

ORIGINAL

Decision No. 69631

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SELDEN W. CUMMINGS,
Complainant,

vs

PACIFIC TELEPHONE
a corporation,
Defendant.

Case No. 8154

Selden W. Cummings, in propria persona.
Lawler, Felix & Hall, by Robert C. Coppo,
for defendant.
Roger Arnebergh, City Attorney, by
Michael T. Sauer, for the Police Department
of the City of Los Angeles, intervener.

O P I N I O N

Complainant seeks installation of telephone service at 4110 So. Figueroa St., Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 68358, dated April 13, 1965).

Defendant's answer alleges that on or about April 1, 1964, it had reasonable cause to believe that service to Robert Killman, under number AD 4-8567, 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 July 22, 1965.

By letter of March 31, 1964, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 234-8567 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 the owner of the building at 4110 So. Figueroa St.; that his former tenant has moved from the premises; that he desires to rent the premises to a new tenant to operate a thrift shop; and that the prospective tenant has requested him to secure telephone service.

Complainant further testified that he has no knowledge of any unlawful use of the telephone by the previous tenant; that he cannot rent the premises without 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 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. Complainant is entitled to service.

O R D E R

IT IS ORDERED that Decision No. 68858, dated April 13, 1965, temporarily restoring service to complainant, is amended to show that it is for the installation of new service and, as such, that it 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 31st day of August, 1965.

 President
George E. Mitchell

George L. Traver

Augustus

 Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.

I dissent for the reasons set forth in my dissent in C-7984 Dec. 69510
William A. Bennett