

ORIGINAL

Decision No. 57743

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MYRTLE LANDRY,

Complainant,

vs.

Case No. 6189

THE PACIFIC TELEPHONE AND TELEGRAPH  
CO.,

Defendant.

Myrtle Landry, in propria persona.  
Lawler, Felix & Hall, by A. J. Krappman, Jr., for  
defendant.  
Roger Arnebergh, City Attorney, by D. H. Von Wittenburg,  
Deputy City Attorney, for the Los Angeles  
Police Department, intervener.

O P I N I O N

The complaint of Myrtle Landry, filed on October 2, 1958, alleges that she resides at 629 East 118th Street, Los Angeles, California; that on or about March 22, 1958, at approximately 3 p.m., she returned home from work and police officers entered, told her to sit down and not move and charged her with bookmaking, of which she was not guilty. She requests that her telephone service be restored.

On October 17, 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 March 27, 1958, had reasonable cause to believe that the telephone service furnished to complainant under number PLYmouth 5-4528 at 629 East 118th 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 18, 1958, before Examiner Kent C. Rogers, and the matter was submitted.

Complainant testified that on March 22, 1958, she was home with a friend, Mary Jane Moore; that about 3 p.m. several police officers entered; that she and Mary Jane were arrested for bookmaking, and the complainant paid a fine of \$50; that the telephone was removed; that some betting markers were found in the house; and that if the telephone is restored she will not permit it to be used for illegal purposes.

A police officer testified that on March 27, 1958, he and other officers went to complainant's home and entered; that there was a telephone in the kitchen with an extension in the bedroom; that the telephone in the kitchen was on a table with a formica top, and by the telephone were a national daily reporter, a radio, a damp sponge, and betting markers; that in back of the stove there was a piece of linoleum with recorded bets thereon; that he was on the premises 35 minutes; that the telephone rang on numerous occasions; that on one occasion the witness answered the telephone and received three horse race bets; that complainant and another female were the only persons in the house at the 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 complainant's telephone was being used for disseminating horse racing information in connection with bookmaking in violation of Section 337a of the Penal Code; that

the telephone had been confiscated; and requesting that the service be disconnected. An employee of the telephone company testified that this letter was received on March 27, 1958, and a central office disconnection was effected on April 2, 1958, pursuant to the request. 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 telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

After consideration of this 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, and that complainant either knew that it was so used or was so negligent in the manner in which she permitted it to be used that its use for illegal purposes resulted.

O R D E R

The complaint of Myrtle Landry 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,

IT IS ORDERED that complainant's request for restoration of telephone service is 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 for telephone service, and, if such application is made, The Pacific Telephone and Telegraph Company shall

install telephone service at complainant's residence at 629 East 118th 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 December, 1958.

Earl W. Fox  
 President

Paul C. Carter

Walter D. ...

Richard J. ...

Commissioners