

Decision No. 57659

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARIAN E. WILLIS,

Complainant,

vs.

Case No. 6179

PACIFIC TELEPHONE & TELEGRAPH CO.,

Defendant.

Marian E. Willis in propria persona.  
Lawler, Felix & Hall, by Thomas E. Workman, Jr.,  
for defendant.  
D. H. Von Wittenburg, Deputy City Attorney, for  
the Police Department of the City of Los  
Angeles, and Donald K. Byrne, Deputy  
County Counsel, for the Sheriff's Depart-  
ment of the County of Los Angeles,  
interveners.

O P I N I O N

By the complaint herein, filed on September 16, 1958, Marian E. Willis alleges that for eighteen months she has been employed at the Sirocco dining room and cocktail lounge located at 105 East Anaheim, Wilmington, California; that it is necessary that she have a telephone as she is on call by the owner of the Sirocco for sixteen hours a day; and that if she receives a telephone it will not be used in violation of the law.

On October 2, 1958, the telephone company filed an answer, the principal allegation of which was that complainant was formerly known as Marian Witcher; that prior to August 28, 1956,

Marian Witcher was a subscriber of telephone service furnished by defendant under number TErMinal 4-2240 at 1409 North Lagoon Avenue, Wilmington, California; that pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), on or about August 24, 1956, defendant had reasonable cause to believe that the telephone service furnished to complainant as Marian Witcher under number TErMinal 4-2240, at 1409 North Lagoon Avenue, Wilmington, 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 discontinue the service pursuant to Decision No. 41415, supra.

A public hearing was held before Examiner Kent C. Rogers in Los Angeles on November 3, 1958, and the matter was submitted.

Complainant testified that she was formerly known as Marian Witcher, and resided at 1409 North Lagoon Avenue, Wilmington; that while residing there she had a telephone which was removed in August, 1956, at which time she was accused of bookmaking; that she was arrested for said offense, convicted, and paid a fine; that she has remarried and her name now is Marian Willis; that she needs a telephone in connection with her present work; and that if she is given a telephone at her present address, 957½ Fries Avenue, Wilmington, she will not use it for illegal purposes. On cross-examination complainant admitted that she had also been arrested for bookmaking in 1957.

Exhibit No. 1 is a copy of a letter, dated August 23, 1956, 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 had been removed; that it had been used for the purpose of disseminating horse racing information which was being used for bookmaking in violation of Section 337a of the Penal Code; and requesting that the telephone facilities be disconnected. An employee of the telephone company testified that this letter was received on August 24, 1956, and that a central office disconnection was effected on August 28, 1956, and that service has not been restored.

The position of the telephone company was that it had acted with reasonable cause as that term is defined in Decision No. 41415, supra, in disconnecting the telephone service, inasmuch as it had received the letter designated as Exhibit No. 1.

The interveners presented no evidence.

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 there is no evidence that complainant's telephone was used for bookmaking purposes, but if it were so used complainant has paid the penalty for such use and she is entitled to have telephone service at her residence. It will be so ordered.

O R D E R

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

IT IS ORDERED that the complainant's request for telephone service be granted, and that upon the filing by her of an application for telephone service The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's residence at 957½ Fries Avenue, Wilmington, California, 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 2nd day of December, 1958.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Commissioners

Commissioner Theodore H. Jannan, being necessarily absent, did not participate in the disposition of this proceeding.