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ORIGINAL

Decision No. 52716

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Bernice Metcalf, Complainant, vs. The Pacific Telephone and Telegraph Company, a corporation, Defendant.	Case No. 5698

Charles R. Scarlett, attorney, for complainant;
Pillsbury, Madison & Sutro by John A. Sutro; and Lawler, Felix & Hall by L. B. Conant, for defendant;
Howard J. Lindenmeyer, for the Commission staff.

O P I N I O N

A public hearing was held in Los Angeles by Examiner Mark V. Chiesa. The parties having presented their evidence, the matter was submitted for decision.

Complainant alleges, and we find, that she is a resident of Los Angeles, and is conducting a licensed phonograph record shop business at 1948 West Washington Boulevard in the City of Los Angeles, having leased said premises for said purpose; that on or about November 1, 1955, complainant duly filed an application with defendant for telephone service to be installed at said address, to wit, 1948 West Washington Boulevard, Los Angeles; that she deposited the required sum and otherwise complied with defendant's tariff rules and regulations pertaining to applications for telephone service; that defendant has refused to install said telephone service.

Defendant states, and we find, that on or about November 23, 1955, it returned to complainant the sum which had been deposited;

that it refused to install telephone service for complainant at said address; and that the refusal was based upon reasonable cause and in accordance with this Commission's Decision No. 41415, dated April 6, 1948, in Case No. 4936 (47 Cal. P.U.C.853).

Complainant Bernice Metcalf, also known as Bernice Brown, testifying in her own behalf stated that she has never been in trouble with the police nor has she ever operated a lottery or as a bookmaker and that she does not intend to so operate; that the telephone would be used solely for conducting her phonograph record business at the said address.

The evidence shows that defendant in the month of September 1955 received a letter from the Los Angeles Police Department stating that the department had reason to believe that if telephone service was installed at 1948 West Washington Boulevard the telephone would be used to violate the law. Captain Charles Stanley of the Los Angeles Police Department testified that said address had a reputation for bookmaking and lottery, and that between January 1952 and August 1955 the police department had made arrests for violations of the State's bookmaking and lottery laws at said address on eight different occasions and that telephone service at said address had been disconnected on several occasions as a result of said arrests.

Having considered the entire evidence of record we find that defendant's refusal to install said telephone service was based upon reasonable cause. We also are of the opinion and, upon undisputed evidence, find that complainant proposes to use the telephone service in conducting a retail phonograph record business and not for illegal purposes. The complainant is entitled to the installation of telephone service as applied for. It will be so ordered.

O R D E R

A public hearing having been held in the above-entitled matter, the Commission being fully advised in the premises and good cause appearing,

IT IS ORDERED that complainant's application for telephone service be accepted and that The Pacific Telephone and Telegraph Company be and it hereby is ordered to install telephone service for complainant at 1948 West Washington Boulevard in the City of Los Angeles, such installation being subject to all duly authorized rules and regulations of the defendant's tariff and existing applicable law; provided, however, that complainant's application for service shall have priority over like applications filed subsequent to November 1, 1955.

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

Dated at San Francisco, California, this 6th day of March, 1956.

President

Commissioners