

ORIGINALDecision No. 67715

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

GERALD H. KILGORE,

Petitioner,

vs.

Case No. 7976

WESTERN UNION TELEGRAPH
COMPANY, a corporation,

Respondent.

ORDER RESTRAINING SERVICE DISCONTINUANCE AND
GRANTING INTERIM RELIEF

The complaint herein, filed August 10, 1964, alleges in substance as follows.

Complainant operates the J. K.'s Sports Service, a service for dispensing sporting information, at 11087 Santa Monica Boulevard, Los Angeles, and has been served by a Sports Ticker furnished by defendant, this being necessary for complainant to render his sports service. 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 was August 5, 1964 and at that time was continued to August 19, 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.

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 Sports Ticker 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 complainant's inability to furnish sporting information to his subscribers, and will suffer great financial loss and hardship.

Complainant asks that the Commission forthwith order defendant not to disconnect or interfere with complainant's Sports Ticker 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 Western Union Telegraph Company, a corporation, is directed to refrain from disconnecting Sports Ticker 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 such 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 Western Union Telegraph Company, 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 18th day of August, 1964.

Frederick B. Hallock
President

Arthur S. [unclear]

Arthur W. [unclear]

George T. [unclear]

William [unclear]
Commissioners