

Decision No. 80608

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

THE PACIFIC TELEPHONE AND TELEGRAPH
COMPANY,

Complainant,

vs.

INDUSTRIAL COMMUNICATIONS SYSTEMS,
INC.; INTRASTATE RADIOTELEPHONE, INC.
OF LOS ANGELES; MOBILFONE, INC. and
RADIO PAGE COMMUNICATIONS, INC.,

Defendants.

Case No. 9450
(Filed October 6, 1972)ORDER DENYING CEASE AND DESIST

By complaint filed October 6, 1972, the Commission was requested to issue an order "... prohibiting the defendants from utilizing the guard band frequencies to provide any service to the public, and from publicizing, advertising or offering any such service, pending final resolution of this matter and of Case Nos. 9395, 9396, 9397 and 9440."

Complainant further requested that its complaint be consolidated with the above cases.

These cases deal with Advice Letter filings for personal signalling service in the Los Angeles Extended Area, and the Commission investigation thereon. As of the present time, Case No. 9440 has not been consolidated with the other matters. Case Nos. 9395, 9396 and 9397 are set for hearing before Examiner Boneysteele on November 10, 1972.

Inasmuch as the subject matter of the instant request for a cease and desist is presently set for hearing before the Commission

In support of this application the corporation states, among other things, "The number of consumers receiving electricity from Applicant and the area of service in California are both small and constitute only a very small portion of Applicant's total plant and operations, as demonstrated by the following:

"(a) In 1971 Applicant provided an average of 685 residential services in Nevada and only 7 in California; the California residential services equal only about 1% of Applicant's total residential services.

"(b) In 1971 Applicant provided an average 1050 services in Nevada and only 17 in California.

"(c) In 1971 Applicant's Nevada operations provided \$776,700 in revenues; the California operations provided \$14,550 in revenues.

"(d) There are 154 miles of transmission line and 776 miles of distribution line in Applicant's Nevada system; in its California system there are no transmission lines and only 11 miles of distribution line."

After consideration the Commission, pursuant to Sections 329 and 353 of the Public Utilities Code, finds that the application of Articles 5 and 6, Chapter 4, Part 1, Division 1 of the Public Utilities Code to Valley Electric Association, Inc. is not necessary in the public interest, and concludes that this application should be granted. A public hearing is not necessary.

O R D E R

IT IS ORDERED that Valley Electric Association, Inc.
is hereby exempted from the provisions of Articles 5 and 6,
Chapter 4, Part 1, Division 1 of the Public Utilities Code.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 11th
day of OCTOBER, 1972.

Vernon L. Shuman
President

William J. ...

...

...

Commissioners

Commissioner D. W. Holmes, being
necessarily absent, did not participate
in the disposition of this proceeding.

3. The encumbrance of operating rights for the limited purpose set forth in the text of the application would not be adverse to the public interest.

On the basis of the foregoing findings we conclude that the application should be (a) dismissed for lack of jurisdiction with respect to the security agreement applicable to accounts receivable, and (b) granted with respect to the security agreement applicable to operating rights, provided that the text of the agreement is modified so as to limit its applicability to the presently existing tax problem set forth in the application. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. F. J. Burns Draying, on or after the date hereof and on or before December 31, 1972, may execute a security agreement in substantially the same form as that attached to the application as pages 1 and 2 of Exhibit A modified in scope consistent with the foregoing opinion.
2. The application, insofar as it pertains to a security agreement applicable to accounts receivable, is hereby dismissed.
3. Within thirty days after executing the security agreement herein authorized, F. J. Burns Draying shall file a copy thereof with the Commission.

4. The effective date of this order is the date hereof.

11th Dated at San Francisco, California, this
day of OCTOBER, 1972.

Vernon L. Sturgeon
President
William J. ...
...
...
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.

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and involves disputed tariff interpretations, the Commission does not believe it appropriate to issue a cease and desist order on the pleadings. Therefore, a cease and desist order will be denied. No action on complainant's request to consolidate this matter with Case Nos. 9395, 9396, 9397 and 9440 will be taken at this time.

IT IS ORDERED that complainant's request for an immediate cease and desist order is hereby denied.

The Secretary is directed to mail a copy of this order to all parties in Case Nos. 9395, 9396, 9397 and 9440. The Secretary is further directed to make formal service of the complaint herein on all defendants. Answers to this complaint may be filed by defendants in accordance with Rule 12 of the Commission's Rules of Practice and Procedure, but are not required in this instance.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this
14th day of OCTOBER, 1972.

Vernon L. Sturgeon
President
William J. Smith

[Signature]

Commissioners

[Signature]
[Signature]
Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.