

**ORIGINAL**

Decision No. 57039

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MRS. E. KELEMEN, Complainant, )

vs.

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, Defendant. )

Case No. 6097

Earnest Kelemen, for Mrs. E. Kelemen, Complainant.  
Pillsbury, Madison & Sutro, John A. Sutro by  
Dudley A. Zinke, for defendant.

O P I N I O N

A public hearing of the above matter was held before Examiner Thomas E. Daly on July 1, 1958, at San Francisco.

The record discloses that prior to April 8, 1958, defendant furnished complainant with telephone service under number Glencourt 1-1959 at her residence 206-17th Street, Oakland, California; that on or about said date defendant discontinued such service following receipt of a letter from the Chief of Police of Oakland, which indicated that complainant's telephone facilities were being used for the unlawful purpose of bookmaking in violation of Section 337(a) of the Penal Code; that her husband, who represented her in this proceeding, testified that he used said telephone for the purpose of placing a bet with a bookie in San Francisco at the request of an individual who called and identified himself as Mitch; that her husband also testified that he had used said telephone facilities on

prior occasions for the purpose of placing bets for friends; that according to complainant's husband, complainant was never on the premises when such calls were placed and was completely unaware of the fact that said facilities were being unlawfully used; that complainant relies on said telephone in her business of selling toiletries.

After consideration, and based upon the evidence of record, the Commission is of the opinion and so finds that the telephone facilities in question were used for an illegal purpose in violation of Section 337(a) of the Penal Code. The Commission also finds that the defendant telephone company's action in disconnecting said telephone facilities was based upon reasonable cause as that term is used in Decision No. 41415.

O R D E R

A complaint having been filed and the Commission being advised in the premises,

IT IS ORDERED that complainant's request for an order directing The Pacific Telephone and Telegraph Company, a corporation, to re-establish complainant's telephone service at 206-17th Street, Oakland, California, is hereby denied.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order the complainant herein may file an application with The Pacific Telephone and Telegraph Company for telephone service and if such filing is made The Pacific Telephone

and Telegraph Company shall install telephone service at complainant's residence, such installation 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 23rd day of JULY, 1958.

C. Lyn Fox  
 President

Peter E. Mitchell

Ray E. Untereiner

Theodore H. Jenner

Commissioners

C. LYN FOX  
 President  
 PETER E. MITCHELL  
 RAY E. UNTEREINER  
 THEODORE H. JENNER  
 Commissioners

Commissioner Matthew J. Dooley, being necessarily absent, did not participate in the disposition of this proceeding.