

ORIGINAL

Decision No. 70351

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

William F. Barkheimer,
 Complainant,
 vs.
 THE PACIFIC TELEPHONE AND
 TELEGRAPH COMPANY, a cor-
 poration,
 Defendant.

Case No. 8287
 Filed October 20, 1965

Roderick Duncan, for complainant.
Walter R. Alien, for defendant.

O P I N I O N

Complainant seeks restoration of telephone service at 1265 East Shore Highway, Berkeley, California, under the numbers 526-4101, 526-9888 and 525-9907. The last two numbers were issued for public telephones located at his place of business. Interim restoration was ordered by Decision No. 70049 issued December 7, 1965.

Defendant's answer alleges that on or about October 7, 1965, it had reasonable cause to believe that service to William F. Barkheimer under number 526-4101 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 Rowe in Oakland on January 14, 1966.

Complainant testified that he has great need for telephone service and that he did not and will not use any of the telephones for any unlawful purpose. There was no appearance by or testimony from any law enforcement agency. Counsel stipulated that defendant acted reasonably in disconnecting service.

According to the testimony of defendant's witness the public telephones have not been reinstalled. Counsel however entered into a further stipulation that the Pacific Telephone may at its discretion restore public telephone service to complainant at his request.

We find that defendant's action was based upon reasonable cause, and the evidence fails to show that the telephones were used for any illegal purpose. The Commission concludes that complainant is entitled to restoration of telephone service.

O R D E R

IT IS ORDERED that Decision No. 70049, dated December 7, 1965, temporarily restoring service to complainant under number 526-4101 is made permanent and that the defendant may, at its discretion, restore the public telephone service to complainant at his request, subject to its 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 15th day of FEBRUARY, 1966.

Frederick B. Hallock
President
George T. Hoover
Augustan
William B. Bennett

Commissioners
Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.