JR

Decision No. 82520

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and Investigation of the Commission's own motion of tariffs filed under Salinas Valley Radio Telephone Company Advice Letter No. 19 establishing a Foreign Exchange Line and Secondary Repeater in the lower Santa Clara Valley.	Case No. 9561 (Filed May 30, 1973)

Philips B. Patton, Attorney at Law, for Salinas Valley Radio Telephone Company, respondent.
Carl B. Hilliard, Jr., Attorney at Law, for Mobile Radio System of San Jose, Inc., protestant.
L. E. Best, for Western California Telephone Company, and Jerry Grotsky, for Peninsula Radio, interested parties.
R. Roger Johnson, for the Commission staff.

O P I N I O N

On April 30, 1973, under Advice Letter No. 19, Salinas Valley Radio Telephone Company (Salinas) filed tariff sheets providing for the establishment of a new foreign exchange line to the city of Gilroy and the offering of service to the metropolitan areas of the cities of Gilroy, Hollister, and San Juan Bautista. On May 10, 1973 a protest was received from Mobile Radio of San Jose, Inc. (Mobile). On May 30, 1973 the Commission instituted Case No. 9561.

On July 2, 1973 the Commission notified the parties that hearing was set for August 8, 1973. By letter dated July 12, 1973 Mobile requested a 60-day continuance because its president was recovering from an extended illness and was unable to assist in preparing its case. By letter dated July 20, 1973 Salinas opposed

granting an extension of time. On August 1, 1973 Mobile filed a "Motion for Continuance" and a "Motion to Dismiss". On August 2, 1973 Salinas filed an "Opposition to Motion for Continuance" and an "Opposition to Motion to Dismiss".

By Decision No. 81816 dated August 28, 1973 the tariff sheets were suspended until February 28, 1974. By notice dated August 6, 1973 the matter was temporarily removed from the calendar. By notice dated October 12, 1973 the matter was set for hearing on November 15, 1973. On November 23, 1973 respondent filed a motion (reproduced below) which succinctly relates what took place at the hearing.

"RESPONDENT'S MOTION FOR PERMANENT TARIFF SUSPENSION

"This matter came on regularly for hearing before Examiner John Gillanders on Thursday, November 15, 1973 at 10:00 a.m. in the County Courthouse at Hollister, California. The respondent, Salinas Valley Radio Telephone Company, was represented by its attorney Philips B. Patton. The protestant, Mobile Radio System of San Jose, Inc., was represented by its attorney Carl B. Hilliard.

"Mr. Hilliard objected that the proposed introduction into evidence by the respondent of a radio frequency contour map from Salinas Valley Radio Telephone Company's proposed transmitting site on Fremont Peak would inject new issues into the case, inasmuch as Mr. Hilliard's client had understood from Advice Letter Number 19 and the tariffs suspended that the proposed radio transmitter would be located at another site. Mr. Hilliard moved that the hearings be adjourned, claiming surprise, and that the change in transmitter location required permanent suspension of the tariffs involved.

"Counsel for respondent agreed that the hearings should be adjourned pending decision by the Commission on protestant's motion for permanent suspension. Thereafter the hearings were adjourned pending decision by the Commission.

> "Without admitting or commenting on the validity of the protestant's claims, respondent believes that it would be more economical of the time and efforts of all of the parties, including the Commission, if the tariffs proposed in Advice Letter 19 were permanently suspended by the Commission at this time, without prejudice to Salinas Valley Radio Telephone Company taking subsequent action by advice letter or application to establish a secondary repeater and a foreign exchange line in the lower Santa Clara Valley.
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> "Salinas Valley Radio Telephone Company requests the Commission to permanently suspend the tariffs submitted with its Advice Letter Number 19."

Findings and Conclusion

There is no question that the time and efforts of all concerned would be better spent if a fresh start was made towards resolving the dispute between Salinas and Mobile. We conclude therefore that Salinas' latest motion should be granted and the parties can, if they desire, take further action. We caution the parties that we expect any action that may be taken will only be taken after thorough study.

O R D E R

IT IS ORDERED that tariff sheets, filed under Advice Letter No. 19 by Salinas Valley Radio Telephone Company, are permanently suspended.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 5th day of MARCH, 1974.

President

Commissioners

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

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.