

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF AN INVESTIGATION)	
INTO RURAL TELEPHONE COMPANY'S)	CASE NO. RUR-T-07-01
COMPLIANCE WITH COMMISSION)	
RULES REGARDING CLASSIFICATION OF)	
LOCAL SERVICE AND NOTICE OF)	ORDER NO. 30306
<u>TERMINATION OF SERVICE</u>)	

In Case No. RUR-T-06-1, the Commission issued Order No. 30140 October 5, 2006, directing Rural Telephone Company to change its tariff regarding classification of telephone service as residential or business. Rules of the Idaho Public Utilities Commission provide for classification for telephone service that is used *primarily* for personal or domestic purposes and not for business, professional or institutional purposes as residential service. The Commission's rule "allows some incidental business use of residential telecommunications service without requiring that it be reclassified as business service." Order No. 30140, p. 4.

Rural changed its tariff as directed by the Commission. On January 12, 2007, Rural customers Bill Uhl and Doris Helge filed a formal complaint alleging that Rural erroneously applied the new tariff terms to reclassify their service as business rather than residential. The Commission subsequently determined to open this docket and issued Order No. 30232 directing Rural to "file an explanation of its procedures regarding classification of Complainants' service as business rather than residential, and regarding its alleged threatened disconnection of service while an informal complaint was pending before the Commission." Order No. 30232, p. 2. The Company filed its explanation on February 26, 2007, and the Complainants filed a response on March 12, 2007. The Commission finds that Rural did not improperly reclassify the Complainants' telephone service and we therefore dismiss the formal complaint.

RURAL'S RESPONSE TO ORDER NO. 30232

Rural stated in its response that based on the information provided in the service application "the Complainants' line should have been classified as a business line when the application for service was submitted." The Company explained that it had inadvertently classified the service to these customers as residential. Response to Order, p. 6. The Company then identified the information it relies on when making a determination to reclassify a customer's service as business rather than residential, as follows:

Whether the customer has used a business name or an individual's name in applying for telephone service;

Whether the customer has requested a residential or business listing (or both) in the service provider's telephone directory;

Whether the customer's assigned number is listed in the residential or business sections (or both) of other telephone directories;

Whether the number is provided as a means of contact in business advertising;

The relative extent to which the assigned number is associated with personal, as opposed to business or commercial, activities; and

Whether the customer is known to conduct business out of the residence.

Response to Order, p. 8. Rural argued that it made a reasonable and diligent inquiry into the facts concerning the use of the Complainants' line, and that "[a]ll of the information it has obtained and reviewed indicates that the Complainants' line is used for business purposes." Response to Order, p. 9 (emphasis in original). The Company based its determination on the following information:

1. In May 1998, the Company received a completed Application for Telephone Service from "Shimoda" requesting voice grade and data/fax network access lines to a house in the Atlanta townsite.
2. The applicant did not provide an individual social security number in the space provided. See <http://www.ssa.gov/employer/stateweb.htm> listing all social security number sequences currently issued or authorized. The Company presumes that the number provided on the Shimoda application for service is a taxpayer or employer identification number.
3. The applicant requested a regular telephone listing in the Company's directory under the name "Shimoda."
4. In the space provided for the Applicant's Signature, the applicant signed "Shimoda."
5. Payment for connection was paid by money order signed by "Shimoda."
6. An Internet search using the Shimoda telephone number 208-864-2158 produced results for the following businesses advertising OHV, ATV and

snowmobile training and certification expert witness services, self-help/motivational book sales and seminars:

- a. Forest Education Assembly, Box 32 Atlanta, ID 83601
 - b. FEA c/o Uhl, P. O. Box, Atlanta, ID 83601
 - c. OHV Training, c/o P. O. Box, Atlanta, ID 83601 USA (offering field training and corporate seminars in OHV, ATV and snowmobile riding)
 - d. The Billy Uhl Riding School (offering training in OHV, ATV and snowmobile riding)
 - e. emotionalstrength.com, FEA c/o Uhl, P. O. Box, Atlanta, ID 83601.
7. Internet searches, including searches using Internet-based business and residential telephone directories such as AllPages.com, phonenumber.com, PeopleLookup.com, Qwest's DexOnline.com, WhitePages.com, Superpages.com, ATT's AnyWho.com, Online Directory and Switchboard, using the number "208-864-2158" or the names "Shimoda" or "Uhl" and "Helge" with "Atlanta, ID" produced results only for Shimoda.

