

ORIGINAL

Decision No. 65667

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

NATHAN MORRIS,

Complainant,

vs.

Case No. 7578

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,
a corporation,

Defendant.

Dan O'Neill, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Nowland Hong,
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 4701½ North Figueroa, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 65149).

Defendant's answer alleges that on or about February 27, 1963, it had reasonable cause to believe that service to Nathan Morris under number CA 5-4567 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 June 5, 1963.

By letter of February 26, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number CA 5-4567 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 is now, and has been, regularly employed by Western Union for the past eleven years as a messenger. Complainant admitted he accepted a wager over the telephone, was arrested and pleaded guilty to a misdemeanor and paid a fine of \$75.00.

Complainant further testified that his wife is suffering from a post-operative dropped-kidney condition and needs telephone service for medical reasons; that he has great need for telephone service, and will not use the telephone for any unlawful purpose in the future.

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 that the complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing. Complainant has paid a fine and has medical necessity for telephone service and that therefore his telephone service should be restored.

ORDER

IT IS ORDERED that Decision No. 65149, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff provisions and existing applicable law.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 9th day of July, 1963.

William W. Bennett
President

Arthur E. Mitchell

Robert W. Ray

George A. Trover

Fredrick B. Hillhoff
Commissioners