

ORIGINAL

Decision No. 69191

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

VELMA WATERS,

Complainant,

vs.

PACIFIC TELEPHONE, a corporation,

Defendant.

Case No. 8133

Max Solomon, for complainant.
Lawler, Felix & Hall, by Robert C. Coppo, for defendant.
Roger Arneberg, City Attorney, by
Michael T. Sauer, 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 231 West 78th Street, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 68702, dated March 9, 1965).

Defendant's answer alleges that on or about December 15, 1964, it had reasonable cause to believe that service to Velma Waters under number 758-5978 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 April 13, 1965.

By letter of December 14, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephones under numbers PL 9-5957 and PL 8-5978 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 her husband was engaged in auto-repair work at home and that the disconnection of her telephone prevented her husband from getting such work and that he had to seek other employment; that complainant had one telephone installed for her mother who suffers from a heart condition and diabetes and is confined to bed much of the time and must have a telephone at her bedside to contact a doctor and relatives; that complainant's telephone service has been disconnected over three months; that she was arrested and found guilty of a misdemeanor violation of Section 337a, making a bet on a horse race, and was placed on probation; that she did not do any bookmaking and that she has never been arrested before.

Complainant further testified that she has great need for telephone service, and she 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; that complainant was found guilty of violation of Section 337a of the Penal Code, a misdemeanor; that complainant's telephone was used for making a bet on a horse race in violation of Section 337a of the Penal Code; that complainant's telephone was disconnected for three months; and that complainant's family is in need of telephone service for medical and employment purposes. Complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 68702, dated March 9, 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 8th day of June, 1965.

Frederick B. Hollibaugh
President

George T. Trover

Augusta

William L. Bennett
Commissioners

*I dissent
by
Peter E. Mitchell*