

Decision No. 59601**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOHN K. PATTERSON)
 (Commercial Communications Company)) Application No. 41301
 to operate a telegraph service)
 throughout the State of California.)

John K. Patterson, in propria persona.
Arthur T. George and Pillsbury Madison & Sutro
 by Charles B. Renfrew, for Pacific Telephone
 and Telegraph Company and Noel Dyer for The
 Western Union Telegraph Company, protestants.
William L. Martin, for Smith-Corona Marchant, Inc.,
 and Dion R. Holm and Robert R. Laughead by
Robert R. Laughead, for the City and County of
 San Francisco, interested parties.
Paul Ponoe. Jr., for the Commission staff.

O P I N I O N

On July 14, 1959, John K. Patterson, doing business as Commercial Communications Company, filed an application which, in effect, requests a certificate of public convenience and necessity to operate as a telegraph company.

Public Hearings

Public hearings were held in this matter on September 24 and 25, 1959, in San Francisco before Examiner William L. Cole. The matter was submitted on September 25, 1959, subject to the filing of late filed exhibits. These exhibits have now been filed and the matter is ready for decision.

Applicant

The applicant is presently employed full time as senior buyer at an educational institution. In that capacity he has had

some experience with private wire telegraphic service. Aside from that, however, he has had no experience in the public utility communications field whether in its operating, engineering, accounting or financial aspects.

The applicant testified that if his proposed operation comes into being he will leave his present position to manage the operation.

Proposed Operation

The applicant proposes to operate a telegraphic network whereby the subscribers would be able to communicate with each other, transmitting that type of business information which is presently transmitted as purchase orders, requests for quotations, invoices, acknowledgements, way bills, bills of lading, receiving records, shipping notices and other such types of documents.

Each subscriber will rent teletypewriter equipment from the applicant. The amount and variety of this equipment will vary, depending upon the uses to which the equipment is put by the individual subscriber.

It is the plan of the applicant to prepare a standard form to be used by all subscribers. The applicant contemplates a form designed so that all of the information previously transmitted on invoices, purchase orders and the various other business documents would be transmitted on this single form. The various items of teletypewriter equipment operated by the subscribers would be keyed in with this form thereby reducing various business expenses such as clerical and other such type of expenses.

The applicant proposes to lease from The Pacific Telephone and Telegraph Company the circuits from the subscriber's place of

business to the applicant's proposed relay station and also all necessary lines between relay stations.

Applicant proposes to operate his own relay stations. He proposes to have a relay station for approximately every 100 subscribers depending, of course, upon the location of the subscribers.

Under the proposed method of operation, the subscriber will be required to sign a contract whereby he agrees to take the service for a period of three years.

Financing

The application shows that the applicant's assets consist of his home, automobile, deposit in a pension plan, a paid up annuity and various other personal assets. His plan for financing his proposed operations consists primarily of a contemplated arrangement between himself and the Kleinschmidt division of Smith-Corona Marchant Inc., whereby that corporation would furnish all of the necessary equipment, including relay station equipment, on a lease-purchase arrangement. Under this contemplated arrangement, whenever a subscriber signs a three year contract, that corporation will furnish the necessary equipment to service the subscriber under a lease-purchase arrangement, whereby the applicant will have five years to pay for the equipment. The subscriber would have to pay one month's rental in advance, plus an installation charge of 60 per cent of one month's rental. All subsequent monthly rentals are to be paid in advance. It is with these advances that applicant intends to obtain the cash to operate the proposed system.

At the time of the hearing, the applicant was not sure what the initial cost of his proposed operation would be. He testified that this would depend on how many subscribers he could obtain.

He testified, on cross-examination, that he estimated he would need two thousand dollars at each relay station for office equipment. He had no estimate as to the amount of working capital that he would require.

