

ORIGINAL

Decision No. 67050

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CARMELLA UNGARO,

Complainant,

vs.

Case No. 7799

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a Corporation,

Defendant.

Glenn A. Wymore, 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, intervener.O P I N I O N

Complainant seeks restoration of telephone service at 303 West 9th Street, San Pedro, California. Interim restoration was ordered pending further order (Decision No. 66498).

Defendant's answer alleges that on or about December 2, 1963, it had reasonable cause to believe that service to E. Ungaro under number TE 2-4924 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 February 19, 1964.

By letter of November 27, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number TE 24924 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).

Two witnesses testified on behalf of complainant, one of whom is her son and the other her parish priest. Both witnesses testified that complainant is a widow of the age of about 78 years and was too ill to appear at the hearing, and she is suffering from arthritis and is living alone and has great need for telephone service to contact her doctor and relatives and to secure the necessities of life. Complainant's son testified that a brother had been arrested at his mother's home and her telephone was removed, but that no complaint was filed against the brother and he was released.

Both witnesses testified that complainant has no knowledge of any bookmaking at her residence and that she has great need for telephone service, and she did not and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainant's witnesses, 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.

Complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 66498, 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 7th day of APRIL, 1964.

William L. Beards
President
Everett W. Rye
George T. Crover
Frederick B. Holdhoff
Commissioners