

ORIGINAL

66062

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SHAEL SMITH,  
Complainant,

vs

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, a  
corporation,

Defendant.

Case No. 7652

Maurice Harwick, 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 5009 Farquhar Street, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 65626).

Defendant's answer alleges that on or about June 4, 1963, it had reasonable cause to believe that service to Shael Smith under number CCapital 1-4631 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 August 5, 1963.

By letter of May 31, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 221-4631 was being used to disseminate horse-racing information used in connection with bookmaking in violation of Penal Code Section 337a, and requested disconnection (Exhibit 1).

Complainant testified that his son resides with him and is employed at General Hospital; that his entire family urgently needs telephone service in connection with employment and for reasons of health; that the charges filed against complainant and his wife were dismissed and that complainant did not use the telephone for bookmaking or any violation of law.

Complainant further testified that there are no pending charges against himself or his wife; that he has great need for telephone service, and he 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. The Commission concludes, therefore, that complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 65626, 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 24<sup>th</sup> day of SEPTEMBER, 1963.

Holloman Lu Brund  
President  
John E. [unclear]  
Creed [unclear]  
George G. Grover  
Frederick B. Holbrook  
Commissioners