Response to Order, pp. 9-10. Rural denies that its decision to reclassify Complainants' service is retaliation for their having complained about service outages that occurred during the winter of 2005-2006, which were the subject of Case No. RUR-T-06-01. Instead, the Company stated "an extensive search of reasonably available, independent information sources, without exception, indicates that the line is being listed and used only for business purposes." Response to Order, pp. 10-11. The Company did concede that reclassification occurred after the Complainants had drawn the Company's attention to their account with their communications with the Company and the Commission Staff.

COMPLAINANTS' RESPONSE

The Complainants contend that Rural discriminated against them with its decision to reclassify their service from residential to business and that the decision resulted from their complaints about outages. The Complainants explained that "Shimoda" is the name of a family trust, and that they would have used one of their individual names when applying for service if Rural had raised the issue then. The Complainants also believe that Rural is discriminating against them because the Company is not reclassifying other customers in Atlanta or in other

parts of its service territory. The Complainants provided the Company with a list of customers they believe should also be reclassified if the Shimoda account is reclassified. Rural did reclassify one other customer account at the time the Shimoda account was reclassified.

The Complainants also argue that Rural erred by "assuming that any listing on the Internet of a phone as business account automatically proves: because a phone number shows up on the Internet in a way associated with any business, that the phone account is PRIMARILY used for business; that an Internet listing is accurate, even though any Internet user knows that anyone can post anything on the Internet, whether or not it is true." Complainants' Response, p. 2. Complainants also contend, although the Shimoda telephone number is posted on their business web sites, that in itself does not prove their use of the line is primarily for business. Complainants assert "it is clear Rural has not proven primary usage or intent beyond a shadow of a doubt," and they "firmly state that we use our phone primarily for personal use and as access to the Sheriff's office and 911." Complainants' Response, p. 11.

DISCUSSION

After reviewing the record in this case, the Commission finds that Rural did not act unreasonably, unfairly, or inconsistently with its tariff in determining to reclassify the Shimoda account as business rather than personal. It appears that the Complainants' 1998 application for service gave a reasonable indication regarding the anticipated use of the line, where service was not requested under an individual's name, a tax identification number rather than a social security number was provided, and the applicants indicated they were self-employed. The fact that Rural did not question the classification then does not preclude the Company from later reviewing the classification. Nor does the fact that Rural's attention was drawn to the account by contact from the customer prevent the Company from reviewing the classification of service on the account. We find that Rural acted reasonably in obtaining information about the account, and rationally and fairly based its decision on the best information available to it. Therefore, the Commission cannot rule that the Company's classification of the service was in error. Based on the information available to Rural, that it provided to the Commission, we find that Rural based its decision on reasonable evidence when it determined to reclassify the Shimoda account as business rather than personal. Totality of circumstances includes but does not overemphasize Internet search results.

We note that Rural has not attempted to collect for past underbilling as a result of the initial residential classification on the account. State law and the Commission's Customer Relations Rules allow a telephone company to request payment for up to three years when a billing error occurs, but the rule also states that the company may waive collection on past underbillings. IDAPA 31.41.01.204. We find that Rural has waived its right to rebill for the difference between the residential and business rate on past service on the Shimoda account by its failure to propose this in its response to the Commission. Based on the facts presented, the Commission would not authorize rebilling for past amounts and instructs Rural to charge the business rate on a going-forward basis.

The Commission has reviewed the record on the other issues raised by Complainants and concludes they are not entitled to any relief on those issues. We also remind Rural, however, that it must comply with Commission rules regarding termination of service notices. The Company is directed to work with the Commission Staff, if necessary, to ensure its notices meet the standards required of all telephone companies.

ORDER


IT IS HEREBY ORDERED that the Complainants are not entitled to relief from Rural Telephone Company as a result of the Company's classification of their service as business, and the Complaint is dismissed and the case closed.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

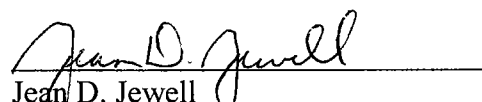
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 20th
day of April 2007.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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