

ORIGINAL

Decision No. 67684

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GERALD H. KILGORE,
Petitioner,

vs.

GENERAL TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Respondent.

Case No. 7971

ORDER RESTRAINING SERVICE DISCONTINUANCE AND
GRANTING INTERIM RELIEF

The complaint herein, filed August 5, 1964, alleges in substance as follows.

Complainant operates the J. K.'s Sports Service, a service for dispensing sporting information, at 10687 Santa Monica Boulevard, Los Angeles, and has been served by six outlets of defendant telephone utility under numbers TR 9-0613, TR 9-0614, TR 9-0615, TR 9-0616, TR 9-0617, and GR 4-3402, these outlets being necessary to handle the volume of incoming calls received by complainant. On or about July 30, 1964 defendant was notified in writing by a member of the Los Angeles Police Department that the instrumentalities were used to violate or to aid and abet violation of the law.

Complainant, informed that defendant was in the process of disconnecting his service, on July 31, 1964 obtained a temporary restraining order in the Superior Court for the County of Los Angeles, restraining defendant from discontinuing the service, the return date on such temporary restraining order being August 5, 1964. A serious question has been raised as to the

jurisdiction of the Superior Court in issuing the restraining order, and if such order is dissolved defendant will discontinue the service immediately without a hearing of any sort, and this will do irreparable damage to complainant's business as most of his business is done by telephone.

Complainant furnishes his subscribers current sporting information such as inning-by-inning baseball scores, starting pitchers, etc., subscribers making incoming calls, and complainant has built up his business over the past two years under almost constant surveillance by the Los Angeles Police Department, with officers entering his premises almost daily. Time is of the essence as complainant's business is most active during the baseball season, now in process but of limited duration. Complainant's business is carried on with full knowledge of the police department; complainant has a City Business License for the conduct of his business; the telephone facilities are not and never have been used as an instrumentality to violate the law or to aid and abet its violation, and will not be so used if a restraining order is granted.

If the temporary restraining order is dissolved and unless the Commission issues an injunction to prevent discontinuance of the service, or, in the alternative, an order to restore service pending a hearing on the merits, complainant will be afforded no adequate remedy at law as his business will be irreparably damaged due to the inability of customers to contact him, and will suffer great financial loss and hardship.

Complainant asks that the Commission forthwith order defendant not to disconnect or interfere with complainant's telephone service pending a hearing on the merits, or, in the alternative, order defendant to reconnect the service pending a hearing.

Good cause appearing, IT IS ORDERED that General Telephone Company of California, a corporation, is directed to refrain from

disconnecting telephone service to complainant pending further Commission order herein, and if such service has already been disconnected at the time this order is served upon said defendant, is directed to reconnect and restore telephone service to complainant and to maintain such service pending further Commission order herein, said service to be furnished pursuant to defendant's filed tariff rates and rules applicable thereto. The complaint will be set for hearing before such Commissioner or Examiner, and at such time and place, as may hereafter be designated.

The Secretary is directed as follows:

1. To cause a certified copy of this order, together with a copy of the complaint herein, to be served forthwith upon General Telephone Company of California, a corporation, and said defendant is directed to serve and file its reply within ten (10) days after said service.
2. To cause a copy of this order to be mailed to complainant.
3. To cause appropriate notice of hearing to be mailed to the parties at least ten (10) days prior to the hearing herein.

Dated at San Francisco, California, this 11th day of AUGUST, 1964.

Fredrick B. Hallock
President

Paul English

Carroll W. Reed

George J. Trover

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.