

ORIGINALDecision No. 47980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARGIE MORENO,

Complainant,

vs.

Case No. 5395

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Margie Moreno in propria persona. Pillsbury,
Madison & Sutro by John A. Sutro, and Lawler, Felix
& Hall by L. B. Conant, for defendant.

O P I N I O N

The complaint alleges that Margie Moreno, who resides at 7303 South Hooper Avenue, Los Angeles, is a subscriber and user of telephone service furnished by defendant company under number Jefferson 2595. On or about June 5, 1952, the complainant was deprived of the use of her telephone by action of deputies of the Los Angeles County Sheriff's Office.

Complainant requested the telephone company to restore the telephone service but it has refused to do so. The complaint further alleges that the complainant will suffer irreparable damage if she is deprived of the use of her telephone.

Under date of July 22, 1952, this Commission, by Decision No. 47510 in Case No. 5395, issued an order granting

temporary interim relief; directing the defendant telephone company to restore telephone service to complainant pending a hearing in the matter. On July 31, 1952, the defendant telephone company filed an answer, the principal allegation of which was that the defendant telephone company had reasonable cause to believe that the use made or to be made of the telephone service furnished to complainant under number Jefferson 2595 was prohibited by law and that said service 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, it was required to disconnect the service pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held in Los Angeles on November 19, 1952, before Examiner Syphers, at which time evidence was adduced and the matter was submitted.

At the hearing the complainant testified that the telephone Jefferson 2595 was used by her at her residence and that no one else resided there except her daughter. She stated that she had not used the telephone for bookmaking and that although she was arrested on June 5, 1952, on suspicion of bookmaking, the charges were dismissed. She further stated that she did not intend to use the telephone for any unlawful purpose.

A Deputy Sheriff from the Los Angeles County Sheriff's Office testified that on June 5, 1952, at approximately 2:05 p.m.

he, accompanied by two other deputies, entered the premises at 7303 South Hooper Avenue. At the time there were two officers from the Los Angeles Police Department there and also the defendant, Margie Moreno. The Los Angeles police officers had received two bets on horse races over the telephone and while the deputy sheriffs were there the phone rang, a male voice asked for Margie and then hung up when the officer answered.

Exhibit No. 1 is a copy of a letter dated June 5, 1952, from the Sheriff's Office to the telephone company requesting that telephone service under the number Jefferson 2595 at 7303 South Hooper Avenue, Los Angeles, California, be disconnected.

The position of the telephone company was that it had acted upon reasonable cause in removing the telephone inasmuch as it had received the letter designated as Exhibit No. 1. After consideration of this record we now find that the telephone company exercised due care in taking the action it did and that this action was based upon reasonable cause as such term is used in Decision No. 411415, supra. We further find that the telephone facilities here in question were used as an instrumentality to aid and abet the violation of the law.

The testimony of the police officers to the effect that bets were recorded over this telephone is neither controverted nor explained in this record. The complainant, while testifying that she did not use the telephone for placing bets, did not deny that the officers did receive these bets in her presence and over her telephone.

O R D E R

The complaint of Margie Moreno against The Pacific Telephone and Telegraph Company having been filed, public hearing having been held thereon, the matter now being ready for decision and the Commission being fully advised in the premises and basing its decision upon the evidence of record in this case and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be denied and that the said complaint be, and it hereby is, dismissed. The temporary interim relief granted by Decision No. 47510, dated July 22, 1952, in Case No. 5395, is hereby set aside and vacated.

IT IS FURTHER ORDERED that upon the expiration of thirty (30) days after the effective date of this order, The Pacific Telephone and Telegraph Company may consider an application for telephone service from the complainant herein on the same basis as the application of any similar new subscriber.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 2nd day of December, 1952.

R. Z. Anderson
President
Justus F. Coe
Harold H. Hale
Francis J. Dutton
John E. Marshall
Commissioners