

ORIGINAL

Decision 89-12-010 December 6, 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LORRAC CRAIG, et al.,)
)
 Complainants,)
)
 vs.)
)
 HAPPY VALLEY TELEPHONE COMPANY)
 (U-1010-C),)
)
 Defendant.)

Case 89-01-033
(Filed January 24, 1989)

Kimberly B. Morgan, for herself and
Steve Morgan; Carl McCarthy, Joyce
Brown, Lori D. Craig, and G. Mark
Groves, for themselves; complainants.
 Messrs. Davis, Young, Beck & Mendelson, by
Jeffrey F. Beck, Attorney at Law, for
 Happy Valley Telephone Company,
 defendant.

O P I N I O N

Summary

This decision grants complainants' request that Happy Valley Telephone Company (Happy Valley) be required to replace the obsolete radio system now providing them substandard telephone service, with a landline telephone cable to their premises in East Fork so that they may receive safe, reliable, clear and continuous telephone service.

Happy Valley is allowed 12 months to comply with this order so that it may coordinate the landline cable construction to permit it to serve up to 48 new potential subscribers along the Eastside Road (County 160) cable route to the premises of the complainants in East Fork, and to avoid severe winter weather during the construction phase.

Happy Valley is also directed to do its utmost to maintain the existing radio system until cut-over of service to its yet to be constructed cable facilities.

Basis of Complaint

On January 24, 1989, Lorrac and Lori Craig and various other complainants representing 12 premises on the east side¹ of Trinity Lake (also known as Clair Engle Lake) filed a complaint (Case (C.) 89-01-033) with this Commission stating that their telephone service rendered by Happy Valley from its Trinity Center central office via a radio system was inadequate, often unclear, noisy, unreliable and sometimes unsafe. Complainants' contend that:

1. The system has not worked continuously since it was installed in the late fall of 1986. (Since then and the date of filing the complaint the system was out of order over 300 days.)
2. The phone rings and when picked up, it keeps ringing.
3. The phone is often dead when picked up (no dialing possible).
4. Often the phone does not ring but the callers do hear a ring back.
5. Phones cut off during long or short calls.
6. They hear other parties talking on their calls.
7. They hear other phones ring during calls.
8. Phones are often noisy.

¹ The complainants in this proceeding are located across the lake from Trinity Center in a cluster of residences and two small businesses in an area known as East Fork.

9. System works part of the day only and goes dead when batteries (charged by solar panels) are discharged.
10. Paying for single party service while getting party line service is not reasonable.
11. Finally, during a severe rain and electrical storm, lightning apparently struck a tree and the phone cable from the radio and rendered the system inoperative. The lightning strike continued to travel down the cable, damaged a computer, a phone, and a bell and set a fire in one of the complainants' homes after piercing and igniting a propane pipe to which it was negligently grounded.

To resolve these problems, complainants ask that Happy Valley be required to replace this substandard and obsolete radio system with a regular landline telephone cable from its Trinity Center central office to their premises in order to provide them with "standard"² telephone service.

Happy Valley's Answer to Complaint

In its response to the complaint Happy Valley asserted that complainants are located in the Trinity Center Exchange, but are in an area that is not near any of its land-based local exchange facilities [cable plant]. Therefore, in an effort to provide telephone service to complainants, Happy Valley sought and installed an experimental radio technology known as the McRorey Radio System. This system was then powered by storage batteries which were charged by solar energy converted to electricity by photovoltaic panels. Happy Valley hoped that this technology would provide reliable telephone service to the complainants despite the

² As used, this term implies safe, reliable, clear, and continuous telephone service comparable to that which the majority of Californians receive as standard telephone service today.

absence of commercial electric power in the area. Happy Valley used four separate pairs of antennas and receiver-transmitters, one set of four located at Trinity Center and the other set of four located near the complainants to provide four radio links to serve 12 customers with three parties on each radio link (See Appendix A for illustration).

Happy Valley made repeated efforts to provide continuous and reliable telephone service to the complainants using this experimental radio system and was disappointed that limitations of the equipment made the service unreliable. It agreed that service quality problems existed and outages were frequent.

Happy Valley conceded that the affected customers did bring their service complaints to its attention and to the Commission, and that it tried to work out the problems, but given the failure of the equipment to provide a reasonable level of service quality it believes that the service should be discontinued. Happy Valley rationalized that: "In absence of commercial power, it is not feasible to provide any other form of local exchange access for these customers."³

Field Visit and Hearing

On May 11, 1989, the assigned Administrative Law Judge (ALJ), accompanied by two of the complainants, Happy Valley's manager, its attorney and a staff technical expert from the Commission's Advisory and Compliance Division (CACD) toured the route to the East Fork to view and become familiar with current equipment and service, and with the extent of the work and likely investment needed to provide standard landline telephone service to the complainants.

³ It was later borne out at the hearing that landline telephone cable and/or equipment cost rather than lack of available commercial power was the major concern.

While visiting the premises of the two complainants, the parties made a number of local test calls to and from Trinity Center. The phone at one of the complainants' premises worked fairly well, but an associated loud ringing bell did not work at all. The other complainants' phone could dial out (initiate calls) but did not ring when called and thus could not receive calls unless the handset was picked up at the exact time a call was made. The voice level was also very loud causing a certain amount of feedback and resulting discomfort during conversations.

Only two of the four pairs of receiver-transmitters were in service on May 11, 1989 (see facilities illustrations in Appendix A). This condition was similarly represented in Exhibit 1 received at the hearing. It was also learned during the field visit of the Trinity Center central office that since the manufacturer of the radio equipment is no longer in business, it is necessary to remove (cannibalize) certain special parts from one defective unit to repair another. At the time of the visit only enough operating units (four) were available to maintain two of the four radio links in service to East Fork.

