

ORIGINAL

Decision No. 61655

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EMMA LEE SAMUELS,
Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,
Defendant.

Case No. 7009

James T. Forno and Arthur Lewis, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for the defendant.
Roger Arnebergh and Bernard Patrusky, for the
Los Angeles Police Department, intervenor.

O P I N I O N

By the complaint herein, filed on November 4, 1960,
Emma Lee Samuels requests the restoration of telephone service at
her place of business at 4521 South Vermont Avenue, Los Angeles,
California.

By Decision No. 61083, dated November 22, 1960, in Case
No. 7009, the Commission ordered that the defendant, The Pacific
Telephone and Telegraph Company, a corporation, restore telephone
service to the complainant pending a hearing on the matter.

On December 6, 1960, the telephone company filed an answer
wherein it alleged that prior to November 14, 1960, an Edward Samuel
was a subscriber of semi-public telephone service with two exten-
sions furnished by the defendant at 4521 South Vermont Avenue,

Los Angeles, California, and that, pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), on or about November 7, 1960, it had reasonable cause to believe that the telephone service furnished at 4521 South Vermont, 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 this Commission's Decision No. 41415.

A public hearing on the complaint was called in Los Angeles before Examiner Kent C. Rogers on December 21, 1960; the complainant failed to appear, and the matter was continued to January 27, 1961, at which time the complainant and the other parties appeared, a hearing was held, evidence was presented, and the matter was submitted.

Emma Lee Samuels testified that she is the subscriber to the telephone service furnished by the defendant under number ADams 2-9767 at 4521 South Vermont; that the premises consist of a barbershop with a semi-public wall telephone therein and two extensions; that the telephone service has never been used for bookmaking; and that she needs the telephone service in her business. She also testified that she knows Frank Singleton; that he is not an employee of hers; that he is frequently on the premises and uses the telephone; that she was there when Mr. Singleton was arrested; that the telephone company inadvertently listed the subscriber as Edward Samuel and that she has protested to the company, but no change has been made.

Exhibit No. 1 is a copy of a letter dated November 4, 1960, from the Chief of Police of the City of Los Angeles to the defendant, advising the defendant that the telephone service under number AD 2-9767 and two extensions at 4521 South Vermont Avenue, Los Angeles, were being used for receiving and forwarding bets in violation of the law. It was stipulated that this letter was received on November 7, 1960. That pursuant thereto a central office disconnection was effected on November 14, 1960, that pursuant to Decision No. 61083, the service was reconnected on November 29, 1960. It was the position of the telephone company that it had acted with reasonable cause as that term is used in Decision No. 41415, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 2.

A Los Angeles police officer testified that in October, 1959, he observed the telephone in complainant's premises being used by Frank Singleton for bookmaking purposes and arrested him.

Another officer testified that he was a uniformed officer; that between May and October, 1960, he frequently visited complainant's barbershop; that Frank Singleton was there on most occasions; that Frank Singleton was never in a barber's uniform; that on November 2, 1960, he entered the premises and complainant, Frank Singleton, and a manicurist were there; that the telephone rang and complainant, Frank Singleton, and the witness each picked up a telephone; that a male voice asked for Frank Singleton and gave him a horse race bet; that there was a National Daily Reporter

scratch sheet for that day on the premises; that the witness arrested Frank Singleton and complainant; and that said parties were subsequently released without a complaint being filed.

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. We further find that the evidence shows that the complainant's telephone was used as an instrumentality to violate or to aid and abet the violation of the law in that it was used for bookmaking purposes in connection with horseracing.

O R D E R

The complaint of Emma Lee Samuels 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 complainant's request for telephone service is denied and that the temporary interim relief granted by Decision No. 61083 is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of sixty 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 address at 4521 South

Vermont 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 San Francisco, California, this 14th day of MARCH, 1961.

John Mitchell
 President

S. L. ...

George T. Hoover

Fredrick B. Holcomb
 Commissioners

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