

ORIGINAL

Decision No. 66894

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

AUSTIN BERRY,

Complainant,

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,
a corporation,

Defendant.

Case No. 7677

Dan O'Neill, for complainant.
Lawler, Felix & Hall, by John M. Maller,
for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 6068 East Olympic Boulevard, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 65822).

Defendant's answer alleges that on or about June 13, 1963, it had reasonable cause to believe that service to Austin Berry under number PA 2-9345 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 24, 1964.

By letter of June 12, 1963, the Sheriff of the County of Los Angeles advised defendant that the telephone under number PA 2-9345 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 the owner and operator of the Olympic Club, a neighborhood beer and wine bar, and telephone service is necessary for business purposes in the operation of this club. Complainant further testified that he cashes payroll checks and has other business in which telephone service is necessary; that the telephone service was disconnected and several persons arrested in his absence; that he has no knowledge of the use of the telephone for purposes of bookmaking; 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. 65822, dated August 6, 1963, 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 Los Angeles, California, this 3rd day of MARCH, 1964.

President
George T. Grover
George T. Grover
Fredrick B. Halloff

Commissioners

Commissioner William M. Bonnett, being necessarily 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.