

**ORIGINAL**

Decision No. 66633

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARY KRETSKE,

Complainant,

vs.

PACIFIC TELEPHONE, a  
corporation,

Respondent.

Case No. 7686

Max Solomon, by Nathan Axel, for  
complainant.

Lawler, Felix & Hall, by John M.  
Maller, for defendant.

Roger Arnebergh, City Attorney, by  
Herbert G. Blitz, 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 329½ North Sierra Bonita, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 65920).

Defendant's answer alleges that on or about August 13, 1963, it had reasonable cause to believe that service to Eugene C. Kretske under number WE 1-4474 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 December 3, 1963.

By letter of August 12, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number WE 14474 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 she is a housewife and was widowed about four months ago; that since said time she has been under the care of a physician for severe shock and is also suffering from emphysema, and that she needs a telephone to call a doctor or for getting oxygen for treatment.

Complainant further testified that her phones are used by herself and son and that they are on 25-foot cords and that she allowed two long-time friends of hers who came to her home four times a week to use her phone. She testified these men used the phone in her bedroom to make calls which they said were for sports purposes. She testified that she did not hear the men talk on the phone and did not know what conversations they were having on the phone.

Complainant further testified that she has great need for telephone service, and she did not and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainant, and examined a police sergeant, who testified that he obtained a search warrant and with the same entered the complainant's premises on August 9, 1963, and found the telephones in the back bedroom being used in what he described as a bookmaking "call back, back office" for referring bets, and that he made arrests therein. The officer also testified that he found a daily

racing form, and betting markers with marks on them corresponding with races being run that day.

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. We further find that the evidence fails to show that complainant used the telephone for any illegal purpose and shows that it is necessary that she have telephone service available because of the condition of her health.

The Commission concludes that complainant is entitled to service.

O R D E R

IT IS ORDERED that Decision No. 65920, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff provisions and existing applicable law.

This order shall be effective twenty days after the date hereof.

Dated at San Francisco, California, this 14<sup>th</sup> day of January, 1964

[Signature] President

*I dissent  
on the reason  
that the violation  
of law is very  
clear.*  
[Signature]

George L. Grover

Friedrich B. Holoboff  
Commissioners

*I dissent and concur in  
the views of Commissioner Wallace  
Holloman LaBanc*