

ORIGINALDecision No. 55069

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

PAUL HIRSH,

Complainant,

vs.

GENERAL TELEPHONE CO., a corporation,

Defendant.

Case No. 5914

Paul Hirsh, in propria persona.Albert M. Hart for General Telephone Co., defendant.Norman G. Oliver, Jr., for the Los Angeles County
Sheriff's Department, intervener.O P I N I O N

In his complaint, filed on March 6, 1957, Paul Hirsh of 6766 Premium Street, Long Beach, California, alleges that on February 7, 1957, his telephone service was disconnected for the reason that it was used for taking horse racing bets for three weeks; that if it is reinstalled it will not be used for such purposes; and that there are three small children residing in his home which makes it imperative that he have a telephone.

On March 20, 1957, the telephone company filed an answer, the principal allegation of which was that it had reasonable cause to believe that the telephone service by it to complainant under number GARfield 1-2303, at 6766 Premium Street, Long Beach, California, 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 having such reasonable cause, the defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853).

A public hearing on the complaint was held in Los Angeles on April 12, 1957, before Examiner Kent C. Rogers. The defendant and the intervener appeared, but complainant failed to appear. The record shows that the complainant was regularly notified of the time and place of said hearing. At the request of the defendant and the intervener, the matter was submitted on the pleadings.

On May 6, 1957, the complainant filed a "Petition for Reopening and Rehearing in Case No. 5914." Therein the complainant alleged, inter alia, that he did not know he had to appear at the hearing, and that he is in desperate need of a telephone with the children in his home.

On May 16, 1957, the Commission made its "Order Reopening for Further Hearing", specifying therein that "the Secretary is directed to cause appropriate notice of further hearing to be mailed at least ten (10) days before such further hearing."

After notice that a further hearing would be held, all parties were contacted by telephone and all agreed to a further hearing on Friday, May 17, 1957. Thereupon all parties were notified by telegram that a further hearing would be held in Los Angeles at 10 a.m., in the Commission Courtroom.

The further hearing on the complaint was held in Los Angeles on May 17, 1957, before Examiner Kent C. Rogers and the

matter was submitted. At the commencement of the further hearing, complainant Paul Hirsh, Albert M. Hart, the attorney for the defendant, and Norman G. Oliver, Jr., the attorney for the Los Angeles County Sheriff's Department, intervener, orally waived the statutory ten-day notice of hearing and each stated he was ready to proceed.

The complainant testified that he has resided at 6766 Premium Street for 3½ years; that for three weeks prior to February 7, 1957, he was using the residential telephone therein for bookmaking operations; that on said date he was arrested for said violation of law by deputy sheriffs, and his telephone removed; that he paid a fine of \$300, and was placed on probation for two years; that he has three young children and because of that fact and for business purposes he needs a telephone; and that he will not permit the telephone to be used for illegal purposes in the future.

Exhibit No. 1 is a copy of a letter dated February 8, 1957, from the office of the Sheriff of Los Angeles County advising the defendant that complainant's telephone at 6766 Premium Street, Long Beach, California, was on February 7, 1957, being used for bookmaking purposes in violation of Section 337a of the Penal Code; that complainant's telephone had been removed; and requesting that the defendant disconnect complainant's telephone service. Exhibit No. 2 is a copy of a letter dated February 11, 1957, from the defendant to the complainant advising him that because of the action taken by the sheriff it was necessary for the defendant to discontinue complainant's service on February 7, 1957.

These exhibits were received in evidence by stipulation, and the defendant rested.

The position of the telephone company was that it had acted with reasonable cause, as that term is used in Decision No. 41415, referred to supra, in disconnecting the complainant's telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

The intervener presented no evidence.

After consideration of this record we now find that the telephone company's action was based upon reasonable cause as that term is used in Decision No. 41415, referred to supra. We further find that complainant is entitled to telephone service on the same basis as any other similar subscriber inasmuch as he had paid the penalty for any violation of the Penal Code he may have committed and there is no indication that he will in the future use the telephone facilities in an unlawful manner.

O R D E R

The complaint of Paul Hirsh against the General Telephone Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon 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 General Telephone Company, a corporation, shall install telephone

service at the complainant's residence at 6766 Premium Street, Long Beach, 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 4th day of June, 1957.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners