

ORIGINAL

Decision No. 59177

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GWENDOLYN A. BROWN,

Plaintiff,

vs.

PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 6331

Gwendolyn A. Brown in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.

O P I N I O N

By the complaint herein, filed on August 6, 1959, Gwendolyn A. Brown alleges that she resides at 4190 Baldwin Avenue, Culver City, California; that on or about July 3, 1959, the defendant disconnected the telephone service to the complainant at her residence; that complainant has demanded of the defendant that service be reinstalled but that defendant has refused and still refuses to do so; and that complainant requests that telephone service be restored to her residence.

On August 20, 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 July 1, 1959, had

reasonable cause to believe that the telephone service furnished to complainant under number Upton 0-1332 at 4190 Baldwin Avenue, Culver City, 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 on the complaint before Examiner Kent C. Rogers on September 28, 1959, in Los Angeles.

The evidence presented by the complainant shows that Gwendolyn Brown was the subscriber to telephone service furnished by defendant on and prior to June 23, 1959; that on or about said date, the telephone was removed by police officers on a charge of bookmaking; that the complainant's husband was accused of using the telephone for bookmaking purposes but there is no evidence that the telephone was so used. The complainant testified that the telephone is necessary and that if it is reinstalled it will not be used for illegal purposes.

Exhibit No. 1 is a letter from the Chief of Police of Culver City to the defendant advising the defendant that on June 23, 1959, complainant's telephone under number Upton 0-1332 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 July 1, 1959, and service was disconnected pursuant thereto on July 3, 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 service inasmuch as it had received the letter designated as Exhibit No. 1.

After full consideration of this record we 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 complainant is therefore entitled to telephone service.

O R D E R

The complaint of Gwendolyn A. Brown 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 and the findings herein,

IT IS HEREBY ORDERED that the defendant restore telephone service to complainant's premises at 4190 Baldwin Avenue, Culver City, California, 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 five days after the date hereof.

Dated at San Francisco, California, this 20th day of October, 1959.

[Signature] President
[Signature]
[Signature]
[Signature]
Theodore H. Ginner Commissioners

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