

Decision No. 63207

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FRANCES MILLER,

Complainant,

vs.

Case No. 7203

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Walter L. Gordon, Jr., for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Charles L.
Sullivan, for the Police Department of the
City of Los Angeles, intervener.

O P I N I O N

By the complaint herein, filed on October 9, 1961, Frances Miller requests an order of this Commission that the defendant, The Pacific Telephone and Telegraph Company, a corporation, be required to reinstall telephone service at her home at 711 East Fifth Street, Los Angeles, California.

On October 25, 1961, 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 13, 1961, had reasonable cause to believe that the telephone service furnished to Frances Miller under number MAdison 6-3309, at 711 East Fifth Street, 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.

This matter was set for hearing on December 8, 1961, and continued to, and heard, on January 12, 1962, before Examiner Robert D. DeWolf, at which time the matter was submitted.

Complainant Frances Miller testified that she is the proprietor of a cleaning and pressing shop known as "Frances Wardrobe Service", at 711 East Fifth Street, Los Angeles, and she also does mending of clothes; that she uses telephone service in her business and it is essential for contacting her customers; and that she has never used the telephone for bookmaking purposes. Complainant was arrested on July 8, 1961, the telephone was removed, and she has not had a telephone since said time. Complainant was released and no criminal charges were filed.

Exhibit No. 1 is a letter dated July 12, 1961, from the Police Department of the City of Los Angeles to the defendant, advising that the telephone furnished to Frances Miller under number MA 63309, at 711 E. 5th Street, Los Angeles, was being used for the purpose of disseminating horse racing information in violation of Section 337a of the Penal Code, and requesting that the telephone company disconnect the service. Pursuant thereto a central office disconnection was effected.

A police officer testified that he conducted a raid at the address, 711 East Fifth Street, on July 2, 1961, and arrested the complainant and another person on a charge of bookmaking; and

that betting forms, markers, a copy of the National Daily Reporter, and betting paraphernalia were found on the premises. The officer testified that while he was watching the premises from a position at the rear of said address, he heard the other person make two phone calls in the presence of the complainant and place bets over the complainant's telephone.

After full consideration of this record, the Commission finds and concludes that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, and that the complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing; that complainant's telephone has now been disconnected more than six months; that there is urgent need for a telephone by complainant; and that the complainant should have telephone service restored at her home and business at 711 East Fifth Street, Los Angeles, California.

O R D E R

The complaint of Frances Miller 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 herein,

IT IS ORDERED that complainant's request for telephone service is granted, and that, upon the filing by the complainant of an application with the utility for telephone service, The Pacific Telephone and Telegraph Company shall reinstall telephone service at the complainant's residence and place of business at 711 East Fifth Street, 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 five days after the date hereof.

Dated at San Francisco, California, this 6th day of FEBRUARY, 1962.

Charles W. Rogers
President
W. J. Mitchell
E. Lynn Fox
George J. Crover
Frederick B. Halblum
Commissioners