

ORIGINAL

Decision No. 67541

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ALAN J. McMURRY, DBA,
A. J. McMURRY CO.,

Complainant,

vs.

PACIFIC TELEPHONE AND
TELEGRAPH CO.,

Defendant.

Case No. 7727
(Filed September 23, 1963)

Alan J. McMurry, for complainant.

Arthur T. George and Richard W. Odgers,
by Richard W. Odgers, for defendant.

J. E. Brown, for the Commission staff.

O P I N I O N

After due notice, public hearing in this matter was held before Examiner Coffey on February 6, 1964, in Yreka. The matter was submitted upon receipt of the transcript on March 6, 1964.

Complainant alleges that he is a business service subscriber, in Yreka, to telephone service by defendant at a permanent main office address and also at one or more construction job sites; that under defendant's filed tariffs each subscriber to business telephone service is entitled to a regular type listing in the Classified Telephone Directory, and that defendant has refused to list complainant's main office telephone in said directory under the headings "Contractors, Building" and "Contractors, General" without extra charge.

Complainant requested that defendant be ordered to list complainant's main office telephone in the Classified Telephone Directory under multiple listings without extra charge, in lieu of listings of telephone service to job sites; or that defendant's Schedule Cal. P.U.C. No. 17-T, "Directory Listings, Special Conditions, 2.a.(4) Telephone Number" which reads:

"The listed telephone number shall be that assigned to the telephone service."

be changed to read:

"The listed telephone number shall be the choice of the subscriber."

Defendant admitted the factual allegations of complainant but denied that the rule complained of was unfair to the subscriber.

Defendant presented testimony by two witnesses in support of its position that the rule complained of is just and reasonable and that granting complainant's request would result in additional clerical steps and would raise defendant's directory expenses and decrease defendant's directory revenues.

Defendant avers that its tariffs provide that a subscriber must pay a separate charge for an additional listing of any business service in the classified section and that it therefore requested complainant to pay a special charge of 50 cents per month for a second or additional listing in the classified section of the telephone assigned for service to complainant's main office.

The last paragraph on the 10th Revised Sheet 3 of defendant's Schedule Cal. P.U.C. No. 17-T, "Exchange Telephone Service, Directory Listings" reads as follows:

"A subscriber to business service, at his option and without additional charge, may receive a regular type listing in the Classified Telephone Directory corresponding to each business listing furnished him in the alphabetical telephone directory without additional charge under special conditions contained in Classified Telephone Directory Advertising Schedules Cal. P.U.C. Nos. 39-T and 40-T."

The last paragraph on the 7th Revised Sheet 6 of defendant's Schedule Cal. P.U.C. No. 39-T, "Classified Telephone Directory Advertising-Northern California" reads as follows:

"14. An applicant, at his option and without additional charge, may receive, under headings as prescribed by the Company, a regular type listing in the Classified Telephone Directory in accordance with the provisions of the Directory Listings Schedule Cal. P.U.C. No. 17-T. Each Classified Telephone Directory regular type listing shall contain the same name, address and telephone number as the corresponding listing provided in the alphabetical telephone directory without additional charge, but business or professional designations or titles will not be included."

Complainant testified that one of his present job-site phones would be in service approximately one year and the other would be in service approximately six months; that the average connection time for a job-site phone would be nine months, and that he would be willing to pay for the extra listing of his main office telephone for the remainder of any directory period not earned by telephone service to job sites. Complainant desires that the job-site telephones continue to be listed in the alphabetical section of the telephone directory. Since the answering by job-site construction personnel of inquiries from potential customers is detrimental to his business, complainant does not wish job-site telephone numbers listed in the classified section of the telephone directory.

Defendant made a motion to dismiss the complaint on the grounds that it did not comply with Section 1702 of the California Public Utilities Code or Rule 9 of the Rules of Procedure of this Commission inasmuch as this complaint is an attack on the reasonableness of rates and charges for telephone service by only one subscriber.

Findings

Upon consideration of the evidence the Commission finds that:

1. The complaint is not an attack on the reasonableness of rates and charges of defendant.

2. The complaint is directed to the conditions of service which govern the free listing of business service telephones in the Classified Telephone Directory.

3. The provisions of defendant's Schedule Cal. P.U.C. No. 17-T, "Directory Listings, Special Conditions, 2.a.(4) Telephone Number" apply only to the alphabetical (white) section of a telephone directory.

4. Defendant's rule governing the listing of business service telephones in the Classified Telephone Directory is reasonable and unambiguous.

Based upon the foregoing findings of fact, we conclude that (1) defendant's motion to dismiss the complaint should be denied; and (2) complainant's request that Schedule Cal. P.U.C. No. 17-T, "Directory Listings, Special Conditions, 2.a.(4) Telephone Number" be modified should be denied.

O R D E R

IT IS ORDERED that:

1. Defendant's motion to dismiss the complaint is denied.
2. Complainant's request that Schedule Cal. P.U.C. No. 17-T, "Directory Listings, Special Conditions, 2.a.(4) Telephone Number" be modified is denied, and the complaint in Case No. 7727 is hereby dismissed.

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

Dated at San Francisco, California, this 14th day of July, 1964.

Fredrick B. Hobluff
President

George E. Brown

William B. Bernard

Commissioners

Commissioner Everett C. McKee, being necessarily absent, did not participate in the disposition of this proceeding.