

ORIGINAL

Decision No. 65359

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

H. W. HICKEY,

Complainant,

vs

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 7563

Julius Weled, Attorney, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 2419 Leafdale Street, El Monte, California. Interim restoration was ordered pending further order (Decision No. 65003).

Defendant's answer alleges that on or about January 24, 1963, it had reasonable cause to believe that service to H. W. Hickey under number GI 4-4296 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 22, 1963, the Sheriff of the County

of Los Angeles advised defendant that the telephone under number GI 44296 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 that he has been employed by the Southern Pacific Company for 36 years and at the present time he is working in Los Angeles from 7:00 a.m. to 3:30 p.m.; that when he arrived home one day in January he found the police there and his wife had been arrested for bookmaking; that he had no knowledge of any illegal use of his telephone; that he has great need for telephone service as his wife has a coronary condition and is receiving medical treatment and in case of an emergency must have telephone service to contact her doctor; that the nearest public telephone is five or six blocks away; and that he did not and will not use the telephone for any unlawful purpose.

There was no appearance by or testimony from any law enforcement agency.

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

O R D E R

IT IS ORDERED that Decision No. 65003, 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 F. Hoover
President

John L. Mitchell

Frederick B. Hallock

William W. Burwell

~~Commissioner~~ ~~and~~ ~~Commissioner~~ ~~being~~
necessarily absent, did not participate
in the disposition of this proceeding.