

ORIGINALDecision No. 50810

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LENA FITZGIBBONS,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 5574

Joseph T. Forno, for complainant. Pillsbury,
Madison & Sutro, by John A. Sutro, and Lawler,
Felix & Hall, by L. E. Conant, for defendant.

O P I N I O N

The complaint herein alleges that Lena Fitzgibbons, of 5805 Whitnall Highway, North Hollywood, California, prior to July 10, 1954, was a subscriber and user of telephone service furnished by defendant under telephone number SUNset 1-7611. On or about July 10, 1954, the telephone facilities of complainant were disconnected by the Los Angeles Police Department. The complainant has made demand upon the telephone company to restore service but it has refused to do so. It is further alleged that complainant has suffered and will suffer great hardship as a result of being deprived of the telephone facilities in question, and, further, that she did not use and does not now intend to use said telephone facilities as an instrumentality to violate the law or in aiding and abetting

such violation. Under date of October 4, 1954, the telephone company filed an answer, the principal allegation of which was that it had reasonable cause to believe that the telephone service furnished to complainant under number SUNset 1-7611, at 5805 Whitnall Highway, North Hollywood, 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 Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held before Examiner Grant E. Syphers on November 8, 1954, at Los Angeles, at which time evidence was adduced and the matter submitted.

The complainant testified that on or about June 10, 1954, at approximately 11 a.m., officers of the Los Angeles Police Department arrested her on suspicion of bookmaking while she was sitting in her automobile at Riverside Drive and Toluca Street. The officers took her to her home and while there disconnected the telephone. They made a search of the premises and found slips of paper with bets recorded on them. As a result of this arrest, the complainant testified, she was convicted and placed on probation for three years. She further testified that she now desires a telephone in her home for personal use and also in connection with her real estate business. The parties who will have access to the telephone are the complainant and her husband.

An officer of the Los Angeles Police Department presented testimony which confirmed complainant's testimony

concerning the arrest and disconnection of the telephone. He further testified that while the officers were in complainant's house the telephone did not ring and no wagers were taken thereover. However, he pointed out that they did discover various bookmaking paraphernalia on the premises, and that in a conversation with Mrs. Fitzgibbons she indicated that she had been using the telephone in connection with the taking of bets. ✓

The position of the telephone company was that it had acted with reasonable cause in disconnecting the telephone service inasmuch as it had received a letter from the Police Department, a copy of which was received in evidence as Exhibit No. 1. This letter requested disconnection of complainant's telephone service.

Upon this record we find that the action of the telephone company was based upon reasonable cause, as such term is used in Decision No. 41415, supra. We further find that the complainant now is entitled to telephone service on the same basis as any other similar subscriber inasmuch as she has paid the penalty for any violation of the Penal Code which she may have committed and there now is no indication that she will in the future use telephone facilities in an unlawful manner.

O R D E R

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

IT IS ORDERED that The Pacific Telephone and Telegraph Company consider an application for telephone service from the complainant herein on the same basis as the application of any other subscriber for similar service.

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

Dated at San Francisco, California, this 30th day of NOVEMBER, 1954.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

JUSTUS E. CRAMER
Commissioner....., being
temporarily absent, did not participate
in the disposition of this proceeding.