

ORIGINAL

Decision No. 68446

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DARLENE HYDE,

Complainant,

vs

PACIFIC TELEPHONE COMPANY,

Defendant.

Case No. 7899

Bruce Weathers, for complainant.
Gray, Cary, Ames & Frye, by Richard A. Burt,
for defendant.
Charles R. Schilder, San Diego Police Department,
for the District Attorney's Office, intervener.

O P I N I O N

Complainant seeks restoration of telephone service at 3609 Curlew Street, San Diego, California. Interim restoration was ordered pending further order (Decision No. 67255, dated May 26, 1964.)

Defendant's answer alleges that on or about October 8, 1963, it had reasonable cause to believe that service to M. R. Barthel under number 298-6056 and Mrs. J. E. Hyde, under number 298-3861 were being or were 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 before Examiner DeWolf at San Diego on September 16 and 17 and November 17, 1964, and submitted on the last date.

By letter of October 7, 1963, the Chief of Police of the City of San Diego advised defendant that the telephones under numbers CY 8-6056 and CY 8-3861 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).

Complainant testified that she has moved from the premises described in the complaint; that she now resides at 3793 Dove Street, San Diego, California, and has telephone service at this address; that her father and mother have sold the premises described in the complaint and moved to another city; that she did not engage in any unlawful activity in the use of her telephone; and that she did not consent to the use thereof by others.

Complainant further testified that she has not been charged with any offense; that no charges are pending against her; that she has great need for telephone service; and that she did not and will not use the telephone for any unlawful purpose.

A police officer appeared 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 service.

ORDER

IT IS ORDERED that Decision No. 67255, dated May 26, 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 12th day of JANUARY, 1965.

Frederick B. Holdhoff
President

George E. Crover

Stallman B. Bennett
Commissioners