

ORIGINAL

Decision No. 67754

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALOHA AUTO PARTS,

Complainant,

Case No. 7846

vs.

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Joseph T. Forno, by Arthur Lewis, for complainant.
Lawler, 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, intervener.

O P I N I O N

Complainant seeks restoration of telephone service at
2018 West Washington Boulevard, Los Angeles 18, California. Interim
restoration was ordered pending further order (Decision No. 66915
dated March 10, 1964).

Defendant's answer alleges that on or about February 12,
1964, it had reasonable cause to believe that service to Aloha
Auto Parts, a partnership, under numbers REpublic 2-1376 and
REpublic 2-4332 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 May 6, 1964.

By letter of February 10, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephones under numbers RE 2 1376 and RE 2 4332 were being used to disseminate horse racing information used in connection with bookmaking in violation of Penal Code Section 337a, and requested disconnection (Exhibit 1).

Seishi Yahata testified that he is one of the owners and operators of the complainant, a copartnership owning and operating a service station and auto parts business, and that telephone service is essential in the operation of said business; that he did not take any bets over the telephone, and has great need for telephone service; and that he did not and will not use the telephone for any unlawful purpose.

Two police officers were called by intervenor City of Los Angeles, and testified that they, with other officers, made an investigation of the complainant's premises and arrested Yahata and his partner for bookmaking. One officer testified that before the arrest he had an informer call the complainant's telephone number; that he heard him on an extension telephone make a bet on a horse race; that the informer made the call of his own free will and consented to the officer listening on the extension telephone; that during the conversation other officers entered the complainant's premises and found copies of the National Daily Reporter, other racing information and betting markers that contained notations of bets on horse races. The identity of the informer was revealed at

the request of counsel for complainant. An officer testified that Yahata admitted he was accepting and forwarding wagers on the horse races and had been so engaged for approximately one year, and that he and his partner, depending upon who answered the telephone, would accept the wagers, which were given mostly by friends.

One of the officers testified that no complaints were filed against the partners for the reason that the officers did not wish to redevelop the identity of the informant. An officer admitted on cross-examination that the informant was in custody or under threat of arrest at the time he made the telephone call.

We find that defendant's action was based upon reasonable cause, and that the complainant's telephone was used as an instrumentality to violate the law in that it was used for bookmaking purposes in connection with horse racing, and should be disconnected.

O R D E R

IT IS ORDERED that complainant's request for installation of telephone service be denied and that the temporary interim relief granted by Decision No. 66915, dated March 10, 1964, is vacated and set aside.

IT IS FURTHER ORDERED that, upon the expiration of sixty days after the effective date hereof, complainant may file an application with the utility for telephone service and that, if such application is filed, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's place of business

at 2018 West Washington Boulevard, Los Angeles, California, 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 25th day of AUGUST, 1964.

I dissent.
Geoffrey B. ...
Commissioner

Fredrick P. Hallock

President

John E. Mitchell

Commissioner

George H. Hoover

Commissioner

William W. Bernard

Commissioners