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ORIGINAL

Decision No. 68953

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RICHARD RUSSO, dba
DICK'S 150 CLUB,

Complainant,

vs

PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Case No. 8112
(Filed January 14, 1965)

James W. Foley, for complainant.
James F. Kirkham and Aaron M. Peck,
for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 150 West Santa Clara Street, San Jose, California. Interim restoration was ordered pending further order (Decision No. 68528, dated January 22, 1965).

Defendant's answer alleged that on or about December 12, 1964, it had reason to believe that service to complainant under number 294-0994 was being or was to be used as an instrumentality 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 Rowe at San Jose on March 25, 1965.

By letter of December 10, 1964, the U. S. Treasury Department, Internal Revenue Service advised defendant that the telephone under number 294-0994 was being used in violation of the Federal

wagering tax laws. (Exhibit No. 1.) Defendant notified the subscriber of disconnection. (Exhibit No. 2.)

Complainant testified that the charge against him of violation of the Federal wagering tax law was dismissed in the Federal Court on December 17, 1964, and that he has great need for telephone service. He testified that he had not used and would not use the telephone for any illegal purpose. It was stipulated by the parties that defendant had acted reasonably in discontinuing service.

There was no appearance by or testimony from 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. The Commission concludes that complainant is entitled to service.

O R D E R

IT IS ORDERED that Decision No. 68528 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 27th day of April, 1965.

Frederick B. Halchoff
President

George T. Crover

Augustine

William B. Bernard
Commissioners