

ORIGINAL

Decision No. 57910

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GENEVA E. SMITH,

Complainant,

-vs-

Case No. 6199

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY,

Defendant.

Geneva E. Smith, in propria persona.  
Lawler, Felix and Hall, by A. J. Krappman, Jr.  
for the defendant.  
Roger Arnebergh, city attorney, by Ronald Dwyer,  
deputy city attorney, for the Police  
Department, City of Los Angeles, intervener.

O P I N I O N

The complaint of Geneva E. Smith of 8194 Lesner Avenue, Los Angeles, California, filed on October 31, 1958, alleges that on about July 18 (1958), her telephone was removed by police for bookmaking; that it had only been used a short time for such purposes; that a telephone is necessary in her work; that her husband needs a telephone because of his illness; and that if the telephone is reinstated, it will not again be used for illegal purposes.

On November 14, 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 23, 1958, had reasonable cause to believe that the telephone service furnished to complainant under number Dickens 4-1502, at 8194 Lesner Avenue, Los Angeles, 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, respondent was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held in Los Angeles on December 24, 1958, before Examiner Kent C. Rogers.

The complainant testified that on July 18, 1958, she was alone at the Lesner Avenue address, which is her home; that she used the telephone for bookmaking purposes; and that she was arrested and the phone was removed; that she paid a fine of \$250 for such violation and was placed on two years probation; that she needs the telephone; and that if it is restored, she will not use it to violate the law.

It developed at the hearing that complainant's husband, Howard G. Smith, was the subscriber to the telephone service prior to its removal, and the complaint was amended to show that complainant requests that she be granted telephone service.

A police officer testified; but in view of the fact that applicant admits she was using the telephone for bookmaking purposes, a resumé of his evidence is not necessary.

Exhibit No. 1 is a letter, dated July 22, 1958, from the Commander of the Los Angeles Police Department Administrative

Vice Detail to the defendant advising defendant that on July 18, 1958, complainant's telephone, Dickens 4-1502, was being used for the purpose of disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337a of the Penal Code; that the telephone had been confiscated; and requesting that defendant disconnect the service. This letter was received by defendant on July 23, 1958, and a central office disconnection was effected pursuant thereto on August 1, 1958. 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 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 record shows that the telephone in question was used for bookmaking purposes; but that inasmuch as the telephone was disconnected and the user paid the penalty prescribed by law, the telephone service will be reinstated.

O R D E R

The complaint of Geneva E. Smith 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 telephone service be granted, and that upon the filing by complainant

or by her husband, Howard G. Smith, of an application for telephone service The Pacific Telephone and Telegraph Company shall install telephone service at the complainant's residence at 8194 Lesner Avenue, 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 Los Angeles, California,  
this 27<sup>th</sup> day of January, 1959.

E. L. Fox President  
E. B. Smith  
Marion G. Smith  
Theodore J. Smith  
Commissioners