

ORIGINAL

Decision No. 70858

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MARMAC'S RESTAURANT,
Complainant,

vs.

THE PACIFIC TELEPHONE
AND TELEGRAPH COMPANY,
a corporation,

Defendant.

Case No. 8323

Michael E. McCallum, for complainant.
Lawler, Felix & Hall, by Richard L. Fruin, Jr., for defendant.

O P I N I O N

Michael E. McCallum testified that he is the owner of Marmac's Restaurant, the complainant, and seeks restoration of telephone service at 12102 Long Beach Boulevard, Lynwood, California. Interim restoration was ordered pending further order (Decision No. 70192, dated January 11, 1966).

Defendant's answer alleges that on or about November 29, 1965, it had reasonable cause to believe that service to Sam Conte, under number 639-9898, 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 April 21, 1966.

By letter of November 24, 1965, the Sheriff of the County of Los Angeles advised defendant that the telephone under number 639-9898 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).

Michael E. McCallum testified that he is owner of Marmac's Restaurant and uses the telephone for ordering supplies for the restaurant. McCallum further testified that Sam Conte was the former subscriber to the telephone service and he has no knowledge of any unlawful use of the telephone.

McCallum further testified that telephone service is essential for operation of the business and he has great need for telephone service, and he did not and will not use the telephone for any unlawful purpose.

There was no appearance by or testimony from 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. 70192, dated January 11, 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 14th day of JUNE, 1966.

Frederick C. Hallock
President
Richard E. Mitchell
George J. Hoover
Margaret
Commissioners