On May 12, 1989, a public hearing was held in Trinity Center. At the outset of the hearing, counsel for Happy Valley requested and was granted the opportunity to highlight a 13-page report (Exhibit (Exh.) 1) that Happy Valley had prepared and delivered to the complainants that morning.⁴

The Parties' Opening Statements

Referring to Exhibit 1, counsel acknowledged most of the service problems described in the complaint. He went on to state that Happy Valley has done whatever it was able to do to try to

⁴ Complainants agreed to allow Happy Valley's counsel to provide a brief overview of Exhibit 1 and present his witness for cross-examination on Exhibit 1 prior to presentation of complainants' case.

make the radio service work better than it does. Happy Valley had repeatedly repaired the radios but they simply would not operate reliably on a continuous basis.

He asserted that when Happy Valley acquired the radio system it had assurances that it would be adequate for the anticipated usage. However, in reality it was not adequate for more than relatively short conversations. In addition to the radio transmitter-receiver section failures, these units contained circuits to provide switching of calls⁵ to each of the three parties served by each radio, but the circuits did not operate reliably on a continuous basis. He stated that some parts for these circuits were no longer available thereby implying that it was now impossible to repair and return all of the radio equipment to service.

As an alternative Happy Valley examined alternate equipment such as individual radio systems which could be owned and maintained by each customer. He opined that such systems have been available for years, but for the East Fork area it seemed that the radio signal strength varied widely and it was not likely that adequate reception could be obtained at each of the complainants' premises. He pointed out that the present radio system antennas had to be carefully planned and located where a sufficient signal level existed.

5 Each radio receiver-transmitter unit has a large circuit board that provides to three parties the equivalent of dial tone, tone ringing (signaling) voltage, number identification and all the necessary supervisory signals and controls that are normally provided by a central office to each customer.

Happy Valley's counsel then explained that other radio systems such as the newer BETRS⁶ equipment would be costly to install and would likely be prone to many of the same problems as are being experienced today.

Happy Valley also prepared estimates of the costs of two landline cable options which would provide "first quality telephone service" according to its counsel. The first such option would use a submarine cable across Trinity Lake as had been suggested by the complainants. This submarine cable was estimated to cost more than a longer cable which would be placed partly overhead and partly underground along the county road to the East Fork from the terminus of Happy Valley's existing cable facilities.

That final option was estimated to cost about \$150,000 which Happy Valley's counsel argued exceeded a normal level of investment to serve 12 customers with telephone service. Drawing on that background, he asserted that Happy Valley had no disagreement with any of the listed service complaints, but alternatives are costly and Happy Valley will leave the final decision to the Commission.

Carl McCarty (McCarty), an East Fork resident and telephone customer, appeared as a spokesperson for complainants. In his opening statement he disagreed that the McRorey radio system was ever described to any of the complainants as experimental when it was first installed. He said its purchase and installation was perhaps a bad decision on the part of Happy Valley's management since he opined that more reliable radio equipment does exist. McCarty contended that the solar power source on occasions

6 BETRS is the acronym for Basic Exchange Telephone Radio System, an emerging technology which resembles the equipment employed by Happy Valley at East Fork and Trinity Center, but which uses digital information formats for more reliable and quieter communication.

contributed to the telephone outages due to its inability to keep the batteries charged at all times. He also opined that it would likely have cost Happy Valley less to bury a telephone cable in the first place rather than invest in the radio system.

Following McCarty's opening statement, it was agreed by the parties to have Charles D. Blair (Blair), Happy Valley's general manager, testify first and present Happy Valley's position regarding future service to East Fork.

Blair described how Happy Valley acquired the Trinity Center Exchange from Continental Telephone Company for \$860,000 and subsequently invested over \$1,000,000 to install a new solid state electronic switch in its central office and to make other improvements for serving the 360 customers in that exchange. (Exh. 1 and Tr. p. 24.)

He explained that in 1986, Happy Valley faced with excessive estimated cost for installing a cable to East Fork. To accommodate potential customers for telephone service in that area, Happy Valley chose the experimental radio alternative currently in place. He visited the SYT⁷ factory in El Paso, Texas where the manufacturer was essentially marrying a standard stock industrial General Electric radio receiver-transmitter with a control board which provides the necessary signaling, dial tone, and the many other control and supervisory functions needed in a telephone system. He said he was satisfied that other telephone companies used the SYT radio system, that SYT appeared to be a reputable and experienced manufacturer with a quality product, "and everything looked fine at the time." On that basis he chose the SYT equipment for use by Happy Valley. (Tr. p. 20.)

⁷ SYT was the manufacturer of the radio system equipment used to serve East Fork, and is now out of business. No one knew what the initials SYT stood for.

After its installation a series of unfortunate events leading up to the current problems convinced everyone that the SYT radio system was not the best choice. These unfortunate events included: a vehicular accident which killed Mr. McRorey, Happy Valley's engineer who designed and installed the radio system; the closing of SYT's manufacturing facility and associated end of spare parts availability, especially the special semiconductor chips and other parts necessary for repairing the SYT radio equipment; and the direct lightning strike in East Fork which caused the failure of most of the radio equipment.

Blair explained that he has since acquired three SYT radio units to be placed in service or used for parts to repair existing units. However, he could only maintain four radio units at the current time (May 12, 1989). He further explained that he now uses North Valley Electronics of Redding, California to repair the radios when they fail. That firm explained to him that the radios were nearing their last repair [the end of their useful life]. "Two sets are totally beyond repair, so we are operating on the last four radios we have." (Tr. p. 13.)

On the question of the experimental nature of the telephone service to East Fork, Blair sponsored a two-page Exhibit 2 which contained a description of the radio system and its operational limitations dated August 11, 1986 together with a cover letter dated November 25, 1987 titled "THE EAST FORK STORY." The cover letter stated that each subscriber on the radio-telephone system received the one page document description of the radio system and its limitations. The cover letter also contained the following statement:

"The solar powered radio-telephone system in the East Fork area is 'EXPERIMENTAL' - a test, a trial project."

It is not apparent from Blair's testimony that this cover letter was ever provided to each customer in East Fork.

