

ORIGINAL

Decision No. 68844

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WALTER HENDERSON,
doing business as
WALT'S FOOD,

Complainant,

vs.

Case No. 8097

THE PACIFIC TELEPHONE
AND TELEGRAPH COMPANY,
A Corporation,

Defendant.

Walter J. Henderson, in propria persona.
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,
intervenor.

O P I N I O N

Complainant seeks restoration of telephone service at 11127 Venice Boulevard, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 68491, dated January 19, 1965).

Defendant's answer alleges that on or about November 16, 1964, it had reasonable cause to believe that service to Walt Henderson under number 838-9111 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 February 25, 1965.

By letter of November 12, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number VE 8-9111 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 testified that he is earning his livelihood in the food business; that telephone service is essential to take orders from customers and to order supplies; that he was arrested when his phone was disconnected; that no betting papers were found by the officers and that he was found not guilty and was discharged.

Complainant further testified that he has never booked a bet in his life, he has great need for telephone service, and he did not and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainant, 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. We conclude that complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 68491, dated January 19, 1965, 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 6th day of April, 1965.

Frederick B. Holdcroft
President

John E. [unclear]

George L. [unclear]

[unclear]

William A. [unclear]
Commissioners