

ORIGINAL

Decision No. 70813

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

David Brooks,

Complainant,

vs.

The Pacific Telephone and
Telegraph Company, a
corporation,

Defendant.

Case No. 8320

David C. Brooks, in propria persona.
Lawler, Felix & Hall, by 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 1167-3/4 East 52nd Street, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 70153, dated January 4, 1966).

Defendant's answer alleges that on or about July 9, 1965, it had reasonable cause to believe that service to Lois Bates, under number 231-1026, 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 28, 1966.

By letter of July 7, 1965, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 231-1026 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 telephone service is needed for his wife who has had recent surgery and is ill and in connection with his employment because of the shift changes and work assignments in connection with such employment. Complainant also testified that he was arrested on the 4th of July, 1965; that his telephone was removed at that time and he was deprived of telephone service for over six months resulting in a great loss and inconvenience; that he pleaded guilty to the police charges and paid a fine of \$176 but that he did not do any bookmaking, although he did send in a bet of his own.

Complainant further testified 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 that complainant used the telephone as an instrumentality to violate the law in that it was used to place a wager in connection with horse-racing. Complainant's wife is in need of

telephone service on account of a post-operative condition. Complainant's telephone has been disconnected for six months and he has paid a fine. Complainant is entitled to telephone service.

O R D E R

IT IS ORDERED that Decision No. 70153, dated January 4, 1966, 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 8th day of JUNE, 1966.

Fredrick B. Hallock
President

George T. Hoover

Augusta

Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.