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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DAVID ARTHUR WOLFE,

Complainant,

vs.

Case No. 8345

THE PACIFIC TELEPHONE
AND TELEGRAPH COMPANY,
a corporation.

Defendant.

Forno & Lewis, by Arthur Lewis, for complainant.

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 758 So. Ardmore Street, Apartment 404, Los Angeles, California. Interim restoration was ordered pending further order (Decision No. 70318, dated February 8, 1966).

Defendant's answer alleges that on or about January 28, 1966, it had reasonable cause to believe that service to David A. Wolfe, under number 382-5542, 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 January 26, 1966, the Chief of Police of the City of Los Angeles advised defendant that the telephone under number 382-5542 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 will be 72 years old on his next birthday, is in poor health, is very nervous, has low blood pressure and hypertension, and is greatly in need of telephone service. Complainant testified that when police entered his apartment he was engaged in telephone conversation with his doctor; that he was arrested and that the charge against him was dismissed.

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 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. 70318, dated February 8, 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 8th day of JUNE, 1966.

Fredrick B. Hallock
 President

John L. Mitchell

George H. Traver

Wojcik

Commissioners

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