

**ORIGINAL**

Decision No. 70634

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EUGENE E. ROTHER,

Complainant,

vs.

PACIFIC TELEPHONE & TELEGRAPH CO.,  
a corporation,

Defendant.

Case No. 8283

Eugene Rother, in propria persona.  
Lawler, Felix & Hall, by Orville O. Orr, Jr.  
and Richard L. Fruin, Jr., for defendant.  
Roger Arnebergh, City Attorney, by James H. Kline,  
for the Police Department of the City of Los  
Angeles, intervener.

O P I N I O N

Complainant seeks restoration of telephone service at 8728 1/2 Sepulveda Boulevard, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 70182, dated January 5, 1966).

Defendant's answer alleges that on or about September 22, 1965, it had reasonable cause to believe that service to E. E. Rother under number 670-2626, 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 March 7, 1966.

By letter of September 21, 1965, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number OR 0-2626 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 owner and operator of Gene's Barber Shop; that his telephone was disconnected while he was away on vacation; that he has great need for telephone service in the barber shop for scheduling appointments by customers; that he has no knowledge of any unlawful use of his telephone; that he does not permit its use for unlawful purposes, and 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 restoration of service.

O R D E R

IT IS ORDERED that Decision No. 70182, dated January 5, 1966, 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 3<sup>rd</sup> day of MAY, 1936.

Fredrick B. Holliff  
 President

George A. Grover  
 Commissioner

W. J. ...  
 Commissioner

1 George A. Grover  
William L. ...