

ORIGINAL

Decision No. 58128

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

KAY WRIGHT,

Complainant,

vs.

Case No. 6215

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Joseph Forno and Herbert S. Adair, Sr., by Herbert S. Adair, Sr., for complainant.

Lawler, Felix and Hall, by A. J. Krappman, Jr., for defendant.

Harold W. Kennedy, County Counsel, by Alister McAlister, Deputy County Counsel, for the Los Angeles County Sheriff, intervenor.

O P I N I O N

By the complaint herein, filed on January 8, 1959, complainant alleges that she resides at 4071 Santa Ana Street, Huntington Park, California; that prior to December 19, 1958, she was a subscriber and user of telephone service furnished by defendant under number LUdlow 8-2840 at 4071 Santa Ana Street, Apartment D, Huntington Park, California; that on or about December 19, 1958, telephone facilities of complainant were removed and disconnected by defendant pursuant to instructions from the Los Angeles County Sheriff's Office, which office caused Mary Carpinelli to be arrested on said date on a charge of suspicion of bookmaking; that complainant has made demand upon defendant to have telephone facilities restored but

defendant has refused and still refuses to do so; and that complainant did not use and does not now intend to use said telephone facilities as instrumentalities to violate the law or to aid and abet such violation.

On January 20, 1959, by Decision No. 57878, in Case No. 6215, the Commission ordered that the telephone service be restored pending a hearing on the petition herein.

On January 30, 1959, 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 December 23, 1958, had reasonable cause to believe that the telephone service furnished to complainant under number LUDlow 8-2840 at 4071 Santa Ana Street, Apartment D, Huntington Park, 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 defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held in Los Angeles on February 11, 1959, before Examiner Kent C. Rogers.

The complainant testified that she resides at the address given in Huntington Park; that she has never been arrested; that prior to December 23, 1958, she permitted her friend, Mary Carpinelli, to use her apartment; that on or about December 19, 1958, in her absence, the Sheriff's Office arrested said Mary Carpinelli for bookmaking; that complainant has never been charged with any offense, knew nothing about the offense, and did not authorize or permit the

telephone to be used for illegal purposes. The complainant further testified that she needs the telephone in her business and will not permit it to be used for illegal purposes in the future.

No evidence was presented on behalf of the intervenor although a Deputy County Counsel was present in the hearing room.

Exhibit No. 1 is a letter dated December 19, 1958, from the Office of the Sheriff of Los Angeles County to defendant advising defendant that on December 19, 1958, complainant's telephone, under number LUdlow 8-2840, 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 the defendant disconnect the service. This letter was received by the defendant on December 23, 1958, and a central office disconnection was effected the same day. Pursuant to the order of the Commission, the service was reconnected on January 22, 1959.

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 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 evidence fails to show that complainant's telephone was used as an instrumentality to violate the law.

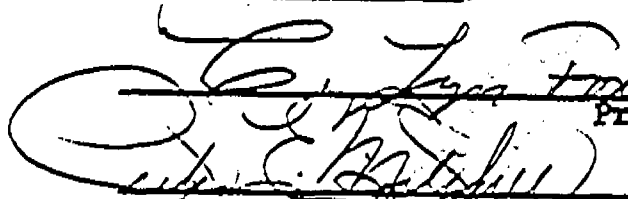
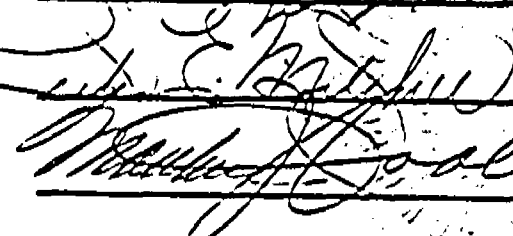
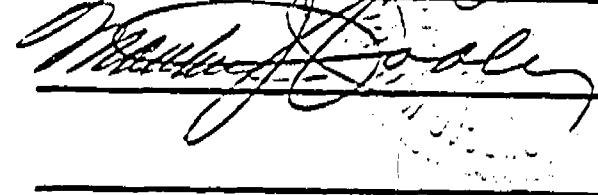
O R D E R

The complaint of Kay Wright 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,

IT IS ORDERED that the order of the Commission in Decision No. 57878, dated January 20, 1959, temporarily restoring telephone service to the complainant, be made permanent, such restoration 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 17<sup>th</sup> day of March, 1959.

  
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President  
  
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Commissioners

Theodore H. Jenner  
Commissioner S. Everett C. McKeage, being  
necessarily absent, did not participate  
in the disposition of this proceeding.