

ORIGINAL

Decision No. 68497

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SALVATORE L. DEMICELI,

Complainant,

vs.

Case No. 7616

PACIFIC TELEPHONE and TELEGRAPH COMPANY,
a corporation,

Defendant.

Joseph L. Ventress, for complainant.
Lawler, Felix & Hall, by John M. Maller
and Robert C. Coppo, for defendant.
Roger Arnebergh, City Attorney, by
Herbert Blitz and James Henry Kline,
for the Police Department of the
City of Los Angeles.

O P I N I O N

Complainant seeks restoration of telephone service at 2 Surrey Lane, Rolling Hills, California. Interim restoration was ordered pending further order (Decision No. 65409, dated May 21, 1963).

Defendant's answer alleges that on or about April 17, 1963, it had reasonable cause to believe that service to Salvatore L. Demiceli, under numbers 833-5944 and 833-7777, 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 before Examiner DeWolf at Los Angeles on November 22, 1963, April 17, and November 12, 1964, and was submitted on November 12, 1964.

By letter of April 15, 1963, the Chief of Police of the City of Los Angeles advised defendant that the telephones under numbers 833-5944 and 833-7777 and five extensions 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 has great need for telephone service at his home which is in a location not thickly settled and that he has two telephone lines there, one in his den used as a business office and the other in the kitchen and other rooms used by his wife and two daughters age 13 and 18 years, respectively. Complainant also testified that he has numerous business matters requiring the use of his telephone at home; that he has taken bets for friends; that he was arrested and pleaded nolo contendere to one count; and that the other charges against him were dismissed. He denied that he received any money or percentage for taking bets, and he also denied that he used his wife's telephone for any unlawful activity.

A police officer testified that he approached the residence of complainant on April 14, 1963, with a search warrant and searched the premises; that he found approximately ten papers with six wagers on each one which were betting markers, and while he was on the premises the telephone rang about six times and he received one wager over telephone number 833-5944.

Complainant further testified that he has not used the phone for any betting for over a year and a half; that he has great need for telephone service and he will not use the telephone for any unlawful purpose.

We find that defendant's action was based upon reasonable cause; we further find that the evidence discloses complainant's telephone service at 2 Surrey Lane, Rolling Hills, was used for book-making purposes contrary to law and should be disconnected.

O R D E R

IT IS ORDERED that complainant's request for restoration of telephone service be denied and that the temporary interim relief granted by Decision No. 65409, dated May 21, 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 2 Surrey Lane, Rolling Hills, 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 19th day of January 1965.

Franklin B. Hildell
President

John W. Mitchell

George E. Brown

William M. Bennett

Commissioners