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**ORIGINAL**

Decision No. 74602

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Cook's Telephone Answering and Radio  
Inc. and Fresno Mobile Radio, Inc.,

Complainants,

vs.

Jack Loperena, doing business as  
Radio Dispatch Fresno,

Defendant.

Case No. 8761

In the Matter of the Suspension and  
Investigation on the Commission's  
own motion of the tariff sheets  
covering the furnishing of "Private  
Mobile Radio Service" filed under  
Advice Letter No. 4 by Jack Loperena,  
dba Radio Dispatch Fresno.

Case No. 8768

Lester W. Spillane, for complainants.  
Berol, Loughran & Geernaert, by Bruce R.  
Geernaert, for defendant and respondent.  
John D. Quinley, for the Commission staff.

OPINION AND ORDER

By filing (Advice Letter No. 4) made on January 12, 1968  
Jack Loperena, dba Radio Dispatch Fresno, filed certain tariff  
sheets providing for the offering of "Private Mobile Radio Com-  
munication Service", Schedule No. L-3.

On January 30, 1968, complainants filed a complaint pro-  
testing said tariff.

The filing was suspended by the investigation order  
herein.

At the request of the parties, a prehearing conference was held on June 5, 1968 for the purpose of determining:

- (1) The factual issues which the respective parties contend would be issues at a hearing;
- (2) The factual evidence which they would offer relevant to each such issue;
- (3) The legal issues involved in the determination of these matters;
- (4) The contentions and authorities that each respective party would urge as being pertinent or determinative in connection with these matters; and
- (5) Any other matters as may expedite orderly conduct and disposition of the proceeding.

It should be noted that the prehearing conference accomplished only two things because of the many intransigent differences between complainant and defendant.

- (1) Agreement as to hearing dates.
- (2) Agreement by all parties that exhibits would be distributed 10 days in advance of the hearing.

Public hearing was held before Examiner Gillanders at San Francisco on July 23, 1968.

Mr. Loperena introduced two exhibits not previously distributed, which were received into evidence. During cross-examination regarding his exhibits, he requested permission to withdraw his tariff filing as he did not wish to bear the expense of a protracted hearing.

The Commission concludes that such request should be granted.

Therefore, IT IS HEREBY ORDERED that:

1. The suspension of the rates, classification, practices or rules in the tariff sheets filed by Jack Loperena, dba Radio Dispatch Fresno, by Advice Letter No. 4 is hereby made permanent.

2. Case No. 8768 is discontinued, and Case No. 8761 is dismissed.

Dated at San Francisco, California, this 27<sup>th</sup> day of AUGUST, 1968.

William J. Quinn  
President  
John E. Hill  
Augustine  
Paul P. Morrissey  
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.