

ORIGINAL

Decision No. 65976

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DANIEL LARRY,

Complainant,

vs.

Case No. 7609

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

John M. Quinn, for complainant.
Pillsbury, Madison & Sutro, by
James F. Kirkham, for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 1661 O'Farrell Street, San Francisco, California. Interim restoration was ordered pending further order (Decision No. 65345).

Defendant's answer alleges that it had reasonable cause to believe that service to complainant under JO 7-7610 was used as an instrumentality directly or indirectly to violate or to aid and abet the 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.

A duly noticed public hearing was held in the matter before Examiner Jarvis in San Francisco, on August 8, 1963, and the matter was submitted on that date.

The record indicates that on March 4, 1963, the Chief of Police of the City and County of San Francisco advised defendant, by letter, that the telephone under the number JO 7-7610 was being used for bookmaking in violation of the laws of the State of

California. The record also discloses that complainant was arrested on March 1, 1963 and charged with a violation of Section 337a of the Penal Code, and that the charge was subsequently dismissed.

Complainant testified that he conducts a barbeque restaurant at the O'Farrell Street address here involved; that he has a home delivery service in connection with the restaurant; that he receives many orders by telephone and that he will suffer injury and hardship if his telephone facilities are not permanently restored. There was no appearance by or testimony from any law enforcement agency.

The Commission makes the following findings of fact and conclusion of law.

Findings of Fact

1. Defendant's action in disconnecting complainant's telephone service was based upon reasonable cause.
2. The evidence fails to show that the telephone here involved was used for any illegal purpose.

Conclusion of Law

Complainant is entitled to restoration of telephone service.

O R D E R

IT IS ORDERED that Decision No. 65345, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff and existing applicable law.

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

Dated at San Francisco, California, this 10th day of SEPTEMBER, 1963.

William W. Bonds
President
John Mitchell
Edward R. Roy
George H. Hoover
Friedrich B. Hallock
Commissioners