

ORIGINAL

Decision No. 68079

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MILTON SMITH,

Complainant,

vs.

Case No. 7931

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Milton Smith, in propria persona.
Lawler, Felix & Hall, by Robert C.
Coppo, for defendant.
Roger Arnebergh, City Attorney, by
James H. 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 1541 W. 68th Street, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 67477, dated July 7, 1964).

Defendant's answer alleges that on or about May 26, 1964, it had reasonable cause to believe that service to Milton Smith, under number 751-7613 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 September 14, 1964.

By letter of May 25, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number PL 1 7613 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 employed by the post-office department and has a wife and two children; that telephone service is necessary for contacting his employer and for securing medical help for his family.

Complainant further testified that he has no knowledge of any unlawful use of his telephone, 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. 67477, dated July 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 20th day of October, 1964.

Fredrick B. Halliwell
 President

J. E. Mitchell

Wesley S. King

George L. Grover

Commissioners

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