

Decision No. 87404 June 1, 1977

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DREW BRADFORD FELDMAN of
CREATIVE ELECTRONICS COMPANY,

Complainant,

vs.

GENERAL TELEPHONE COMPANY
OF CALIFORNIA,

Defendant.

Case No. 10213
(Filed November 29, 1976)

Drew Bradford Feldman, for Drew Bradford Feldman
of Creative Electronics Company, complainant.
Edward D. Schoch, Attorney at Law, for General
Telephone Company of California, defendant.

ORDER OF DISMISSAL

Complainant alleges that he was denied the ability to purchase advertising in defendant's yellow pages telephone directories which would be descriptive of the services rendered by complainant's business, those services being in the field of counter-surveillance and bug and wiretap detection. Complainant seeks an order requiring defendant to accept the requested advertisement. In its answer, defendant admitted that it had refused to accept the requested advertisement and alleged that the refusal was based on defendant's directory standards which prohibit all advertising copy pertaining to wiretapping or bugging, including the detection of such wiretapping or bugging. As affirmative defenses, defendant alleged that complainant lacked standing to challenge defendant's directory standards on the grounds that complainant was not the customer of record for the telephone service stated in the complaint and that the

telephone service was residence service and thus not entitled to purchase yellow pages advertising. With its answer defendant also filed a motion to dismiss for failure of the complaint to meet the statutory requirements of Section 1702 of the Public Utilities Code. Public hearing was held before Examiner Bernard A. Peeters on March 18, 1977 in Los Angeles.

At the commencement of the hearing, defendant renewed its motion to dismiss, which was taken under submission. Complainant testified as to the nature of his business and the type of advertising copy he desired to purchase. On cross-examination, complainant admitted that he was not the customer of record for the telephone service stated in the complaint (telephone number 392-1075), and that the service was residence service. Defendant then made another motion to dismiss based on complainant's lack of standing to challenge defendant's directory standards. That motion was taken under submission. Since complainant is using a residential telephone, for which he is not the customer of record, for business purposes contrary to defendant's tariff schedules, we will grant defendant's motions and dismiss the complaint. We therefore do not reach the issue of whether defendant did or did not properly refuse to accept complainant's advertising copy.

Findings

1. Complainant is using telephone service under telephone number 392-1075, which is established as residence service, in the conduct of his business.

2. Complainant requests an order from this Commission allowing him to purchase yellow pages advertising in conjunction with that residence service.

3. The use of a residential telephone, at residential rates, for business purposes is not in compliance with defendant's Rule 22 of Tariff Schedule Cal. P.U.C. No. D&R.

4. Classified directory advertising is limited to business telephone service in accordance with defendant's Tariff Schedule Cal. P.U.C. No. D-1.

5. Defendant's motions to dismiss should be granted.

Conclusions

1. Complainant's use of residence telephone service in the conduct of his business constitutes a violation of defendant's filed tariffs.

2. The complaint should be dismissed as it is founded on a tariff violation.

IT IS ORDERED that defendant's motions are granted and the complaint is dismissed.

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

Dated at San Francisco, California, this 1st day of JUNE, 1977.

Robert Batagiel
President
William J. Quinn
James L. Sturgeon
Richard D. Howell

Commissioners