

Decision No. 65357

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ISABELL WILLINGHAM,

Complainant,

vs

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 7550

Philip Erbsen, Attorney, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh; City Attorney, by Simi Dabah,
for the Police Department of the City of
Los Angeles, intervener.

O P I N I O N

Complainant seeks restoration of telephone service at 935 Avalon Boulevard, Wilmington, California. Interim restoration was ordered pending further order. (Decision No. 64921.)

Defendant's answer alleges that on or about January 31, 1963, it had reasonable cause to believe that service to Isabell Willingham under numbers TE 5-6010 and TE 5-5445 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 April 1, 1963.

By letter of January 30, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephones under numbers TE 56010 and TE 55445 were 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 that she has been the owner and operator of a dress shop at Wilmington, known as "Just Gals", for 7 years; that on January 29, 1963, the police came and arrested the salesgirl, Mrs. Dolores Chirrick, who was left in charge while complainant was out to lunch. The salesgirl testified that she answered the telephone and a female voice asked for Isabell. She told her that Isabell had gone out to lunch; the person asked to leave a message for Isabell and then proceeded to give some numbers for a bet on a horse. While she was writing the message on an order pad used in the dress shop for taking orders the police entered and then the salesgirl learned that the person she had been talking to on the telephone was a policewoman. The salesgirl further testified that she was 21 years old; she had never bet on a horse race in her life; that she did not know anything about it or bookmaking or horse-racing; that she had only attended the track once in her life with a friend as a guest.

Both witnesses testified that no betting nor bookmaking was done on the telephone and that the police officers found no betting markers or racing forms or other equipment. Complainant also testified that she has great need for telephone service in her business and she did not and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainant, but no testimony was offered on behalf of any law enforcement agency.

We find that defendant's action was based upon reasonable cause, and the evidence fails to show that the telephone was used for any illegal purpose. Complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 64921, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff provisions and existing applicable law.

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

Dated at San Francisco, California, this 14th day of May, 1963.

George J. Hoover
President

John E. Dwyer

Fredrick B. Holshoff

Stella M. Bunnell

Commissioners

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