Blair concluded his testimony by agreeing to maintain the radio system for "...as long as we can get the radios repaired..." while awaiting the Commission's determination of Happy Valley's request to withdraw the service.

Blair, as manager for Happy Valley, reiterated the company's request to be allowed to remove the existing substandard telephone equipment now serving East Fork and abandon telephone service to that area for the foreseeable future. Blair opined that such a determination should be made by the Commission, but clearly that was still his recommendation on the day of the hearing.

Complainants' Position

The complainants then presented a letter, statements by six persons, and direct testimony by one witness, Lori Craig.

Complainants' statements all addressed the genuine need for reliable telephone service to their premises in East Fork. Many had made specific choices about buying property there, as well as career employment decisions centered around the availability of reliable telephone service. The statements and correspondence also explained the personal difficulties occasioned by the repeated failures of the telephone system and how those failures materially affected the health and safety, livelihood, comfort and convenience of the residents of East Fork.

Complainants also stated that at no prior time were they told that the radio system planned for/or serving East Fork would be or was an experimental phone system.

Lori Craig, a complainant who has resided in East Fork for two and a half years, presented direct testimony about her family's specific needs for telephone service as follows:

"The first thing I would like to bring up is the fact that my husband couldn't be here today, he's down in Ventura right now being qualified for a class that is job related. He is a resident deputy of Trinity Center for the City of Trinity Center in the outlying areas. Our feelings on having a phone is that we absolutely need one. If we do not have a

phone, his job could be in jeopardy, because there is no way of getting in touch with the deputy out here, short of leaving his police radio on constantly. His radio works fine in his car, and, I mean, they call him all the way from Weaverville. No matter where he is, his radio seems to work real fine. And myself, I have a health problem, I am epileptic, and I need a telephone that works and is reasonable in order for me to get medical help should I need it.

"We have been extremely dissatisfied with this. Each time we had called to try to set up meetings with Mr. Blair, he pretty much fielded us out into different areas and never ever met with us. This is the first time I have laid eyes on the gentleman. I feel the management of this entire situation has been -- is just total negligent. They -- When we made our complaints, our radios were switched around. Somebody's phone would do one thing, and the next day, it worked just fine, but the other person's phone were not working. And as we have already stated, the phones just don't work. My children, here at school, in case of emergency, have not been able to get in touch with us. And it's just a pretty lousy system in the way it's been handled, I don't feel has been professional at all." (Tr. pp. 36 & 37.)

In response to a question from the ALJ, Mrs. Craig stated that she believed that all or nearly all 12 of the occupied properties in East Fork would subscribe to telephone service if it was reliable.

Complainants also questioned the prudence of Happy Valley's decision to invest approximately \$50,000 in the radio system to serve East Fork and then to abandon it with little or no

salvage value⁸ at the end of only two and a half years of service.

McCarty then summarized the complainants' position as well as his own. He asserted that he had intended to make a viable business flourish on his East Fork property. He intended to operate his small ranch as a lodge, a bed and breakfast facility, and his wife intended to raise quarter horses. Prior to purchasing the property he approached Blair and was given the security that a phone system would be installed in East Fork. McCarty claims that he really tried to make a going business of his property last summer [1988]. However, with numerous outages people were unable to make and confirm reservations and he lost business. He even brought Happy Valley to small claims court and was awarded an undisclosed sum of money because he proved that he lost business through poor service.

He contended that the existing service was installed in the cheapest way possible, while Happy Valley used its government loans to enhance the Trinity Center central office rather than to put in a good system for the outlying rural areas of the community.

The Parties' Closing Statements

McCarty argued that Happy Valley should not be allowed to abandon service to East Fork. Happy Valley made the choice of the system that it used, and the East Fork community should not be made to suffer the consequences of Happy Valley's bad choice. McCarty argued the phone company should be forced to replace or alter the system or do whatever is necessary to see that the East Fork community is provided with reliable telephone service.

⁸ Happy Valley later estimated the net salvage value of the East Fork system at \$1,083 based on 50% of cost of the solar power supply and batteries (Late Filed Exh. 4).

In his closing statement, counsel for Happy Valley stated that the company understands that telephone service is an essential element of living in this modern world. However, he cautioned that:

"The company, as a regulated utility, is, of necessity, required to recover the cost of service. and one of the considerations that we have as we consider extended service to a relatively remote area is the cost per subscriber. If the Commission reaches a decision that the subscriber should be provided with telephone service, the company's frank preference is to bury the cable down the road and invest the money.

"The radio systems that we have seen, the possible alternates that we see from the company's point of view, are going to be subject to the same sorts of problems we have seen with the last radio system that was supposed to work. On the other hand, it's a decision that we leave to the Commission, whether to make the substantial investment necessary to service 12, perhaps 15 subscribers, and in order to do so, we will anticipate the service will be much improved."
(Tr. 60 and 61.)

**Additional Information Requested
in Late-Filed Exhibits**

Following the closing statements, the ALJ required Happy Valley to provide the following information in late-filed exhibits, numbered as follows, by June 15, 1989:

3. The separated cost of service and earnings for the Trinity Center Exchange,
4. The overall radio system investment and the total maintenance costs for that system to date, and
5. The overall cost of each of two alternatives for providing service to complainants using:

- a. A low cost submarine cable alternative if feasible across the lake, and
- b. A regular landline cable with direct burial of a portion of that cable across a narrow neck of the lake to avoid unnecessary excess cable routing.

Complainants were accorded the opportunity to comment on these late-filed exhibits by June 30, 1989.

In late-filed Exhibit 3, Happy Valley was able to confirm the total investment for its new electronic central office at Trinity Center together with the associated outside plant construction and microwave facilities to Redding, California, and East Fork radio system as \$1,525,100. The East Fork radio system represented \$35,500 of the \$1,525,100.

In late-filed Exhibit 4, Happy Valley included a detailed breakdown of the \$35,500 (rounded) investment in the East Fork radio system together with maintenance costs for that system. The monthly maintenance costs varied from \$0 for some months (no entry) to a high of \$1,847.23 for the month of November 1988.

