

ORIGINAL

Decision No. 57103

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MYRTLE E. REXROAT,

Complainant,

vs.

PACIFIC TELEPHONE & TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 6103

Dan O'Neill, for the complainant.

Lawler, Felix and Hall, by Thomas E. Workman, Jr.,  
for the defendant.

Roger Arnebergh, City Attorney, by John Neville,  
Deputy City Attorney, for the Los Angeles  
Police Department, intervener.

O P I N I O N

The complaint of Myrtle E. Rexroat, 621 South Union Avenue, Los Angeles, California, filed on May 14, 1958, alleges that prior to the 28th day of September, 1957, she was a subscriber to telephone service at the above address under number DUnkirk 4-4255; that on the 28th day of September 1957, a man named Jack Fisher was arrested in her apartment on a charge of bookmaking; that at that time complainant's telephone was removed and she has been without telephone service since that date; that subsequently Jack Fisher was acquitted of the charges and that the defendant telephone company has failed and refused to reinstall telephone service in her apartment.

On May 26, 1958 the telephone company filed an answer, the principal allegation of which was that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), the defendant, on or about October 4, 1957, had reasonable cause to believe that the telephone service furnished by defendant under number DUnkirk 4-4255 at 621 South Union Avenue, Los Angeles, 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.

A public hearing was held in Los Angeles on June 27, 1958, before Examiner Kent C. Rogers and the matter was submitted.

The complainant testified that she has an apartment at 621 South Union Avenue, Los Angeles; that prior to September 28, 1958, she had a telephone therein with the number DUnkirk 4-4255; that on that date a man named Jack Fisher was arrested in her apartment on a charge of violation of Section 337a of the Penal Code, and subsequently he was acquitted of the charges; that Jack Fisher never used her telephone to place any horse race bets and no one else did; that Jack Fisher and his wife are frequent visitors at her apartment; that the door to the apartment was open inasmuch as she is the manager of the apartment building and her telephone was used by tenants of the building which contains 68 apartments; that Mr. Fisher used her telephone only one time to her knowledge and that he did not use it to make a horse racing bet; that she did

not see the police officer enter the apartment as she was in the kitchen, but that Mr. Fisher had only been in the apartment about three minutes and was watching television when he was arrested and that he had not made a telephone call at that time.

Exhibit No. 1 is a copy of a letter from the Commander of the Administrative Vice Division of the Los Angeles Police Department to the telephone company advising it that the complainant's telephone was being used for the purpose of disseminating horse racing information in connection with bookmaking activities on September 28, 1957, that the telephone had been confiscated, and requesting that the defendant disconnect said service. It was stipulated that this letter was received on October 4, 1957, by the telephone company and that the telephone was disconnected on October 8, 1957, and has not been reconnected. The position of the telephone company was that it had acted with reasonable cause, as that term is used in Decision No. 41415, supra, in disconnecting service, inasmuch as it had received the letter designated as Exhibit No. 1.

A police officer of the City of Los Angeles testified that on September 28, 1957, he arrested Jack Fisher in the complainant's apartment; that he had been watching Jack Fisher and that he saw him go to a bar near the apartment and return to the complainant's apartment several times in one day; that the door to the apartment was open and the telephone was right inside the door; that he stood in the door and listened to Jack Fisher's

conversation; that he heard Mr. Fisher place two horse race bets over the telephone; that complainant was in the apartment at that time; that he placed Mr. Fisher under arrest and removed the telephone; that on the telephone stand in the complainant's apartment at the time Mr. Fisher made the telephone call was a scratch sheet and a list of bets; that subsequently Mr. Fisher was acquitted of the charges.

After full consideration of the record we now find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, supra. We further find that the complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing.

O R D E R

The complaint of Myrtle E. Rexroat against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully informed in the premises and basing its decision upon the evidence of record and the findings herein,

IT IS ORDERED that the complainant herein may file an application for telephone service and if such filing is made, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's apartment at 621 South

Union Avenue, Los Angeles, California, apartment No. 101, 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 Los Angeles, California, this 5th day of August, 1958.

E. J. Fox  
President  
Walter J. ...  
...  
Theodore J. ...

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.