

ORIGINAL

Decision No. 69193

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CARLTON H. KIMBALL,  
Complainant,

vs.

Case No. 8148

PACIFIC TELEPHONE COMPANY OF  
CALIFORNIA, a corporation,  
Defendant.

Carlton H. Kimball, in propria persona.  
Lawler, Felix & Hall, by A. J. Krappman, Jr.,  
for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 1615 Cabrillo Avenue, Torrance, California. Interim restoration was ordered pending further order (Decision No. 68786, dated March 30, 1965).

Defendant's answer denies that applicant is a subscriber to telephone service and alleges that on or about March 9, 1965, it had reasonable cause to believe that a public telephone service on complainant's premises under number 328-9674 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 May 4, 1965.

By letter of February 12, 1965, the Chief of Police of the City of Torrance advised defendant that the telephone under number 328-9674 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 has a public telephone in his establishment known as the Flamingo Bar; that one of his employees was arrested for bookmaking; and that this employee was discharged.

Complainant further testified that he has no knowledge of any unlawful use of the telephone on the premises; that he has great need for telephone service in his business; and that he did not and will not use the telephone for any unlawful purpose.

Counsel for defendant moved to dismiss the complaint on the ground that the public pay telephone on complainant's premises is installed under telephone tariff Schedule 11-T, First Revised Sheet No. 6, and that complainant is not a subscriber to said public pay telephone.

There was no appearance by or testimony from any law enforcement agency.

We find that defendant's action was based upon reasonable cause; that the evidence fails to show the telephone was used for any illegal purpose; that the telephone service is a public telephone; and that complainant is not a subscriber to the telephone service. We conclude that complainant's request for restoration of said public telephone service must be denied. Defendant's motion to dismiss the complaint is denied.

O R D E R

IT IS ORDERED that the complainant's request for restoration of said public telephone service is denied and interim Decision No. 68786, dated March 30, 1965, is hereby vacated and set aside.

IT IS FURTHER ORDERED that complainant's request for service is granted, and, upon the filing by the complainant of an application with the utility for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at 1615 Cabrillo Avenue, Torrance, California, 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.

Fredrich B. Haloff  
President  
George T. Grover  
Commissioners  
William B. ...