The repair costs for the radio system from January 1987 through March 1989 (27 months) totalled \$9,090.34 or about \$337 per month⁹ if averaged for the 27-month period.

In late-filed Exhibit 5, Happy Valley developed the cost of an alternate landline service to the East Fork using a submarine cable across a narrow (3,920 foot) neck of Trinity Lake with the remainder of 25,700 feet to be placed partly on poles, and where

⁹ Apportioned to 12 customers this amounts to \$28.08 per month per customer, an expense greater than the monthly basic service charge to these customers. The actual situation is even worse considering that only six parties can be served currently on the two remaining three-party radio links.

practical, directly buried cable along County Road 160 to East Fork. The total estimated cost of this alternative was \$110,000.

Happy Valley believes another alternative, a low-cost (non-armored) five-mile submarine cable laid across the lake is infeasible by Happy Valley, because the necessary splice and loading coil boxes would become inaccessible for repair. These boxes would have to be filled with epoxy to prevent lake water, under constant pressure against the cable, from entering the splices and corroding them or shorting them out.

Happy Valley's obvious preference, if it has to continue to serve the East Fork customers, is to install the cable mostly along Road 160 together with the short lake crossing with no cable splices across the narrow neck at the north end of Trinity Lake. In late-filed Exhibit 5, Happy Valley also commented that:

"The Company had anticipated receiving information from the complainants concerning potential additional customers residing along Road 160, among whom the cost per subscriber of this construction alternate could be apportioned. The information that has been provided is that there were approximately three occupied dwellings in the past which are now unoccupied. If there prove to be additional subscribers, there would be a moderate increase in the cost of this construction alternate, due to the addition of service drops and possible lateral plant to the actual subscriber locations."

Complainants' Response to Late
Filed Exhibits 3, 4, and 5

On June 24, 1989, Carl McCarty wrote to the ALJ and requested and was granted a two-week extension of time to respond to Happy Valley's late-filed exhibits. The extension of time was needed by complainants to complete and compile an informal survey of further interest in telephone and/or electric utility service in the East Fork area.

Subsequently, on July 17, 1989 this matter was submitted upon receipt of complainants' response to late-filed Exhibits 3, 4, and 5. That response included the results of the informal survey of approximately 60 land owners of privately owned property along Eastside Road (County 160) between the end of the present telephone cable facilities from Trinity Center and the lands of the complainants. The survey noted that 48 land owners were interested in obtaining telephone service and 51 desired electric utility service.¹⁰

The complaint (as filed) and the record developed at the public hearing held in Trinity Center on May 12, 1989 were silent on the additional current interest in telephone service. Because of the significance of this additional interest alleged by complainants, it was deemed appropriate by the ALJ to set aside submission of this proceeding pursuant to Rule 84 of the Commission's Rules of Practice and Procedure to receive further exhibits and/or testimony on an expedited basis from Happy Valley on the issues raised by complainants' comments and the new developments addressed in its counsel's letter of August 1, 1989, to the ALJ. Accordingly, on August 23, 1989, the ALJ issued a ruling to set aside submission of the proceeding to allow receipt of additional evidence. The ALJ ruling designated the complainants' survey as late-filed Exhibit 6 to be used, absent objection by Happy Valley's counsel, for the limited purpose of showing that approximately 60 residents or property owners were surveyed and 48 returned postcards expressing an interest in the availability of either seasonal or permanent telephone service from Happy Valley.

¹⁰ Request for electric utility service was not an issue in C.89-01-033 and this issue is not presently before the Commission.

The ruling then requested that Happy Valley prepare and present the following limited additional evidence by a late-filed Exhibit 7.

- "a. The position of Happy Valley on the extension of landline telephone service to complainants in the East Fork area, especially in view of the interest expressed by other residents and property owners along the proposed cable route.
- "b. Details regarding availability of the necessary funds for construction of landline cable facilities from the current terminus of Happy Valley's existing cable facilities to the East Fork area where complainants reside.
- "c. Details of any other areas of Happy Valley's service territory which have similarly situated groups of customers experiencing poor or unreliable telephone service, or who have no service at all at this time.
- "d. An expression from Happy Valley's responsible representative as to whether the demise of its recent general manager, who testified earlier in this proceeding, has caused any material changes of its position relative to the record evidence in this proceeding."

The ALJ ruling also accorded the complainants an opportunity to comment, on or before September 26, 1989, in response to late-filed Exhibit 7 and such response (if any) would be designated as late-filed Exhibit 8.

On September 12, 1989, Happy Valley submitted late-filed Exhibit 7. This contained the testimony of Kenneth J. Waters, Chairman and Chief Executive Officer of Happy Valley, who noted the untimely death of Charles D. Blair on July 1, 1989, and that Blair's death has not affected Happy Valley's position in this proceeding. He then confirmed in a "Supplemental Report of Happy

Valley Telephone Company in Response to ALJ's Ruling" attached to his testimony that:

1. The company wants and intends to provide quality telephone service to its entire subscriber base including the East Fork residents.
2. There are no other similarly situated groups of customers within Happy Valley's service territory who are experiencing poor or unreliable telephone service or who are without service at this time.
3. The present radio system serving the East Fork area is nearing the end of its life and the company's investigation has not shown the availability of any substitute method that could be expected to produce substantially superior results.
4. The possible submarine service method proposed by complaints has proved to be far more costly than extension of service down County Road 160 using conventional cable plant.
5. Happy Valley has consulted with its Rural Electrification Administration (REA) representatives concerning its use of REA loan funds to extend service to residents of East Fork via the road, and its REA representative stated that he believed that such construction funds can be made available to Happy Valley for such a project from Happy Valley's existing and approved REA loan.
6. That the informal survey of interest in new telephone services along East Side Road (County 160) would result in potential additional subscribers whose presence would reduce the per customer cost of service of the line extension.

