

Decision No. 66853

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GERALD M. FOSTER,
Complainant,

Case No. 7780

-vs-

PACIFIC TELEPHONE & TELEGRAPH
COMPANY, a corporation,
Defendant.

Gerald M. Foster, in propria persona.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendants.

O P I N I O N

Complainant seeks restoration of telephone service at 2526 Paljay Avenue, South San Gabriel, California. Interim restoration was ordered pending further order (Decision No. 66363).

Defendant's answer alleges that on or about August 5, 1963, it had reasonable cause to believe that service to Gerald M. Foster under number 280-7412 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 January 17, 1964.

By letter of August 2, 1963, the Sheriff of the County of Los Angeles advised defendant that the telephone under number AT 0-7412 was being used to disseminate horse-racing information used in

connection with bookmaking in violation of Penal Code Section 337a, and requested disconnection (Exhibit No. 1).

Complainant testified that he is by occupation a truck driver and is subject to call on a 24-hour schedule and that a telephone is necessary for him to obtain work and continue in his employment. Complainant further testified that he was absent when his telephone was removed; that he has no knowledge of any illegal use of his telephone; and that no criminal charges have been filed or are pending against him. Complainant testified that he has great need for telephone service, and he did not and will not use the telephone for any unlawful purpose.

There was no appearance by or testimony from 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. Complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 66363, 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 25th day of February, 1964.

William W. Brundage
President
George T. Grover
Fredrick B. Haloboff
Commissioners