

BP

Decision No. 83780

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CITY OF FIREBAUGH, a Municipal  
Corporation,

Complainant,

vs.

Case No. 9821

SOUTHERN PACIFIC TRANSPORTATION  
COMPANY, a Corporation,

Defendant.

ORDER GRANTING INTERIM RELIEF

The City of Firebaugh (Firebaugh) filed this complaint urging that the Commission require defendant Southern Pacific Transportation Company (SP) to restore its station in complainant city to agency status pending hearing and decision by the Commission.

The complaint alleges that the agency status was discontinued as of October 5, 1974, despite SP's knowledge of a resolution by Firebaugh's city council protesting this closure. Firebaugh contends that its failure to file this resolution with the Commission was the result of its understanding that it had until October 5, 1974 in which to dispatch the resolution. The source of this "understanding" is not stated in the complaint.

SP's action in closing the agency in question was in strict accordance with General Order No. 36-C of this Commission. By letter dated August 27, 1974, it notified the Commission of its intent to close the agency. The Commission's Secretary informed SP of a protest to the closure and advised SP to refrain from closure other than by a Commission decision in a formal application. SP normally complies with these notifications from the Secretary. However, in this instance it specifically advised the Commission that it would not delay the agency closing without formal Commission action. Such formal action was not forthcoming. The agency was closed on October 5, 1974.

We emphasize that there was nothing illegal in SP's actions. We do take note that SP was aware of a filed protest and the Secretary's request that the closure not be made without formal application. The verified complaint herein indicates that SP knew of the existence of a resolution by Firebaugh protesting the closure. It further alleges that SP attempted to convince the City Council to reconsider this position.

The Commission finds:

1. That there was no illegal act by SP in closing the agency station at Firebaugh.
2. That SP did not act with the degree of frankness that we expect of public utilities when it declined to follow its normal procedure of honoring a Secretary's letter by refraining from closing an agency. SP should have informed the Commission of the opposition of Firebaugh in the same letter in which it stated its intention to carry on the closing.

We conclude that SP should be required to reopen the Firebaugh agency until further order of the Commission.

IT IS ORDERED that:

1. Defendant SP shall restore Firebaugh to agency status forthwith.
2. A hearing on this complaint shall be held at an early date. Defendant SP is relieved of the obligation of filing an answer to the complaint, though it may do so if it wishes.

The parties are cautioned that hearings on this matter may be set on less than 10 days notice. They are further cautioned that in this proceeding, as in the normal complaint proceeding, the burden of proof is on the complainant.

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The effective date of this order is the date hereof.

Dated at San Francisco, California, this 26th  
day of NOVEMBER, 1974.

James L. Steigen  
President

William S. Quinn, Jr.

Robert E. McLaughlin  
Commissioners