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Decision No. 83876

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 SUSPENDING DECISION NO. 83780
AND DENYING REHEARING

The Southern Pacific Transportation Company (SP) seeks rehearing and/or suspension of our Order Granting Interim Relief (Decision No. 83780) in this matter. By that decision we ordered SP to restore agency service at its Firebaugh station and we determined that public hearing should be held on the complaint of the City of Firebaugh (Firebaugh) regarding said station. SP alleges that the complaint does not state a cause of action and should therefore be dismissed.

Firebaugh's complaint alleges that SP acted illegally in eliminating agency service at the Firebaugh station. SP correctly points out that the transactions in this matter demonstrate that it acted in accordance with the provisions of General Order No. 36-C and that the Commission recognized this fact in Decision No. 83780. However, Firebaugh has not been given an opportunity to amend its complaint to eliminate any defects as provided in Rule 12 of our Rules of Practice and Procedure, and we will therefore refrain from dismissing the complaint at this time so as to afford Firebaugh such an opportunity. If the amended complaint properly states a cause of action we will then set the matter for hearing.

SP also alleges that the Commission has acted improperly in ordering it to restore agency service pending such hearing and a determination thereon. We are persuaded by SP's argument that we have acted without first providing an opportunity to be heard.

Therefore, we will also suspend that part of our order in Decision No. 83780 which ordered SP to restore Firebaugh to agency status on an interim basis.

IT IS ORDERED THAT:

1. Southern Pacific Transportation Company's request for rehearing and/or dismissal of the City of Firebaugh's complaint is hereby denied.

2. Ordering paragraphs Nos. 1 and 2 of Decision No. 83780 are hereby suspended.

3. Pursuant to Rule 12 of our Rules of Practice and Procedure the Secretary is directed to notify the City of Firebaugh of the procedural defects raised by the Southern Pacific Transportation Company. Thereafter, we will proceed with this matter as provided for in those rules.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 17th day of DECEMBER, 1974.

Veran L. Sturgeon
President
William Lyndon Jr.
[Signature]
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Robert E. McLean
Commissioners