

66331

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

R. E. MODESTI and
RUBIE MODESTI,

Complainants,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,

Defendant.

Case No. 7582

William A. Newsom, for complainants.James F. Kirkham, for defendant.O P I N I O N

A public hearing in the above matter was held before Examiner Daly on October 24, 1963, at San Francisco.

R. E. Modesti was a subscriber and user of telephone services furnished by defendant under number JU 4-9958, at 4461 Mission Street, San Francisco, where he operates a restaurant and tavern business. Mr. Modesti and his wife, Rubie Modesti, were also subscribers and users of telephone service furnished by defendant under number LO 4-1289 at their residence, 88 Santa Rita Avenue, San Francisco. On or about March 7, 1963, said telephone facilities were removed and disconnected by agents of the United States Treasury Department, Internal Revenue Service, Intelligence Division, who caused R. E. Modesti to be arrested for violation of 26 U.S. Code 4412 and 7201, bookmaking. By Decision No. 65144 dated March 26, 1963, the Commission authorized the restoration of service pending its further order.

No appearance was made on behalf of the Internal Revenue Service. It was stipulated that defendant in refusing to restore service because of information furnished by the Internal Revenue Service acted upon reasonable cause.

According to R. E. Modesti, telephone service is necessary in the operation of his business. In the event of an emergency it is also necessary that his wife and two children have telephone service in the home.

After consideration, the Commission finds that:

1. Complainants were subscribers to telephone service provided by defendant.
2. Service was disconnected by agents of the United States Treasury Department, Internal Revenue Service.
3. Service was restored pending further order of this Commission.
4. There is no evidence that the telephone facilities and service provided to complainants were used for an unlawful purpose.
5. Defendant acted upon reasonable cause in refusing to restore service at the request of complainants herein.

O R D E R

IT IS HEREBY ORDERED that the Commission's order granting interim relief in Decision No. 65144 is hereby 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 19th day of NOVEMBER, 1963.

William B. Brown
President

George H. Trover
Commissioners

Fredrick B. Halshoff
Commissioners