

ORIGINAL

Decision No. 70893

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PAUL SCAGLIONE and VICTORIA SCAGLIONE,)

Complainants,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY, a corporation,

Defendant.

Case No. 8296

Paul Caruso, by John C. Gregory, for
complainants.
Lawler, Felix & Hall, by Richard L.
Fruin, Jr., for defendant.
Captain John E. Hawkins, for the
Beverly Hills Police Department,
intervenor.

O P I N I O N

Complainants seek restoration of telephone service at 118 North Elm Drive, Beverly Hills, California. Interim restoration was ordered pending further order (Decision No. 69917, dated November 9, 1965).

Defendant's answer alleges that on or about November 18, 1965, it had reasonable cause to believe that service to 118 North Elm Drive, Beverly Hills, California, under numbers 271-3722 and 275-3787, was being or was to be used as an instrumentality directly or indirectly to violate or aid and abet violation of law; that defendant having reasonable cause was, but for receipt of the order granting interim relief above referred to, required to disconnect service pursuant to the decision in Re Telephone Disconnection, 47 Cal. P.U.C. 853, and that pursuant to said order granting relief defendant did not disconnect or discontinue the service.

The matter was heard and submitted before Examiner DeWolf at Los Angeles on April 21, 1966.

By letters of November 17, 1965, the Chief of Police of the City of Beverly Hills, advised defendant that the telephones under numbers 275-3787 and 271-3722, were being used to disseminate horse-racing information used in connection with bookmaking in violation of Penal Code Section 337a, and requested disconnection (Exhibits 1 and 2).

Complainant, Paul Scaglione, testified that he has two telephones in his home, one listed in his name and another listed in his daughter's name for her sole use in her work as a college student; that he is a restaurateur, not presently in business but looking for a location; that he suffers from a heart condition and goes to the doctor once a month and checks with him on the telephone every ten days about his diet; that he has a son in the Marines at Cherry Point, North Carolina, who calls home once a week and will be in the service for 2-1/2 more years; that the mother of complainant's wife suffers from asthma and has been in the hospital and now goes to a clinic for treatment, and telephone service is necessary for proper communication with and for her; that the nearest telephone is about a block away at a market and would not be of much help in an emergency; that he has great need for telephone service, and he did not and will not use the telephone for any unlawful purpose.

Intervenor cross-examined 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 service was used for any illegal purpose.

Complainants are entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 69917, dated November 9, 1965, temporarily restoring service to complainants, 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 21st
day of JUNE, 1966.

Frederick B. Holschitt
President
John E. Ditchell
George T. Brown
Augustus
Commissioners