

Decision No. 62156

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 DELTA MOBILE RADIO TELEPHONE COMPANY,)
 a corporation, (1) for a certificate)
 of public convenience and necessity)
 authorizing mobile radio communica-)
 tions service as a public utility in)
 the Counties of Butte, Colusa, El)
 Dorado, Nevada, Placer, Sacramento,)
 San Joaquin, Solano, Stanislaus,)
 Sutter, Yolo, Yuba, and a portion of)
 Amador, in the State of California,)
 and (2) for authority to sell and)
 issue shares of its common stock.)

Application No. 42456

Investigation on the Commission's own)
 Motion into the operations of Commu-)
 nication Common Carriers for hire in)
 Domestic Public Land Mobile Radio)
 Service, also known as Miscellaneous)
 Common Carriers, and private mobile)
 carriers which offer such service to)
 the public in general, for the pur-)
 pose of determining whether or not)
 such carriers should be required to)
 obtain a certificate of public con-)
 venience and necessity as public)
 utility telephone corporations and to)
 file tariffs of their rates and)
 charges, and for the further purposes)
 of prescribing rules and classifica-)
 tions governing regulation of such)
 carriers.)

Case No. 6945

OPINION ON SECOND INTERIM ORDER
DETERMINING STATUS OF RADIOTELEPHONE UTILITIES

Summary of Proceeding to Date

The Commission issued its Order of Investigation on September 1, 1960, to review the operations of (1) communication common carriers by radiotelephone in California in the Domestic Public Land Mobile Radio Service, commonly known as miscellaneous common carriers (MCC), as each of said terms is defined in Rules and Regulations of the Federal Communications Commission (FCC), Section 21.1, Subpart A - Definitions, and (2) certain private mobile carriers.

The matters coming under the purview of these proceedings were set down for hearing with Application No. 42456 of Delta Mobile Radio Telephone Company, a corporation, requesting a certificate of public convenience and necessity authorizing mobile radio communication service as a public utility in certain counties and for authority to sell and issue shares of its common stock. Eleven days of hearing were held on the combined matters before Commissioner Theodore H. Jenner and/or Examiner James F. Haley.

The first interim order in this proceeding, Decision No. 61342, was issued on January 17, 1961. The order directed each respondent to fill out and return to the Commission a completed copy of a questionnaire, listing information, under penalty of perjury, concerning the nature and scope of its radio operations. The interim order also provided for amending the list of respondents by inclusion of certain respondents and deletion of others.

Frank Chalfont Petition

On January 19, 1961, Frank Chalfont, one of the respondents herein, filed a petition with the Commission requesting that the Commission give consideration to the following points:

- a. Provide for separate consideration of miscellaneous common carriers and private mobile service (lease-maintenance);
- b. Suspend investigation into the matter of private mobile service until after the status of MCC's has been fully settled;
- c. Continue the investigation until the status of MCC's has been fully resolved;
- d. After the status of MCC's has been established, continue with hearings on private mobile service and include as respondents all persons engaged in that business;
- e. Suspend consideration of any applications for certificates in connection with radiotelephone service until after both the MCC and the private mobile service matters have been resolved;

- f. Take up specific applications for certificates after a policy has been established for the two categories of operation.

Each of the above points raised by the petitioner is resolved in this opinion and order or has been previously resolved by the ruling of the presiding examiner to the effect that, unless sooner dismissed, hearing on the application of Delta Mobile Radio Telephone Company would not be resumed until completion of the investigation portion of these proceedings.

This interim order will provide for the general disposition of the portion of the investigation relating to miscellaneous common carriers. Matters relating to private mobile service (lease-maintenance service) and the application of Delta Mobile Radio Telephone Company will be subjects of further consideration by the Commission.

Reports of Respondents

Most of the questionnaires directed to respondents by the first interim order have now been returned to the Commission. Analysis of these reports reveals that 42 respondents operate as miscellaneous common carriers and furnish domestic public land radio service to the public under tariffs presently filed with the FCC. In the aggregate these companies represent a sizeable industry: two-way radio service is furnished to some 2440 mobile stations; paging and signaling service is furnished to 1120 receivers; and there are 40 rural radio stations operated as an adjunct to two-way mobile radio service. The aggregate plant devoted to MCC service amounts to approximately \$1,100,000, and some 1,500,000 messages are handled each year. The industry employs 112 persons full time and 127 additional persons part time.

