

ORIGINAL

Decision No. 63712

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DEENA de TOLLY, d.b.a.  
Dijkers Biochemical Laboratory,  
Complainant,  
vs.  
THE PACIFIC TELEPHONE and  
TELEGRAPH COMPANY, a corporation,  
Defendant.

Case No. 7265

Claud B. Andrews, attorney for complainant.  
Lawler, Felix & Hall, by Charles L. Rogers,  
attorneys for defendant.  
Roger Arnebergh, City Attorney, by Edward P.  
George, Deputy City Attorney, for the  
Chief of Police of the City of Los Angeles,  
intervener.

O P I N I O N

By the complaint herein, filed on January 8, 1962, Deena de Tolly requests an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at 1266 North Serrano, Los Angeles, California.

By Decision No. 63112, dated January 16, 1962, the Commission ordered that the defendant restore telephone service to the complainant pending further Commission order.

On January 26, 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 July 26, 1961, had reasonable cause to believe that the telephone service furnished to Detolly Dikkers under number HOLLYWOOD 4-1418 at 1266 North Serrano 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.

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 July 28, 1961, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the telephone furnished to Dikker's Biochemical Lab under number HO 41418 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.

Counsel for complainant, defendant, and intervenor stipulated that complainant, if called as a witness, would testify to the truth of all the allegations of the complaint, which alleges that the unlawful use of complainant's telephone was by a stranger without her knowledge. The intervenor made no objection to the request by complainant for telephone service. There was no testimony offered by any law enforcement agency 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. We further find that complainant's telephone was used for an illegal purpose but that prior to Decision No. 63112 complainant was without telephone service for more than five months. ✓

O R D E R

The complaint of Deena de Tolly 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. 63112, dated January 16, 1962, in Case No. 7265,

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 22nd day of MAY, 1962.

Charles A. Rago  
President  
D. E. Marshall  
E. L. Fox  
George G. Grover  
Frederick B. Holshoff  
Commissioners