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Decision No. 78275

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SOCIETY FOR INDIVIDUAL RIGHTS,  
Incorporated, a California  
Nonprofit corporation,

Complainant,

vs.

Case No. 8818

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,


Defendant.

ORDER DENYING REHEARING

Complainant herein having petitioned for a rehearing of  
Decision No. 78101, and the Commission having considered said  
petition, and being of the opinion that no good cause for  
rehearing has been shown;

IT IS ORDERED that rehearing is hereby denied.

Dated at San Francisco, California, this 2<sup>nd</sup> day  
of FEBRUARY, 1971.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Commissioners

*I concur and  
will file separate opinion  
Thomas Moran*

Commissioner William Symons, Jr., being  
necessarily absent, did not participate  
in the disposition of this proceeding.

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COMMISSIONER THOMAS MORAN, Concurring.

I concur.

In my judgment, the original decision constitutes an obvious abridgment of the constitutional right of the Petitioner to equal treatment with all other customers of the Defendant. Both our State and Federal Supreme Courts have long since made clear that a governmental agency can no longer constitutionally discriminate against a minority even though the minority is an unpopular minority. In exercising its franchise whereby our State government has given it the exclusive right in certain territories to provide telephone service, the Defendant cannot constitutionally engage in discrimination against minorities, or against an eleemosynary organization such as petitioner serving such a minority, any more than could the government itself if it owned and operated the telephone system.

However, I concur in the denial of the petition for rehearing because the record in the case is clear and the sole issue is a question of constitutional law. It appears therefore that a rehearing by this Commission would serve no useful purpose.

  
Commissioner

Dated: February 2, 1971

San Francisco, California