

**ORIGINAL**

Decision No. 65007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

L. R. McGIRL, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 PACIFIC TELEPHONE, a corporation, )  
 )  
 Defendant. )

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Case No. 7487  
Filed November 19, 1962

Donald J. Zola, for complainant.  
Lawler, Felix & Hall, by A. J. Krappman, Jr.,  
 for defendant.  
 Roger Arneberg, City Attorney, City of Los  
 Angeles, by Charles Greenberg, intervenor.

O P I N I O N

Complainant seeks installation of telephone service at 7229 Baird Street, Reseda, California. Interim installation was ordered pending further order (Decision No. 64582).

Defendant's answer alleges that on or about August 17, 1962, it had reasonable cause to believe that service to Helen M. McGirl under number DI 2-6482 was being or was to be used as an instrumentality directly or indirectly to violate or aid and abet violation of law, and therefore defendant was required to disconnect service pursuant to the decision in Re Telephone Disconnection, 47 Cal. P.U.C. 853.

The matter was heard and submitted before Examiner DeWolf at Los Angeles on January 8, 1963.

By letter of August 15, 1962, the Chief of Police of the City of Los Angeles advised defendant that the telephone under

number DI 2-6482 was being used to disseminate horse-racing information used in connection with bookmaking in violation of Penal Code Section 337a, and requesting disconnection (Exhibit 1).

Complainant testified the telephone was disconnected by the police department; the charge of bookmaking against him was dismissed; he had never used the telephone for bookmaking or any other illegal purpose; and he needed a telephone as his wife worked for J. C. Penney's store and his daughter for the telephone company.

A deputy city attorney called two police officers as witnesses. One testified she dialed complainant's telephone number on the date of his arrest and that a male voice, which she later identified as complainant's, answered the telephone; she told him, "This is Bee at the restaurant; I want a hot horse at Del Mar," to which complainant answered, "I'll take the bet;" the witness then continued, "I want five to win on Mr. Money in the third race at Del Mar," to which complainant replied, "I have the bet." Following this conversation, the witness testified, she signaled to other officers who then entered complainant's premises. The second witness, one of the officers who entered, testified he found complainant talking on the telephone, the racing section of the Los Angeles Examiner was on the couch, but there were no betting markers or other racing forms. During the time he was there, complainant's telephone rang once, the calling party asked for "Mac," and then said he would call back later. This second witness then disconnected the telephone and reported to the other officers of his entry and actions.

In rebuttal, complainant denied the statement of the officer as to the conversation she had with him on the telephone,

saying he had not understood her clearly, had thought she was talking about some hot money and a counterfeit five-dollar bill left at the restaurant, and had told her he would see her later about it.

We find that defendant's action was based upon reasonable cause; we further find the evidence discloses that the telephone was used for bookmaking purposes contrary to law and should be disconnected.

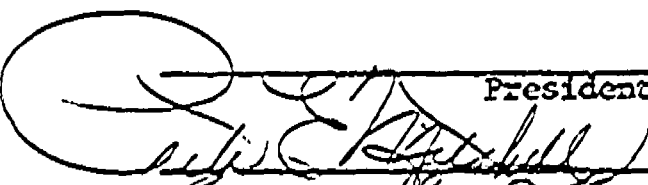



O R D E R

IT IS ORDERED that complainant's request for installation of telephone service be denied and that the temporary interim relief granted by Decision No. 64582 is vacated and set aside.

IT IS FURTHER ORDERED that, upon the expiration of sixty days after the effective date hereof, complainant may file an application with the utility for telephone service and that, if such application is filed, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 7229 Baird Street, Reseda, 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 26<sup>th</sup> day of FEBRUARY, 1963.

  
 \_\_\_\_\_ President  
  
 \_\_\_\_\_  
  
 \_\_\_\_\_  
  
 \_\_\_\_\_ Commissioners