

ORIGINAL

Decision No. 57729

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PEARL K. PORTER,

Complainant,

vs.

Case No. 6192

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, a corporation,

Defendant.

Philip Erbsen, for complainant.Lawler, Felix & Hall, by A. J. Krappman, Jr.,  
for defendant.Roger Arnebergh, City Attorney, by Ronald Dwyer,  
Deputy City Attorney, for the Police Depart-  
ment of the City of Los Angeles, intervener.O P I N I O N

By the complaint herein, filed on October 14, 1958, Pearl K. Porter requests reinstallation of telephone service in her home at 3415 Hooper Street, Los Angeles, California. She alleges that prior to July 26, 1954, M. L. Porter was the subscriber to telephone service at that address; that on or about that day the telephone was removed by Los Angeles police officers for alleged bookmaking activities; that no complaint was ever filed for such activities; and that the telephone was never used for illegal purposes.

On October 30, 1958, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), on or about July 26, 1954, had

reasonable cause to believe that the telephone service furnished to M. L. Porter under number ADams 4-9389 at 3415 Hooper Street, 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 pursuant to Decision No. 41415, supra.

A public hearing was held in Los Angeles on November 19, 1958, before Examiner Kent C. Rogers, and the matter was submitted.

The complainant testified that on July 26, 1954, she was, and still is, married to Mr. M. L. Porter; that her husband was the subscriber to the telephone service of the defendant; that neither she nor her husband had any knowledge that the telephone was used for any illegal purposes; that she needs a telephone at the home and has been without one there since its removal in 1954; and that she will be the subscriber when the telephone is reinstalled. She further testified that on the day the telephone was removed she and a lady roomer were in the house alone; that the police officers entered and took the telephone off the wall; that she and the roomer were released without charges being filed against them.

A Los Angeles police officer testified that on July 20, 1954, he and other officers entered complainant's home at 3415 S. Hooper Avenue; that complainant and another woman were present; that the two women were arrested; that by the telephone he found a national daily reporter scratch sheet; that the telephone rang and he took three horse race bets over the telephone; and that he does not recall what room the complainant was in when he entered the house.

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 telephone here referred to was being used for disseminating horse race information which was being used in connection with bookmaking on July 20, 1954; that the telephone had been confiscated; and requesting that the defendant disconnect said service. An employee of the telephone company testified that this letter was received on July 25, 1954, and a central office disconnection was effected on July 27, 1954, pursuant to that letter. 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 the service inasmuch as it had received the letter designated Exhibit No. 1.

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 facilities in question were, on July 20, 1954, being used for illegal purposes, to-wit, bookmaking, in violation of Section 337a of the Penal Code, and that complainant and her husband have been deprived of telephone service since said date. For the reason that complainant and her husband have been without telephone service since July 20, 1954, defendant will be ordered to restore service to the complainant or to her husband.

O R D E R

The complaint of Pearl K. Porter against The Pacific Telephone and Telegraph Company having been filed, a public hearing having been held thereon, 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 complainant's request for telephone service be granted and that, upon the filing of an application for telephone service by the complainant or her husband, M. L. Porter, The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's residence at 3415 Hooper Street, Los Angeles, 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 16th day of August, 1958.

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

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