He then commented as follows:

"In light of all of these factors and of the unlikely nature of a Commission order for withdrawal of utility service when it is

already being provided to these customers, the company's suggested resolution of the case is that the Commission authorize construction of conventional telephone facilities via the East Side Road to serve the existing East Fork Customer area as well as any additional customers who can be served from the cable on the East Side Road."

Complainants did not file a response or comments to late-filed Exhibit 7, by the September 26, 1989 due date. In a subsequent telephone conversation with the ALJ, Mrs. McCarty stated that complainants were generally satisfied with the information provided and closing comments made by Mr. Waters in late-filed Exhibit 7.

Discussion

There are no monetary amounts at issue in this proceeding. Complainants are simply asking that their telephone service be reliable and not be abandoned or discontinued by Happy Valley. Complainants are fully aware of the limitations of the radio telephone equipment used to serve their East Fork community, and that the radio equipment, although relatively new, has been rendered obsolete by the manufacturer's termination of business. The only apparent method of maintaining this equipment is through purchase and subsequent cannibalization of similar used equipment for needed parts.

Complainants have clearly demonstrated their need for reliable telephone service. They have made land purchase and employment decisions based on their belief that Happy Valley would provide reliable and continuous telephone service in the East Fork community. In late-filed Exhibit 6 complainants also submitted the results of an informal survey of approximately 60 owners of private lands along Eastside Road (County 160) setting forth that 48 land owners were interested in obtaining telephone service.

Complainants had earlier argued that the selection of equipment used to serve them was entirely the choice of Happy

Valley and complainants should not be made to suffer the consequences of Happy Valley's faulty choice.

However, Happy Valley was apparently a victim of circumstances, largely beyond its control, in attempting to provide telephone service to the East Fork community. After acquiring the Trinity Center Exchange from Continental Telephone Company of California in 1985,¹¹ Happy Valley made significant improvements to the Trinity Center central office and other plant facilities. Thereafter, in 1986 it selected and installed an affordable (\$35,500) radio system to be operated by solar charged storage batteries to serve complainants. Then, (a) its design engineer for the radio system was killed in a vehicle accident, (b) the manufacturer of the equipment went out-of-business, and (c) a lightning strike, in winter of 1988, rendered much of the equipment inoperable. The resulting maintenance costs for the radio equipment have exceeded basic service revenues over its life to date, and now the equipment is clearly at the end of its useful life.

Happy Valley's first choice is to be allowed to discontinue telephone service to East Fork. Its second choice is to be authorized to replace the existing system with traditional telephone cable over a least costly route across a narrow neck of Trinity Lake and thence along Eastside Road (County 160) to East Fork.

This new cable plant would cost an estimated \$110,000, and the subsequent salvage of the radio system would bring in about \$1000, leaving a replacement cost of about \$109,000 to serve the

¹¹ The Commission authorized the purchase of the Trinity Center exchange by Happy Valley by Decision (D.) 85-06-013 dated June 5, 1985 in Application (A.) 85-01-015.

complainants. This \$109,000 is in addition to the \$35,500 originally invested in the radio equipment.

This particular complaint is unique, given the experience of the telephone industry in California over the last 20 years. During that time most of California's telephone utilities were expanding service to new customers and there is literally no record of a similar formal request for discontinuance of existing telephone service where the service was being used lawfully, and paid for on a regularly billed basis.

However, nearly 40 years ago, in 1951, by A.32114, the Western Telephone Company (Western) confronted a similar but far worse plight. In that proceeding, Western had recently purchased the Garberville Exchange from the heirs of the prior owner (J. P. Thomas) and found that the Garberville Exchange which extended over some 580 square miles, was then served with non-continuous telephone service on 170 lines.¹²

Because of the readily apparent need to use available funds to solve numerous service complaints and to be able to provide continuous telephone service to the Garberville area, Western in A.32114 offered to construct a new central office building, warehouse and garage and to install new switchboards and central office equipment. That equipment would provide continuous

12 Telephone service in the Garberville Exchange in 1951 was furnished from two positions of magneto switchboards with capacities to serve only 170 lines. 502 telephone stations were served over about 400 miles of pole line, a portion of which was in tree construction. One-wire, grounded circuits were used to some extent in the outlying areas. Of the 502 telephone stations served, 146 residences and 86 business services were on 10-party lines. Eighty-one more residences and 17 businesses were on four-party lines, and 25 residences and 81 businesses were on two-party lines. Only 8 residences and 29 businesses had one-party service. The party lines had common ringing which meant that customers regularly heard the ringing for other parties on their lines.

direct-dial local service on all lines within the Garberville Exchange. However, to do so Western asked that it be permitted to reduce its Garberville Exchange boundary to include only about 20 of the existing 580 square miles, and to serve the remaining area with toll stations.¹³ The Commission approved Western's request by D.46071 dated August 14, 1951. Over the next 10 years Western substantially improved telephone service in the area, and as it did it was granted further authority to expand its Garberville Exchange and to establish other exchanges in certain portions of the 560 square miles which had been deleted from the Garberville Exchange in 1951.

The economic hardship conditions which led the Commission to authorize the substantial reduction in size of the Garberville Exchange and to withdraw exchange service to remote areas of that exchange in 1951, do not exist in the Trinity Center Exchange of Happy Valley today. For example, Trinity Center has a modern, continuous service central office equipped with new Stromberg Carlson solid state switching equipment and has efficient toll trunking facilities to Redding, California.

Happy Valley has no other areas in any of its exchanges which currently are receiving substandard telephone service and it will likely be allowed to finance the line extension in question with existing approved REA loans. These observations regarding its present service are set forth in late-filed Exhibit 7, and there is no record evidence that Happy Valley's earnings are insufficient to allow Happy Valley to sustain and/or recoup this additional investment.

¹³ Toll station telephones are billed for each call made as a toll call, and have no free local calling area. The cost of extending service to a new toll station telephone is borne entirely by the customer.

