

ORIGINAL

Decision No. 68565

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOSEPH MORIGI, DOMONICK MORIGI,
dba MORIGI'S HOUSE OF PIZZA,

Complainant,

vs.

Case No. 8035

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a corporation,

Defendant.

Alfred Bornsten and M. Harwick, by
M. Harwick, for complainants.
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

Complainants seek restoration of telephone service at 21635 Devonshire, Chatsworth, California. Interim restoration was ordered pending further order (Decision No. 68114, dated October 27, 1964).

Defendant's answer alleges that on or about October 1, 1964, it had reasonable cause to believe that service to Joseph Morigi and Domonick Morigi, under numbers 341-0166 and 341-2728 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 December 15, 1964.

By letter of September 30, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 341-2728 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).

Complainants testified that they need telephone service to operate the business of the Pizza Cafe, to order food and for other business purposes in emergencies; the telephone is locked with a key without which outgoing calls cannot be made; the telephone was not used for any illegal purpose on outgoing calls; they had no knowledge of any employees receiving telephone calls for bookmaking or any other illegal purposes; the bartender who was arrested is no longer employed by them; their business suffered greatly while the phone was disconnected, as a large amount of food is ordered by telephone; they have great need for telephone service; and they did not and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainants 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. Complainants are entitled to restoration of service.

ORDER

IT IS ORDERED that Decision No. 68114, dated October 27, 1964, temporarily restoring service to complainants, 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 9th day of FEBRUARY, 1965.

Frederic B. Holdhoff
President

George H. Brewer

William W. Ferris

Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.