fredrick B. Hallock  
Commissioners

with the usual exceptions, from all points within Orange County to points north of Bakersfield to and including the San Francisco Territory and points in the Sacramento area.

It is alleged that applicants have not been able to secure enough traffic southbound from San Jose to justify the expense of providing the service; that the limited volume and the expense of handling such traffic constitutes a burden on the remainder of the traffic handled by applicants; that there are approximately 14 highway common carriers serving San Jose and that applicants have advised their San Jose shippers of their plans to abandon service from San Jose to Santa Ana and points in the Los Angeles Territory and have been advised by their shippers that they have no objection.

After consideration the Commission finds and concludes that applicants are attempting to pick and choose the points they will serve as a certificated carrier after once having made a public dedication of their service. The application will be denied. A public hearing is not necessary.

ORDER

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED that Application No. 41954 is hereby denied.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 14th day of May, 1962.

Ernest A. Lease  
President  
W. E. Mitchell  
S. J. Fox  
George T. Grover  
Fredrick B. Haldoroff  
Commissioners