

**ORIGINAL**Decision No. 51420

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MAHALIA HILL,

Complainant,

vs.

Case No. 5631

THE PACIFIC TELEPHONE AND  
TELEGRAPH COMPANY, a corporation,

Defendant.

Mahalia Hill, in propria persona. Pillsbury, Madison & Sutro, by John A. Sutro, and Lawler, Felix & Hall, by L. B. Conant, for defendant.

O P I N I O N

In the complaint herein, filed on March 3, 1955, Mahalia Hill alleges that on February 24, 1955, the Huntington Park office of the defendant company notified her that telephone service was to be discontinued immediately; that Diana Brown was arrested at the residence of the complainant, 1406 East 91st Street, for an alleged violation of California law, commonly known as bookmaking, on February 16, 1955; that said Brown is not a resident at the home of complainant, and that said Brown was only visiting at the residence on the day of arrest and that her most recent previous visit was during the month of August, 1954; that said Brown is not related to the complainant by blood or marriage nor is she a close acquaintance or business associate;

that the complainant was not arrested or charged with any violation of the California law on February 16, 1955, or subsequent thereto; that the telephone at the residence of the complainant has not been authorized for any use in violation of any law nor was said Brown authorized to use the telephone for any purpose, and any of said Brown's actions were without the consent or knowledge of the complainant.

On March 16, 1955, the telephone company filed an answer in which it alleged among other things that, at all times mentioned in the complaint, complainant was not a subscriber to telephone service furnished by defendant at 1406 East 91st Street, Los Angeles, California; that on or about February 16, 1955, the office of the Sheriff of the County of Los Angeles, California, disconnected and confiscated the telephone instrument used in furnishing telephone service by defendant to Roy L. Hill under number JEfferson 8970 at 1406 East 91st Street, Los Angeles, California; that on or about February 21, 1955, it had reasonable cause to believe that the use made or to be made of said telephone service was prohibited by law and that service was being or was to be used as an instrumentality, directly or indirectly, to violate or to aid and abet the violation of the law; and that defendant, having reasonable cause, discontinued said service and since said discontinuance has refused and now refuses to restore said service, pursuant to the order of this Commission, Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing was held in Los Angeles on April 14, 1955, before Examiner Kent C. Rogers. At the hearing evidence was presented and the matter was submitted.

The complainant testified that she has resided at 1406 East 91st Street, Los Angeles, for approximately six years; that prior to February 16, 1955, there was a telephone in the premises in her husband's name; that on February 16, 1955, she and her husband were separated and he was not living on the premises; that on February 16, 1955, her uncle was living on the premises with her; that on that date she went to work and when she returned home at 5:45 p.m. her telephone was gone; that she contacted the police department and was informed that the telephone had been removed because of bookmaking activities; that she has done no bookmaking nor authorized any other person to use the telephone for bookmaking; that she did not see Diana Brown on February 16, 1955, and had not seen her for five months prior to that date; and that her husband does not know Diana Brown.

A deputy sheriff of the Sheriff's Office of Los Angeles County stated that he and another deputy sheriff and three officers visited the premises involved at about 3:00 p.m. on February 16, 1955. Prior to entering they looked through a window and saw a woman, later determined to be Diana Brown, at a table with a telephone and tissue paper thereon, and a metal waste basket beside it. The officers entered and took from Diana Brown a copy of a National Daily Reporter, commonly known as a scratch sheet, for that date. They removed from her person a number of betting markers. While the officers were on the premises the telephone rang on several occasions. An officer answered the telephone and was given bets on horses running

that day at various tracks in the nation. Mrs. Brown stated that she had been at the address one day and that she had taken bets from about eight or ten parties. There was an elderly gentleman on the premises. Mrs. Brown stated that he was the uncle of the owner. She also stated, the officer said, that she visited the house frequently. Mrs. Brown was arrested and subsequently pleaded guilty to one count of bookmaking.

The complainant, in rebuttal, stated that it was not true that Mrs. Brown was a frequent visitor and that there had been bookmaking on the premises before.

Exhibit No. 1 is a letter from the Sheriff's Department received by the defendant telephone company on or about February 27, 1955, requesting that the telephone facilities be disconnected. The position of the telephone company was that as a result of the receipt of this letter it acted with reasonable cause as that term is defined in Decision No. 41415, referred to supra, in disconnecting and refusing to reconnect the service.

In the light of the record herein we find that the action of the telephone company was based upon reasonable cause as such term is used in Decision No. 41415, supra. We further find that there is no evidence to indicate that the complainant herein engaged in or was directly connected with bookmaking activities. Therefore, the complainant now is entitled to the restoration of telephone service.

O R D E R

The complaint of Mahalia Hill against The Pacific Telephone and Telegraph Company, a corporation, having been filed,

public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision on the evidence of record and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service be granted, and that, upon the filing by the complainant of an application for telephone service, The Pacific Telephone and Telegraph Company shall install telephone service at complainant's premises at 1406 East 91st Street, Los Angeles, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 2nd day of May, 1955.

[Signature]  
President  
Justin J. Guesse  
Paula [Signature]  
[Signature]  
Commissioners