

**ORIGINAL**

Decision No. 68286

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HOWARD A. SPERRY,  
 Complainant,  
 vs.  
 GENERAL TELEPHONE COMPANY OF  
 CALIFORNIA, a corporation,  
 Defendant.

Case No. 7957

Howard A. Sperry, in propria persona.  
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 1038 - 5th, Apt. B, Santa Monica, California. Interim restoration was ordered pending further order (Decision No. 67678, dated August 11, 1964).

Defendant's answer alleges that on or about May 15, 1961, it had reasonable cause to believe that service to Howard Arthur Sperry, under number EX5-4321 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 24, 1964.

By letter of May 15, 1961, the Chief of Police of the City of Santa Monica advised defendant that the telephone under number EX5-4321 was being used for lewd and obscene language in violation of Penal Code Section 647.A-1; and requested disconnection (Exhibit 1). Defendant notified the subscriber of disconnection (Exhibit 2). Said Exhibits 1 and 2 are attached to the answer of defendant on file.

Complainant testified that he earns his living in retouching photographic work and needs telephone service to obtain such work. Complainant also testified that he is in need of a medical operation and plans to enter the hospital and will need telephone service for medical reasons. Complainant testified that he was arrested and convicted of violation of Section 647.A-1, of the Penal Code, but that he has completed probation and has been discharged.

Complainant further testified that he has not had telephone service for over three years and that he has great need for telephone service, and he did not and will not use the telephone 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; that complainant's telephone was used in violation of Section 647.A-1; that complainant has completed probation; that complainant has been without a telephone for over three years and needs a telephone for employment and medical reasons. We conclude that service to complainant should be restored.

O R D E R

IT IS ORDERED that Decision No. 67678, dated August 11, 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 30th day of NOVEMBER, 1964.

Frederick B. Helms  
President

Carl L. Smith

Wesley W. Kray

George J. Trover

Walter B. Blum  
Commissioners