The applicant proposes to assess rates, in the form of monthly rental, of approximately \$200.00 plus the costs of the private line from the subscriber's place of business to the nearest relay station. The applicant testified that these rates were based as close as possible on those charged by The Western Union Telegraph Company and The Pacific Telephone and Telegraph Company for similar service.

The applicant did not offer into evidence any detailed analysis of what his operating expenses and other expenses would be. In his application, he estimated that his monthly costs would amount to approximately \$20,000.00.

The applicant testified that he would need about five or six employees per relay station. The applicant testified that he hoped to start operations with two relay stations, one in San Francisco and one in Los Angeles. There is no evidence in the record as to the amount of money needed to pay the monthly salaries of these employees.

Public Convenience and Necessity

Five public witnesses, representing four business firms, testified concerning the proposed operation. Their testimony indicates that they are all interested in the contemplated communications network. However, their testimony indicated that for the most part this is as far as the matter had been considered. One witness testified that any decision on whether his company would enter into the required three year contract would have to be made by the

officials of his company at its home office in Chicago and, as of the time of the hearing, the matter had not been officially discussed with these officials. Another witness testified that any decision as to whether or not his firm would enter into a three year contract would have to be made by the president in Seattle and that he did not know whether any decision had been reached regarding the matter. He also testified that in order for the system to pay, it would be necessary for a large number of his firm's suppliers as well as its customers to join the system. A third witness testified that in order for the system to be of service to his company, at least 50 of its suppliers would likewise have to be subscribers to the system. A fourth witness testified that his company would sign a three year contract if several of his major accounts would subscribe also.

The applicant testified that, if granted the certificate, he would not be ready to commence operations immediately. Rather, he would then, through the medium of promotional shows, determine how many subscribers would sign a three year contract for the service. The applicant testified that if he could not obtain enough subscribers, he would not offer the service at all. When questioned as to how many subscribers he would need in order to commence operations he testified that he would need a minimum of 100 unless all of the subscribers were in the same general class, such as food stores, in which event he felt that he could commence operations with a minimum of approximately 50 subscribers.

Findings and Conclusions

It is the Commission's opinion, based upon the evidence presented in this matter, that as yet the applicant's proposal is

at the stage of general planning and has not reached a stage where the details of the proposed operations have been worked out. This is best illustrated by the fact that it is apparent that the feasibility of applicant's operation is based primarily on his relationship with Smith-Corona Marchant Inc. Notwithstanding this fact, no specific arrangement has been agreed to by these two parties. The applicant testified that no definite arrangements have been made with that company covering the important question of repossession of machines in case of default or the amount of interest or carrying charges that will be assessed by the company relative to the lease-purchase of the equipment.

It is the Commission's conclusion that the evidence of record is insufficient to enable the Commission to determine whether the applicant's proposal is in the public interest and whether public convenience and necessity require that a certificate be granted. Therefore, based upon the evidence of record, the Commission cannot find that public convenience and necessity require the granting of the certificate.

The Commission wishes to emphasize, however, that this application is being denied because of the lack of a sufficient showing. The Commission is not at this time passing upon whether or not, on the basis of an adequate showing on a subsequent application, it would grant a certificate of the type requested in this matter.

ORDER

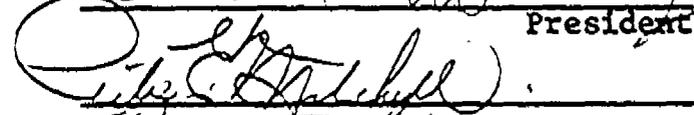
An application having been filed, a public hearing having been held and the Commission being informed in the matter,

IT IS ORDERED that Application No. 41301 be denied.

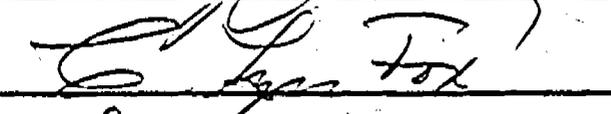
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 1st day of February, 1960.



President








Commissioners