

ORIGINAL

Decision No. 69313

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARVIN MESSER, AND
NESSIE B. MESSER,

Complainants,

Case No. 8142
(Filed March 10, 1965)

vs. :

PACIFIC TELEPHONE COMPANY,
a corporation,

Defendant.

Walter Kroneberger, Jr., for complainants.
Lawler, Felix & Hall, by A. J. Krappman, Jr.,
for defendant.
Roger Arnebergh, City Attorney, by
Michael T. Sauer, for the Police Depart-
ment of the City of Los Angeles,
intervener.

O P I N I O N

Complainants seek restoration of telephone service at 846 West 173rd Street, Gardena, California. Interim restoration was ordered pending further order (Decision No. 68764, dated March 23, 1965).

Defendant's answer alleges that on or about January 22, 1965, it had reasonable cause to believe that service to Ken Lee under number 323-1183, 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 January 12, 1965, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number DA-31183 and extension 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 Nessie B. Messer testified that the telephone service was formerly in the name of her son, Ken Lee, who no longer resides in the home; she has a daughter who is required to wear leg braces, suffers from palsy and must have medical attention constantly available; and telephone service is necessary for the family.

Complainant Marvin Messer testified that he was arrested but that he was not convicted of any violation of the law, that he has great need for telephone service; and that he did not and will not use the telephone for any unlawful purpose.

A deputy city attorney appeared and cross-examined the complainants. A police officer of the City of Los Angeles testified that he entered complainants' premises on January 8, 1965, with a search warrant and found complainant, Marvin Messer, seated at a bar table with a sponge in his hand with which he was wiping off marks and writing. The officer testified that the telephone rang on several occasions and that he answered the telephone and accepted wagers over the telephone.

We find that defendant's action was based upon reasonable cause; complainants' telephone was used in violation of Section 337a of the Penal Code; complainants' telephone was disconnected over 60 days; complainants have a handicapped child who requires medical attention; and telephone service is necessary for medical reasons. We conclude that the temporary restoration of telephone service should be made permanent.

O R D E R

IT IS ORDERED that Decision No. 68764, dated March 23, 1965, temporarily restoring service to complainants, is amended to show it is for the installation of new service to Marvin Messer and, as such, 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 29th day of JUNE, 1965.

Fredrick B. Hallock
President
George L. Hoover
Commissioners
William C. ...