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Decision No. 83993

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

WALLY PERRY, dba WALLY PERRY
BAIL BONDS,

Complainant,

VS.

PACIFIC TELEPHONE & TELEGRAPH
COMPANY.

Defendant.

Case No. 9856

(Filed January 10, 1975)

OPINION AND ORDER

Complainant is a bailbondsman and alleges that for the last eighteen years he has been advertising in defendant's classified directory.

A dispute arose in 1973 as to a portion of the advertisement. Complainant withheld payment because of this dispute. Complainant alleges that from April, 1974 to December, 1974, no action was taken by either party. He further alleges that by notices postmarked December 18, 1974, defendant cancelled all advertising of complainant, including advertisements allegedly not in dispute and currently paid. Copies of these notices were enclosed as exhibits to the complaint. These notices indicate that the Palo Alto and Los Altos directories will close on December 19, 1974. Complainant alleges payment in full for the disputed amount of the defective advertising on December 23, 1974. He asks for a Commission order requiring the inclusion of the advertising in the directories, claiming that exclusion will cause him irreparable injury.

The Commission is aware that the observance of closing dates of directories is a matter of practical importance to defendant. We are also aware that these dates may not be waived indiscriminately, since this might be conceived to be a preference to particular customers.

In the present instance there would appear to be good cause to waive the closing date, if possible. Accepting complainant's verified allegations, it appears that both parties procrastinated until the final minute. It further appears that complainant received a notice postmarked December 18, 1974 (the date of receipt is not stated) informing him that the closing date is December 19, 1974, thereby practically foreclosing payment before the closing date.

Complainant does not explain why he waited until January 10, 1975 to bring this matter to the Commission's attention. He also does not explain a notation on defendant's cancellation notice that could be an indication of hand delivery of the notice on December 12, 1974.

In any event we are aware that classified directory advertising is vital to a bailbondsman. We also will take into consideration the fact that complainant appears willing to accept the identical advertisement printed last year, and has paid in full. In order to do substantial justice we will direct defendant to open the Palo Alto and Los Altos classified directories for complainant's advertisement if it is still possible without total disruption of the makeup of the new directories and their scheduled publication. If defendant believes that such disruption and interference would occur, it should file for rehearing and suspension of the effective date of this ex parte decision. Similarly, if defendant has not been paid in full for the advertisements in the directories in question, it should file for rehearing, alleging this conflict in facts.

Since this grants defendant all the relief he requested there is no need for public hearing.

IT IS ORDERED that:

1. Defendant shall include the same advertisements of complainant in its new Palo Alto and Los Altos directories as were included in its current directories.

2. If complainant's advertisements cannot be included within these new directories without total disruption of the makeup of the new directories and their scheduled publication, defendant should file for rehearing of this order.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 14th day of JANUARY, 1975.

Veronica L. Spence
President
William J. Symons, Jr.
William J. Symons, Jr.

Commissioners