MW/DR*

ORIGINAL

Decision No. 59115

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DELLA KESSLER,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, a corporation,

Defendant.

Case No. 6318

Gabler & Bardin, by Donald E. Werner, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr., for defendant.
Roger Arnebergh, City Attorney, by Samuel C. Palmer, Deputy City Attorney, for the Los Angeles Police Department, intervener.

O P I N I O N

In the complaint herein, filed on July 16, 1959, Della Kessler alleges that she resides at 14233½ Gilmore Street, Van Nuys, California; that prior to June 12, 1959, she had a telephone installed by the defendant at said premises under telephone number STate 5-6943; that on June 12, 1959, police officers of the Los Angeles Police Department removed the telephone; and that on June 23, 1959, complainant appeared before a judge and on motion of the District Attorney the complaint was dismissed. The complainant requests restoration of telephone service.

On August 3, 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 June 16, 1959, had

reasonable cause to believe that the telephone service furnished to complainant under number STate 5-6943, at 14233½ Gilmore Street, Van Nuys, 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 this Commission's Decision No. 41415, supra.

A public hearing was held on the complaint before Examiner Kent C. Rogers in Los Angeles on September 1, 1959.

The complainant testified that she resides at the above address in Van Nuys; that she resided there on June 16, 1959, and had a telephone; and that she owed no money on the telephone bill; that on June 12, 1959, the police officers took the telephone and that she needs the telephone.

The Police Department was represented but presented no evidence.

Exhibit No. 1 is a letter dated June 15, 1959, from the Commander of the Administrative Vice Detail of the Los Angeles Police Department to the defendant advising the defendant that complainant's telephone was, on June 12, 1959, being used as an instrumentality to violate or to aid and abet the violation of the law; that the telephone had been removed; and requesting that the telephone service be disconnected. It was stipulated that this letter was received on June 16, 1959, and that a central office disconnection was effected pursuant thereto on June 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, 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 the complainant's telephone was used as an instrumentality to violate or to aid and abet the violation of the law and that therefore complainant is entitled to telephone service.

## O R D E R

The complaint of Della Kessler 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 upon the evidence of record,

IT IS ORDERED that 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 the complainant's residence at 14233½ Gilmore Street, Van Nuys, 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 the date hereof.

Dated at San Francisco, California, this 6th day of October, 1959.

President

Commissioners

Commissioners Everett C. McKeage and Matthew J. Dooley being necessarily absent, did not participate in the disposition of this proceeding.