SRIGINAL

Decision No. 66892

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JIMMY ATADERO,

Complainant,

vs.

Case No. 7664

THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, a corporation,

Defendant.

Jimmy Atadero, in propria persona.

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.

<u>opinion</u>

Complainant seeks restoration of telephone service at 2700 West Florence Avenue, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 65733).

Defendant's answer alleges that on or about June 10, 1963, it had reasonable cause to believe that service to Jimmy Atadero under number 752-1922 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 <u>Re Telephone Disconnection</u>, 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 June 7, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 752-1922 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 barber by trade and needs telephone service in his shop for his customers; that the telephone is located in the back of his shop with a long cord so that it can also be used in his living quarters; and that also he has need for telephone service for the reason that his wife is expecting a baby in February. Complainant further testified that no criminal charges have been filed against him and none are pending. Complainant, on cross-examination by a deputy city attorney, testified that he was talking on the telephone when the police entered his premises through the back door, and that he was then making a bet on a horse race. Complainant further testified that he did not do any bookmaking, but did bet on the horses.

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 that the complainant's telephone was used as an instrumentality to violate the law in that it was used for making a bet in connection with horse racing, and should be disconnected.

ORDER

IT IS ORDERED that complainant's request for installation of telephone service be denied and that the temporary interim relief granted by Decision No. 65733 is vacated and set aside.

IT IS FURTHER ORDERED that, upon the expiration of thirty days after the effective date hercof, complainant may file an application with the defendant for telephone service and that, if such application is filed, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's residence at 2700 West Florence, Los Angeles, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

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

		Dated	at	Los Angeles	California,	this 3rd
day	of		MARCH	, 1964.		

Commissioners

Commissioner William M. Bennett, being nocessarily absent, did not participate in the disposition of this proceeding.

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.