

ORIGINAL

Decision No. 66652

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HOWARD J. DUELL,
Complainant,

vs

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Case No. 7747

Joseph T. Forno, for complainant.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by Herbert Blitz,
for the Police Department of the City of
Los Angeles, intervenor.

O P I N I O N

Complainant seeks restoration of telephone service at 2651 Longwood Avenue, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 66218).

Defendant's answer alleges that on or about February 16, 1962, it had reasonable cause to believe that service to H. J. Duell, under number WE 8-5306 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 13, 1963.

By letter of February 15, 1962, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number WE 85806 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 he is a carpenter by trade and moves from job to job; that he did not give his consent or permission to anyone to use his telephone for any unlawful purpose; that he has need for telephone service to keep in touch with his employment and to report to the job and his employer.

Complainant further testified that he will not permit anyone to use his telephone to violate the law; 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 that complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 66218, 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 26th day of January, 1964.

William La Berrill
President

Edmund Mitchell

Wesley W. Rye

George J. Grover

Fredrick B. Holoboff
Commissioners