Also, in view of the potential additional interest in telephone service along Eastside Road, Happy Valley is now more receptive to a Commission determination that this complaint be resolved in favor of the complainants, provided that the solution contemplates the construction of a landline telephone cable extension to East Fork, as contrasted to additional investment in new radio equipment.¹⁴ Happy Valley's manager was not aware of any replacement radio equipment which was properly designed for quick and easy repairs in the field and thus reliable and useful for many years of service.

We reluctantly agree that Happy Valley's experience with the SYT-McRorey Radio System has been unsatisfactory and there is no evidence on the record of the availability of any other reliable radio system, costing less than the \$109,000 net investment for the landline cable option, which would even come close to providing the equivalent level of telephone service to the East Fork community.

Because of the established need for telephone service in East Fork and the residents' reliance on that service in their daily lives, we are unwilling to allow Happy Valley to abandon service to this community, which is wholly within its certificated service area. Also, Happy Valley's tariff schedules on file with this Commission do not designate the existing service to East Fork as experimental or temporary in nature. Therefore, we will not grant Happy Valley's request to abandon telephone service to

¹⁴ From Happy Valley's point of view, the SYT radio equipment was not field repairable. It did not have an easy-to-open hinged access cover and was not equipped with individual plug-in circuit cards which could be easily adjusted or replaced by a regular telephone repairperson, to restore a lost function or repair a malfunction. As designed, even the loss of dial tone, or customer identification, required complete removal of a radio unit serving three parties and its delivery to and from Redding, California for repair at substantial cost and time out of service.

complainants in East Fork. We will instead authorize and require that Happy Valley install the necessary landline cable facilities over the most cost-beneficial route to provide reliable telephone service to complainants as well as potential applicants for service along the cable route.

We will also direct Happy Valley to contact as prospective subscribers, the 48 property owners or residents, along Eastside Road (County 160) who have expressed an interest in telephone service in late-filed Exhibit 6. Any applications for service by these prospective subscribers will help reduce the per customer cost-of-service in this rural area.

Due to the cold and snowy weather conditions experienced during the winters in Trinity Center and East Fork, we will allow a period of 12 months for Happy Valley to comply with this order. During that time and/or until it has service cut over to its new cable facilities, Happy Valley should continue to do its best to maintain the existing radio system.

Findings of Fact

1. In late 1986 Happy Valley installed a radio system manufactured by SYT of El Paso, Texas to provide three-party (party line) telephone service to 12 subscribers in East Fork.
2. Happy Valley exercised some care in selecting the SYT radio equipment to serve East Fork. That effort included a visit to the manufacturer's plant in El Paso, Texas and discussions with other telephone companies who informed Happy Valley that they then were satisfied with the SYT equipment.
3. Since 1986 SYT went out of business, Mr. McRorey, Happy Valley's engineer who designed the system for East Fork, was killed in a vehicle accident; and a lightning strike in East Fork caused a failure of most of the radio equipment located there.
4. Without a successor to SYT, the specialized parts necessary to repair its radios are only available by cannibalizing other used SYT units.

5. Happy Valley had only enough operating SYT radios to provide two three-party radio links to serve six subscribers in East Fork at the time of the hearing in this proceeding.

6. The complainants in this proceeding have expressed their dissatisfaction with the telephone service to their premises in East Fork from the time it was installed to the present time.

7. Happy Valley has generally confirmed the statements made by complainants regarding the limitations of the party-line telephone service provided to them via the use of the SYT radios, and that the service is not dependable or reliable.

8. Happy Valley has done its best to maintain the existing SYT system and has incurred costs averaging \$337 per month, for the 27 month period studied, or about \$28 per month per subscriber based on 12 subscribers being served.

9. Happy Valley has been informed by its radio repair facility, North Valley Electronics of Redding, California, that the SYT radio equipment is nearing the end of its useful life.

10. Happy Valley considers the East Fork telephone system as experimental due to the use of radio equipment powered by batteries charged by solar photovoltaic panels.

11. Complainants contend that they were not told that the telephone system servicing East Fork was to be experimental when they applied for telephone service.

12. Happy Valley's tariff schedules on file with the Commission do not designate the service to East Fork as experimental or temporary.

13. In response to the complaint, Happy Valley asks that it be permitted to abandon the SYT radio system serving East Fork and withdraw the telephone service now being provided to that community in its Trinity Center Exchange.

14. Complainants have relied on the availability of telephone service to East Fork in their land purchase and employment decisions, and have effectively shown a true need for dependable

telephone service for their safety, security, health, and economic welfare.

15. Complainants have conducted an informal survey of approximately 60 owners of private lands along Eastside Road (County 160) and noted that 48 of those land owners were interested in obtaining telephone service.

16. Happy Valley has estimated the net cost of replacing the radio system with a landline telephone cable over the least expensive route along Eastside Road to East Fork, at \$109,000.

17. Happy Valley has reconsidered its request for abandonment of service to East Fork, in view of the additional interest in telephone service along Eastside Road, and suggests that an alternate resolution of this complaint would be for the Commission to authorize construction of conventional telephone facilities via a route along Eastside Road.

18. Happy Valley did not make a sufficient showing of economic hardship to justify the abandonment of telephone service to East Fork, especially in view of the strong showing of need made for such service by complainants.

19. It is likely that the funds necessary for construction of a landline cable extension along Eastside Road to East Fork can be made available to Happy Valley from its existing and approved REA loan.

20. Happy Valley will need a reasonable period of time to contact potential subscribers along Eastside Road (County 160) and to design its landline telephone cable facilities to serve new applicants for service along that route to East Fork.

21. There are no known similar situations of any groups of subscribers receiving substandard service in any of Happy Valley's certificated service areas.

22. It is reasonable to require Happy Valley to continue to provide telephone service to its subscribers in the community of

East Fork in its Trinity Center exchange, and to serve any new applicants for service along the cable route to East Fork.

23. This resolution of the instant complaint is not intended as a precedent for resolving other service complaints for this or any other California telephone utility.

Conclusions of Law

1. There is a clearly established need for safe, reliable, clear and continuous telephone service in East Fork and Happy Valley should not be permitted to abandon such service without a showing that the construction necessary to continue such service would cause an undue economic hardship to it.

