

ORIGINAL

Decision No. 71535

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

VICTOR J. CUCCIA,

Complainant,

vs.

Case No. 8390

THE PACIFIC TELEPHONE AND
TELEGRAPH COMPANY, a
corporation,

Defendant.

Joseph T. Forno, for complainant.
Lawler, Felix & Hall, by Richard L.
Fruin, Jr., for defendant.
Roger Arnebergh, City Attorney, by
Charles E. Mattson, 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 607 Montecito Drive, San Gabriel, California. Interim restoration was ordered pending further order (Decision No. 70567, dated April 12, 1966).

Defendant's answer alleges that on or about April 1, 1966, it had reasonable cause to believe that service to Victor J. Cuccia, under numbers 283-7726, 283-7727, and 283-7728, 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 September 26, 1966.

By letter of March 31, 1966, the Chief of Police of the City of Los Angeles advised defendant that the telephones, under numbers 283-7726, 283-7727 and 283-7728, were being used to disseminate horse-racing information used in connection with bookmaking in violation of Penal Code Section 337a, and Section 182 conspiracy to commit bookmaking and requested disconnection (Exhibit 1).

Complainant testified that he has three telephones at home and uses them to conduct the operation of a cocktail lounge especially at night; that his wife also uses the telephones, that a police officer called him on the telephone to get race results but that he refused to give him any; that he was arrested but the charges were dismissed; that he has great need for telephone service, and that he did not and will not use the telephones 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 telephones were used for any illegal purpose.

Complainant is entitled to restoration of service.

O R D E R

IT IS ORDERED that Decision No. 70567, dated April 12, 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 9th day of NOVEMBER, 1966.

Walter E. Mitchell
President

George H. Hoover

Fredrick B. Hallock

Augustus

William L. Bernard
Commissioners