

Decision No. 66405

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOSEPH E. ROBINSON,

Complainant,

vs.

PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a public corporation,

Defendant.

Case No. 7655  
(Filed June 26, 1963)Robert T. Anderson, for the City of  
Berkeley, intervenor.  
James F. Kirkham, for defendant.O P I N I O N

Complainant seeks restoration of telephone service at 1605 Dwight Way, Berkeley, California.

Defendant's answer alleges that on or about May 3, 1963, it had reasonable cause to believe that service to complainant under number THornwall 3-0084 was being or was to be used as an instrumentality directly or indirectly to violate or aid and abet violation of law, and therefore it was required to disconnect service pursuant to the decision in Re Telephone Disconnection, 47 Cal. P.U.C. 853.

On August 28, 1963, the City of Berkeley filed its petition to intervene. On September 17, 1963, the Commission by its order allowed such intervention and made the City a party to the proceeding. Service to complainant was temporarily restored pursuant to Decision No. 65650, dated July 2, 1963.

The matter was heard and submitted before Examiner Rowe at San Francisco on October 24, 1963. Complainant, though duly notified of the hearing, failed to appear.

By letter of May 3, 1963, the Chief of Police of the City of Berkeley advised defendant that complainant's telephone was being used for an illegal purpose and had been removed and delivered to the Oakland Police Department. Disconnection was requested.

A police officer testified as to the illegal use of the telephone and its probable similar use in the future, if not removed. Based upon the evidence the Commission finds that defendant's action was based upon reasonable cause and that the telephone has in the past been used for an illegal purpose.

O R D E R

IT IS ORDERED that the Order in Decision No. 65650, temporarily restoring service to complainant, is vacated and set aside, and that the complaint is dismissed for lack of prosecution.

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

Dated at San Francisco, California, this 3<sup>rd</sup> day of DECEMBER, 1963.

William L. Beards  
President

George A. Grover  
Commissioners

Frederic B. Holloff  
Commissioners