2. Happy Valley's alternate request to be authorized to install a landline telephone cable along Eastside Road (County 160) to serve the community of East Fork wholly within its Trinity Center Exchange is reasonable and should be granted.

3. Happy Valley made a reasonable selection of the SYT radio equipment, which it installed in late 1986 to serve East Fork residents, and should not be penalized now for the then unforeseeable deficiencies of that equipment which subsequently materialized in 1987 and 1988.

4. The existing SYT radio-telephone equipment is nearing the end of its useful life, but should nonetheless be maintained, if at all possible, until alternative serving arrangements are constructed to serve the residents of East Fork. Thereafter, that equipment may be removed and salvaged realizing whatever value it may have at that time.

5. Complainants in this proceeding are not seeking any monetary damages or reparations and none should be granted.

6. The relief sought by complainants should be granted to the extent set forth in the order that follows and any and all other requested relief should be denied.

O R D E R

IT IS ORDERED that:

1. Happy Valley Telephone Company (Happy Valley) shall not abandon telephone service to the residents and businesses in the community of East Fork within its Trinity Center Exchange.

2. Happy Valley is authorized and directed to undertake within the next 12 months, its suggested alternative of constructing conventional telephone cable facilities via the Eastside Road (County 160) to serve the existing East Fork community area as well as any additional subscribers who can be served along that cable route.

3. Happy Valley shall on or before December 31, 1990, notify the Commission Advisory and Compliance Division Director in writing of its compliance with Ordering Paragraph 2 above including in that notice the date that telephone service to subscribers in East Fork was cut-over to the new cable facilities.

4. The relief sought by complainants is granted to the extent set forth in Ordering Paragraphs 1 through 3 above and any and all other requested relief is denied.

5. No funds have been deposited with the Commission in this proceeding.

6. This proceeding is closed.
This order becomes effective 30 days from today.
Dated DEC 6 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

- 29 -

Wesley Franklin
WESLEY FRANKLIN, Acting Executive Director
WB

THE NEXT

2

DOCUMENTS ARE

POOR ORIGINALS

MICROFILMING SERVICES

will not assume responsibility

for the image quality

EAST FORK RADIO FACILITIES

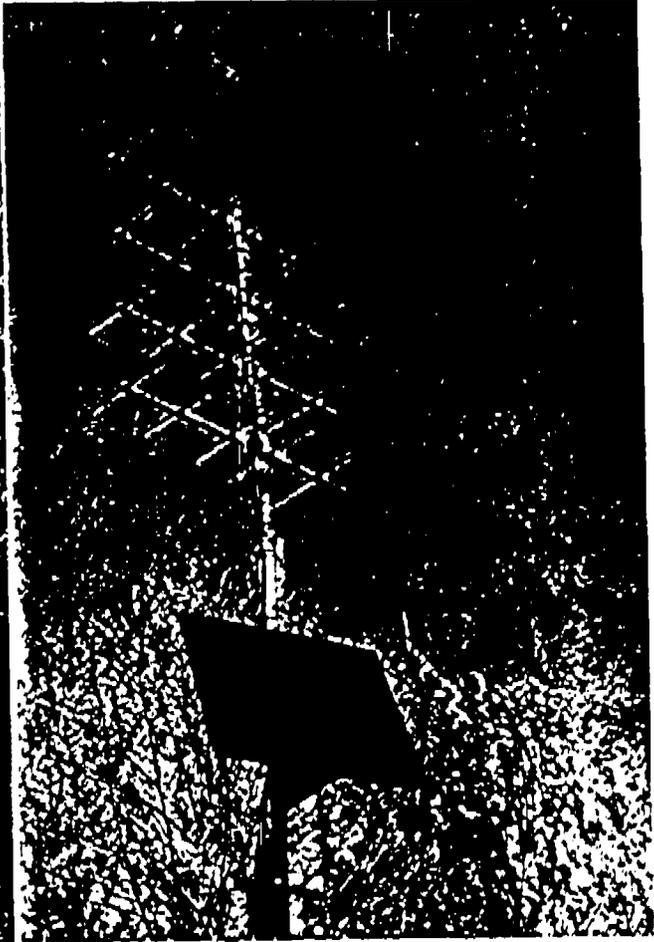
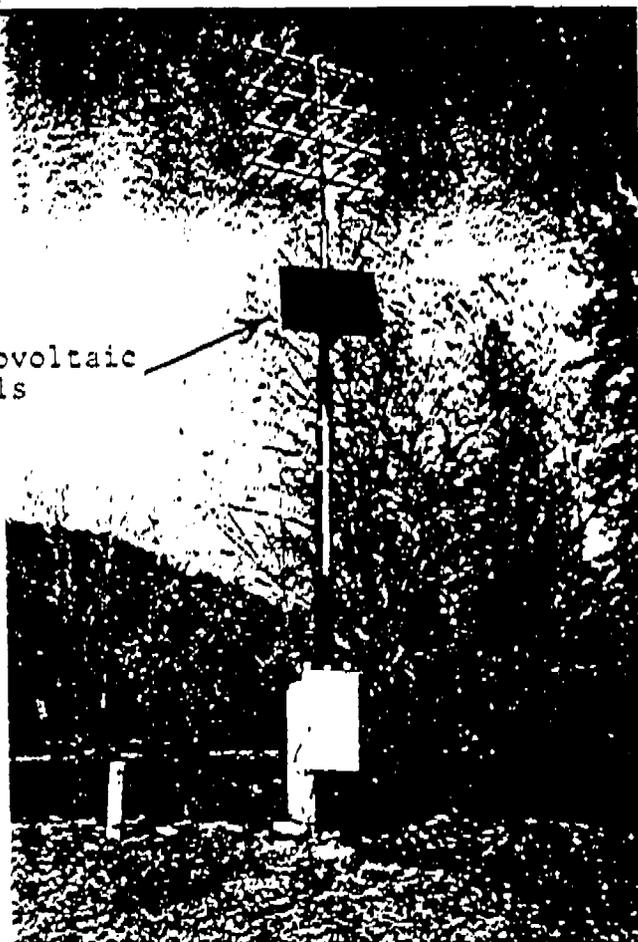
Four Yagi
Antennas

