

**ORIGINAL**

Decision No. 68425

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARSHAL VINCENT MIKETTA,  
and EDNA REECE MIKETTA,  
  
Complainants,

vs

THE PACIFIC TELEPHONE and  
TELEGRAPH COMPANY, a  
Corporation,  
  
Defendant

Case No. 7936

Martin Gutfleish, for complainant.  
Gray, Cary, Ames & Frye, by Richard A. Burt, for defendant.  
Charles R. Schilder, San Diego Police Department, intervener.

O P I N I O N

Complainant seeks restoration of telephone service at 1223 - 29th Street, San Diego, California. Interim restoration was ordered pending further order (Decision No. 67510, dated July 14, 1964).

Defendant's answer alleges that on or about May 22, 1964, it had reasonable cause to believe that service to Marshal Vincent Miketta, under number 239-3147 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 San Diego, California, on September 16, 1964.

By letter of May 21, 1964, the Chief of Police of the City of San Diego advised defendant that the telephone under number 239-3147 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, Marshal Vincent Miketta, testified that he has had a heart attack and needs telephone service for medical reasons and to contact his employer; that the criminal charges against him were dismissed for insufficiency of the evidence and that his wife, Edna Reece Miketta, was not a subscriber of telephone service.

Complainant further testified that he has great need for telephone service, and he did not and will not use the telephone for any unlawful purpose. Complainant, Edna Reece Miketta, was present at the hearing and withdrew her request for telephone service.

A police officer appeared and cross-examined the complainant Marshal Miketta, 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 Marshal Vincent Miketta is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 67510, dated July 14, 1964, temporarily restoring service to complainant, is made permanent, subject to defendant's tariff provisions and existing applicable law.

The complaint of Edna Reece Miketta is dismissed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 5th day of January, 1965.

Fredrick B. Holcomb  
President

George A. Trover

William W. Bennett

Commissioners