

ORIGINAL

Decision No. 63744

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

J. Howard & Mary E. Kalweit,
Complainants,

vs.

Pacific Telephone Co.,
Defendant.

Case No. 7302

J. Howard Kalweit and Mary E. Kalweit, in propria personae.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Harold W. Kennedy, County Counsel, by DeWitt Clinton,
for the Sheriff's Office of Los Angeles County, intervener.

O P I N I O N

By the complaint herein, filed on March 22, 1962, J. Howard and Mary E. Kalweit request an order of this Commission that the defendant, Pacific Telephone Co., be required to reinstall telephone service at their home at 14833 Jalisco Road, La Mirada, California.

On April 3, 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 March 13, 1962, had reasonable cause to believe that the telephone service furnished to J. Howard Kalweit under numbers LAWrence 1-1929 and LAWrence 1-4752 at 14833 Jalisco Road, La Mirada, California, were being or were to be

used as instrumentalities 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 services pursuant to this Commission's Decision No. 41415.

A public hearing was held in Los Angeles on April 25, 1962, before Examiner Robert D. DeWolf, and the matter was submitted on the same date.

The complainants and defendant stipulated that both telephones were furnished to the complainant J. Howard Kalweit, and that Mary E. Kalweit was not a subscriber to telephone service and therefore the complaint as to her should be dismissed.

J. Howard Kalweit testified that both telephones were in his name, that no one was arrested at his home when the officers removed the telephones, and that no charges were filed. He also testified that he has great need for use of telephone service and has not used the telephones for any unlawful purpose and will not do so in the future.

A Deputy County Counsel appeared and questioned complainant on behalf of the Sheriff, but no testimony was offered in opposition to the complaint.

Exhibit No. 1 is a letter dated March 8, 1962, from the Sheriff of Los Angeles County to the defendant, advising that the telephones furnished to J. Howard Kalweit, under numbers LA 1-4752 and LA 1-1929 and extension, at 14833 Jalisco Road, La Mirada, were being used for the purpose of disseminating horse racing information in violation of Section 337a of the Penal Code, and requesting that the telephone company disconnect the service. Pursuant thereto a central office disconnection was effected.

After full consideration of this record the Commission finds and concludes that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, that the evidence fails to show that the complainant's telephones were used for any illegal purpose; and that, therefore, the complainant, J. Howard Kalweit, is entitled to restoration of telephone service. The complainant, Mary E. Kalweit, was not a subscriber to telephone service and her complaint should be dismissed.

O R D E R

The complaint of J. Howard Kalweit 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 request of J. Howard Kalweit for telephone service is granted, and that upon the filing by the complainant of an application with the utility for telephone service, The Pacific Telephone and Telegraph Company shall reinstall telephone service at the complainant's home at 14833 Jalisco Road, La Mirada, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

IT IS FURTHER ORDERED that the complaint of Mary E. Kalweit is dismissed.

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

Dated at San Francisco, California, this 28th day of MAY, 1962.

Carol R. Berg
President

John L. Mitchell

E. J. Fox

George A. Brown

Fredrick B. Hallock
Commissioners