

**ORIGINAL**

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 corpora-  
tion,

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.

O P I N I O N

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 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 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.

