

ORIGINAL

Decision No. 65090

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOSEPH W. RUSSELL,
Complainant,

vs.

PACIFIC TELEPHONE & TELEGRAPH CO.,
a corporation,

Defendant.

Case No. 7508
(Filed December 14, 1962)

Joseph W. Russell, in propria persona.
James F. Kirkham, for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 811 Ulloa Street, San Francisco, California. Because complainant alleged in his complaint that he had not used and does not intend to use the telephone furnished to him as an instrument to evade or violate the law, interim restoration was ordered pending further order. (Decision No. 64681.)

Defendant's answer alleges that on or about December 3, 1962, it had reasonable cause to believe that the telephone furnished to complainant under number M0ntrose 4-3848 was being or was to be used as an instrumentality to violate or aid or 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 Rowe at San Francisco, California, on February 19, 1963.

According to the testimony of complainant he has need for the telephone which he has never used for illegal purposes and he has no intention of so using it in the future. On its part the telephone company offered into evidence a copy of a letter received from Police Chief Cahill which justified defendant's action as provided in its tariff and Commission Decision No. 41415 dated April 6, 1948. Complainant stipulated with counsel for defendant that defendant was justified in its action. No testimony was offered on behalf of any law enforcement agency.

We find that defendant's action was based upon reasonable cause, and no evidence was submitted that this telephone will be used for any illegal purpose in the future. Complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 64681, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff provisions and existing law.

This order shall be effective twenty days after the date hereof.

Dated at San Francisco, California, this 19th day of MARCH, 1963.

George A. Hoover
President
William W. ...
Arthur W. ...
Frederic B. Holbeck
William W. ...
Commissioners