

ORIGINAL

Decision No. 67515

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JIM LOTITO, dba
JIM'S WATER WHEEL,

Complainant,

vs.

THE GENERAL TELEPHONE
AND TELEGRAPH COMPANY,
a corporation,

Defendant.

Case No. 7869

Brown & Cianchetti, by Waldo A. Brown, for
complainant.

A. M. Hart and Donald J. Duckett, by Donald J.
Duckett, for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 648 South Sunset Ave., West Covina, California. Interim restoration was ordered pending further order (Decision No. 67044, dated April 7, 1964).

Defendant's answer alleges that on or about March 10, 1964, it had reasonable cause to believe that service to Jim Lotito under number 338-1088 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 June 3, 1964.

By letter of March 10, 1964, the Sheriff of the County of Los Angeles advised defendant that the telephone number 338-1088 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). Defendant notified the subscriber of disconnection (Exhibit 2).

Complainant testified that he has six telephone extensions at his restaurant and cocktail lounge which are necessary to operate the business. Complainant further testified that the telephones are used to receive reservations, order supplies and for emergencies and that during busy hours he has seating for 300 persons.

Complainant further testified that he has no knowledge of any unlawful use of the telephones and that he has great need for telephone service, and he did not and will not use the telephone or permit it to be used 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. 67044, dated April 7, 1964, 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 14th day of July, 1964.

Frederick B. Halaloff
President
Everett C. McKeage
George L. Traver
William W. Bennett

Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.