

ORIGINAL

Decision No. 67266

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ELMER RUCKER,
 Complainant,
 vs
 THE PACIFIC TELEPHONE AND
 TELEGRAPH COMPANY, a
 corporation,
 Defendant.

Case No. 7801

Maurice Harwick, for complainant.
Lewler, Felix & Hall, by John M. Maller,
 for defendant.
 Roger Arnebergh, City Attorney, by
James Henry Kline, 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 207 East 80th Street, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 66520, dated December 27, 1963).

Defendant's answer alleges that on or about December 10, 1963, it had reasonable cause to believe that service to Elmer Rucker under number PL 2-5059 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 April 17, 1964.

By letter of December 6, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number PL 2-5059 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 construction worker; he goes to the union hall and leaves his telephone number there so he can be called when a work assignment is available; he has three children, two of whom are in school, and telephone service is necessary for the welfare of his family.

Complainant further testified that: there are no criminal charges pending against him or his wife, he has great need for telephone service, and he did not and will not use the telephone for any unlawful purpose.

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 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. 66520, dated December 27, 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 San Francisco, California, this 11th day of MAY, 1964.

William L. Smith
President

John F. Smith

George A. Turner

Frederick B. Holbrook

Commissioners