

ORIGINAL

Decision No. 68478

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CHESTER GEE,

Complainant,

vs

PACIFIC TELEPHONE AND
TELEGRAPH COMPANY,
a corporation,

Defendant.

Case No. 7602

Flier, Ross & London by Robert H. London,
for complainant.
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, intervener.

O P I N I O N

Complainant seeks restoration of telephone service at 894 South Norton, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 65314, dated May 1, 1963).

Defendant's answer alleges that on or about January 4, 1963, it had reasonable cause to believe that service to Chester Gee under number 934-2094 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 January 15, 1964 and November 12, 1964.

By letter of January 3, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephones under numbers 934-2094 and 939-4285 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 he is in the wholesale meat business and takes orders for next-day delivery from his home phone; that 50% of his business is conducted over his home telephone at night and early in the morning; and that this home telephone service is necessary for the operation of his business. Complainant admitted on cross-examination by a city attorney that he had pleaded guilty to bookmaking but testified that he had only placed bets for himself and his friends and was not engaged in the business of bookmaking and would not use his telephone for any bookmaking in the future. Complainant also admitted that he is the same person who filed Case No. 7317 for restoration of telephone service in which this Commission rendered Decision No. 63911, dated July 10, 1962, restoring complainant's telephone service.

A police officer testified that he found more than 12 slips of paper in complainant's handwriting which were betting markers on complainant's premises, and that complainant admitted to the officer that he had been taking bets for friends and making bets for himself from his home but denied taking bets as a business.

We find that defendant's action was based upon reasonable cause; we further find that the evidence discloses the telephones were used for bookmaking purposes contrary to law and should be disconnected.

ORDER

IT IS ORDERED that complainant's request for restoration of telephone service be denied and that the temporary interim relief granted by Decision No. 65314, dated May 1, 1963, 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 residence at 894 South Norton, Los Angeles, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the 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.

I dissent.

The majority decision fails to give adequate consideration to the fact that complainant was without service for about four months before the granting of interim relief. His total loss of service will therefore be about six months, which is substantially more than has been imposed upon others in similar circumstances.

The reference in the decision to an earlier case involving this complainant is misleading. In that case we found that the evidence failed to show illegal use of the telephone.

Fredrick B. Halperoff

President

William W. Brown

Commissioners

George W. Grover