

Decision No. 39295

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

GRACE YOUNG,

Complainant,

vs.

CALIFORNIA WATER AND TELEPHONE  
COMPANY, TELEPHONE DIVISION, a  
corporation,

Defendant.

Case No. 4831

ORIGINAL

ORDER OF DISMISSAL

Complainant herein requests that defendant be ordered to provide telephone service in complainant's name at her new address in Redlands. <sup>(1)</sup> Answer having been filed, on July 11, 1946 the matter was set for hearing on August 22, 1946. On July 19, 1946 defendant filed a supplemental answer and motion to dismiss. Such motion, verified and supported by an affidavit, requests dismissal upon the ground that the issues have been adjudicated adversely to complainant by an order of the Civilian Production Administration, and that the War Production Board's Utilities Order U-2 and defendant's Emergency Rule and Regulation A-1 prohibit defendant's compliance with complainant's request for service.

Emergency Rule A-1, effective January 7, 1942, provides in part

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(1) The complaint alleges in substance that complainant, a housewife, resided at 812 Stillman Avenue, Redlands, for approximately twenty years and received telephone service from defendant at that address; that she recently purchased a home at 646 Cajon Street, Redlands, at which address there has been telephone service; that the seller of that residence has moved to Oregon; and that complainant has requested defendant to continue that telephone service in complainant's name, but that defendant has refused to do so, and threatens to remove the telephone and deprive complainant of telephone service.

as follows:

"In order to comply with the laws of the United States with respect to National Defense, and the executive and administrative proclamations and orders made thereunder, each rule or regulation of this utility now on file with the Railroad Commission respecting the making of service connections and extensions shall be taken as suspended or modified, except as to applicants for service who possess defense priority ratings, to the extent necessary to permit this utility to comply with all such national defense laws and orders, \* \* \*." (2)

On September 27, 1945, amended Utilities Order U-2 was issued by the War Production Board, an agency of the United States Government. (3)

That order is now administered and enforced by the Civilian Production Administration. (4) As to preference or priority in obtaining telephone service, Utilities Order U-2 specifies the order in which exchange "line plant, exchange central office equipment, or telephone sets made available through normal disconnection or by new acquisition shall be used to take care of applications for service for which the foregoing facilities can be respectively employed, \* \* \*." (5)

Under date of July 5, 1946 an appeal was prepared and filed on behalf of complainant with the Civilian Production Administration.

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(2) Telephone and other utilities were ordered to file such emergency rule because "public utilities will be unable to comply fully with provisions of their existing rules and regulations governing service, connections and extensions and immediate modification of such rules appears to be necessary in order that such utilities may comply with the laws, executive proclamations, executive orders, or administrative orders of the National Government." (Decision No. 34848, Case No. 4619.)

(3) The War Production Board was established by Executive Order No. 9024 of January 16, 1942. (U.S. Code Cong. Service 1942, p. 49.)

(4) The War Production Board was terminated and its functions and powers transferred to the Civilian Production Administration by Executive Order No. 9638 of October 4, 1945. (U.S. Code Cong. Service 1945, p. 1318.) The executive order provided in part that all "prior regulations, orders, rulings, directives and other actions relating to any function transferred by this order shall remain in effect except insofar as they are in conflict with this order or are hereafter amended under proper authority."

(5) Utilities Order U-2; Exhibit A to motion to dismiss.

The appeal was denied on July 9, 1946. <sup>(6)</sup>

It appearing from the complaint and the verified motion to dismiss, supported by affidavit, that the matter has been decided adversely to complainant by the Civilian Production Administration, and this Commission being bound by said decision, IT IS ORDERED that defendant's motion to dismiss is granted and Case No. 4831 is hereby dismissed.

Dated, San Francisco, California, this 30 day of July, 1946.

Harold Rudman  
Justice F. Coarney  
Francis Dean  
John P. Lunge  
Harold P. Kuhl  
Commissioners

(6) Exhibit B to motion to dismiss.