Battery
Cabinet

Radio Cabinet
Holds up to
Four Receiver
Transmitter
Units



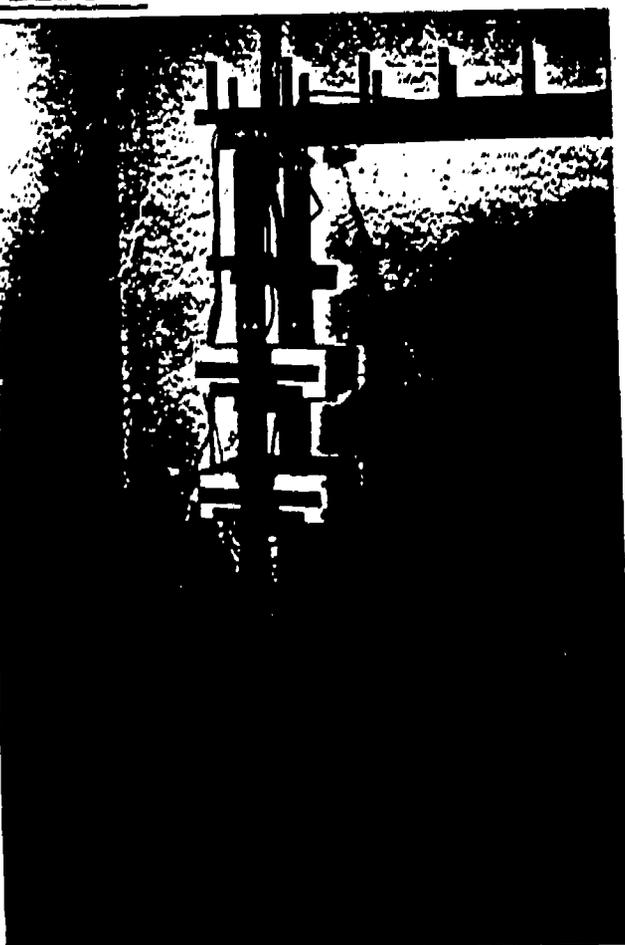
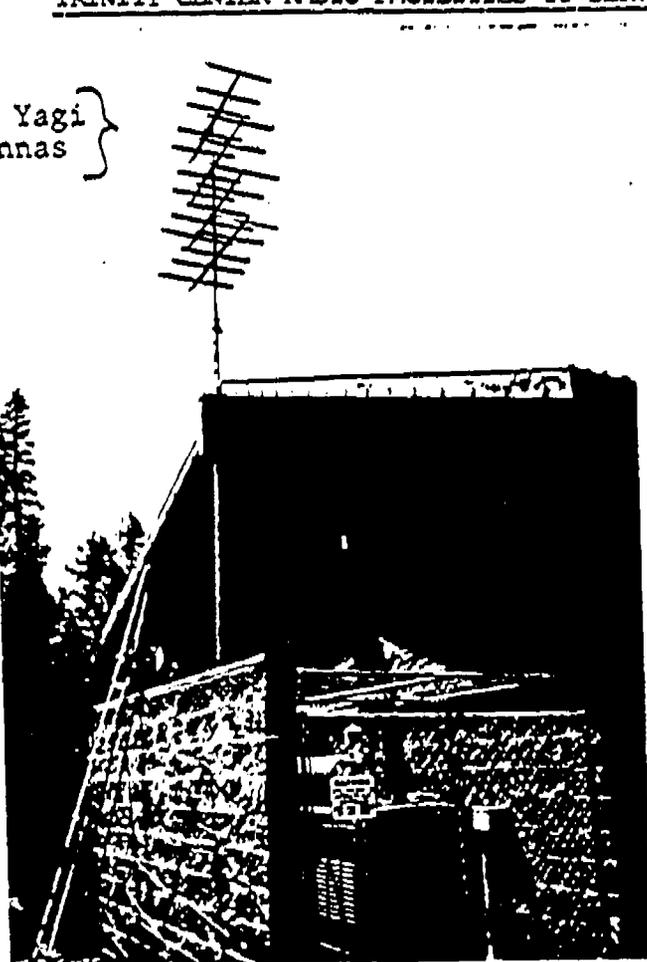
Photovoltaic
Panels



East Fork Radio Facilities

TRINITY CENTER RADIO FACILITIES TO SERVE EAST FORK

four Yagi
antennas



Trinity Center Radio Facilities

Two Radio Receiver and
Transmitter Units

Note Two Vacant Racks.



Lake Bottom - Northern End

(END OF APPENDIX A)

ORIGINAL

Decision 89 12 010 DEC 6 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LORRAC CRAIG, et al.,)
)
 Complainants,)
)
 v.)
)
 HAPPY VALLEY TELEPHONE COMPANY)
 (U-1010-C),)
)
 Defendant.)

Case 89-01-033
(Filed January 24, 1989)

Kimberly B. Morgan, for herself and
Steve Morgan; Carl McCarthy, Joyce
Brown, Lori D. Craig, and G. Mark
Groves, for themselves; complainants.
 Messrs. Davis, Young, Beck & Mendelson, by
Jeffrey F. Beck, Attorney at Law, for
 Happy Valley Telephone Company,
 defendant.

OPINION

Summary

This decision grants complainants' request that Happy Valley Telephone Company (Happy Valley) be required to replace the obsolete radio system now providing them substandard telephone service, with a landline telephone cable to their premises in East Fork so that they may receive safe, reliable, clear and continuous telephone service.

Happy Valley is allowed 12 months to comply with this order so that it may coordinate the landline cable construction to permit it to serve up to 48 new potential subscribers along the Eastside Road (County 160) cable route to the premises of the complainants in East Fork, and to avoid severe winter weather during the construction phase.