

Mailed 5/14/99

Decision 99-05-012 May 13, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Randall Lee Rogers,

Complainant,

vs.

GTE California, Inc.,

Defendants.

Case 98-08-023
(Filed August 17, 1998)

**ORDER DENYING APPEAL OF
THE PRESIDING OFFICER'S DECISION
AND DISMISSING COMPLAINT**

I. Summary

This order denies the appeal of the Presiding Officer's Decision (POD) by the Consumer Services Division (CSD) and dismisses the complaint on the grounds of mootness. The complainant in the proceeding has applied for and obtained from the Commission a household goods mover's permit. Any basis for disconnecting complainant's telephone service for failure to have a valid household goods mover's permit pursuant to Pub. Util. Code § 5322 is moot by the Commission's grant of the necessary permit. Likewise, the underlying Complaint to prohibit the disconnection of telephone service is moot. Complainant now possesses a valid household goods mover's permit and his telephone is no longer subject to disconnection under Pub. Util. Code § 5322.

II. Background

At the hearing in this matter, complainant alleged that it did not move household goods but only provided trucks and moving materials for consumers wishing to move themselves. CSD appeals the POD pursuant to Rule 8.2 of the Commission's Rules of Practice and Procedure¹ alleging factual and legal errors in the POD. Further, CSD asserts that these errors led to the erroneous conclusion that CSD had not met its burden of proof.

Specifically, CSD alleges that the complainant was unlicensed as a household goods mover by the Commission but nevertheless advertised as such to the public in violation of Pub. Util. Code § 5322. CSD alleges that complainant used his telephone advertisement in the local GTE California, Inc. yellow pages to obtain business from the general public. CSD further alleges that all of this was supported by the testimony of qualified CSD witnesses and was effectively unrebutted by the complainant. Finally, CSD asserts that the Presiding Officer misconstrued the statutory requirements of Pub. Util. Code § 5322 as requiring more than a preponderance of the evidence showing that the complainant held himself out as a mover of household goods and, consequently, the Presiding Officer improperly ordered complainant's telephone line reconnected.

III. Discussion

While CSD appeals the POD on grounds of legal error under Rule 8.2(e), it fails to set forth the relief it requests. As CSD admits, however (at the very end of its appeal in footnote 3), complainant filed an application for a household goods carrier permit on September 9, 1998, and the permit was subsequently issued by the Commission. Whatever illegalities and improprieties that might

¹ Title 20, California Code of Regulations, Section 8.2.

have occurred before the issuance of the household goods carrier permit, they now have become irrelevant under these facts by the issuance of the permit. Complainant is now subject to the same duties and obligations of any other household goods mover and is entitled to the use of his telephone number for the business of household goods moving.

The benefit that might be served by correcting legal error on this record is unclear. CSD effectively requests an advisory opinion based on the facts it has presented at hearing. The Commission, in general and in order to preserve scarce judicial resources, has a longstanding policy against issuing advisory opinions absent a showing of widespread public interest or a particular benefit to the parties from a timely expression of the Commission's views. (*Carlin Communications, Inc. v. Pacific Bell*, D.87-12-017, 26 CPUC2d 125, 130; *Re California-American Water Company*, D.95-01-014, 58 CPUC2d 470, 476.) It is not an effective use of the Commission's decisionmaking resources to correct this record when the charge against the Complainant here, of carrying out an unlicensed household goods moving business, has been satisfied by his application for and receipt of a Commission license for that business.

IV. Conclusion

CSD's appeal of the POD is denied. The Complaint is dismissed as moot.

Comments on the Alternate Decision

The alternate decision of Commissioner Bilas in this matter in this proceeding was mailed April 29, 1999, in accordance with Rule 77.1 of the Rules of Practice and Procedure and Pub. Util. Code § 311(g). No comments were filed on this proceeding.

Findings of Fact

1. CSD alleges that the complainant was unlicensed as a household goods mover by the Commission but nevertheless advertised as such to the public in violation of Pub. Util. Code § 5322.

2. Complainant filed an application for a household goods carrier permit on September 9, 1998, and the permit was subsequently issued by the Commission.

3. Whatever illegalities and improprieties occurred before the issuance of the household goods carrier permit, they now have become irrelevant under these facts by the issuance of the permit.

4. It is not an effective use of the Commission's decisionmaking resources to correct this record when the charge against the Complainant here, of carrying out an unlicensed household goods moving business, has been satisfied by his application for and receipt of a Commission license for that business.

Conclusions of Law

1. Any basis for disconnecting complainant's telephone service for failure to have a valid household goods mover's permit pursuant to Pub. Util. Code § 5322 is moot by the Commission's grant of the necessary permit.

2. Case 98-08-023 is closed.

IT IS ORDERED that Consumer Services Division's appeal of the Presiding Officer's Decision in this proceeding is denied and the complaint is dismissed as moot.

This order is effective today.

Dated May 13, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER.
Commissioners