Certain respondents are doing business under different business names than those indicated in Appendix A to the first interim order. Appendix A, attached to this decision, sets forth the corrected names and addresses of those respondents currently engaged in MCC operations.

Status of Miscellaneous Common Carriers

The evidence is conclusive that miscellaneous common carriers which are licensed by the FCC under Part 21 of its Rules, which have tariffs presently on file with that Commission offering service to the public in California, and which are actually performing the service of facilitating intrastate communication by telephone, with or without the use of wires, come within the definition of a telephone corporation as set forth in Section 234 of the California Public Utilities Code and thus are public utility telephone corporations. Such carriers are excepted from the jurisdiction of the FCC with regard to charges, classifications, practices, services, facilities or regulations for or in connection with intrastate communication service by wire or radio. (Section 152(b) Title 47 U.S.C.A.).

This decision will find that such utilities are subject to all provisions of the California Public Utilities Code applicable to telephone corporations and subject to all applicable general orders of this Commission. For administrative purposes, to differentiate between those telephone utilities conducting a general wire line business within the State of California and those utilities conducting such business principally or exclusively by radio, the latter group will be referred to hereinafter as radiotelephone utilities.

The order herein will direct each radiotelephone utility to file tariff schedules with this Commission as required by Section 489 of the Public Utilities Code. The Commission, under General Order No. 96, has issued rules governing filing and posting of tariff schedules for gas, electric, telephone, telegraph, water and heat utilities. For existing radiotelephone utilities having tariffs presently on file with the FCC, it will be appropriate to authorize a deviation from the requirements of General Order No. 96 to provide that the tariffs presently on file with the FCC shall be refiled with this Commission. Such provision will not only assure this Commission that

existing rates and rules are continuously maintained but, in addition, should simplify the work of radiotelephone utilities in making the necessary filings. To provide the nucleus of a tariff schedule consistent with General Order No. 96, the order herein will require that such utilities file with this Commission a title page, a preliminary statement and a table of contents along with copies of the FCC tariffs. The instructions for making the tariff filings are set forth in Appendix B attached hereto. After issuance of this decision there will be mailed to respondents the necessary forms to complete the tariff schedules.

In response to Item No. 5 of the questionnaire, most respondents have submitted sketches or maps showing the area coverage of their base stations. In reviewing the maps so submitted, it appears that no single standard has been applied to determine the coverage area. Some coverages have been estimated on the basis of the maximum distance at which a mobile unit is able to receive the base station, even though the base station cannot receive transmissions back from the mobile station. While it is recognized that satisfactory communications may often be had beyond any arbitrary standard reference level of signal strength, it is, nevertheless, desirable to set forth some standard to provide for a common basis of consideration. For this purpose, we find reasonable the standards adopted by the FCC in Part 21.504 of its Rules, as follows:

"(a) The limits of reliable service area of a base station are considered to be described by a field strength contour of 37 decibels above one microvolt per meter for stations engaged in two-way communication service with mobile stations and 43 decibels above one microvolt per meter for stations engaged in one-way signaling service. Service within that area is generally expected to have an average reliability of not less than 90%."

Radiotelephone utilities will not be required to file a service area map at this time, but those desiring to file a map defining their coverage area may file such map as part of their

tariff schedules provided such map is based upon specifications set forth in the preceding paragraph.

Section 584 of the Public Utilities Code requires that every public utility shall annually furnish a report to the Commission at such time and in such form as the Commission may require. Most of the radiotelephone utilities currently operating within the State of California have previously filed annual financial reports with the FCC. It appears appropriate that this Commission should receive from each radiotelephone utility a copy of such annual report as was filed with the FCC covering operations for the year 1960. Forms will be developed or approved by this Commission for reports to it in future years.

Findings and Conclusions

The Commission, by its first interim order, having required each respondent in this proceeding to complete and return a questionnaire disclosing the nature and extent of its radiotelephone business, and said questionnaires having been completed and returned by the respondents named in Appendix A hereto, alleging under penalty of perjury that they are operating in this state in the furnishing of intrastate telephone communications to the public by radio under licenses granted by the FCC in the Domestic Public Land Mobile Radio Service; and the time for returning said questionnaires having expired; and it appearing that no further delay should be occasioned in determining the status of such utilities with respect to jurisdiction of the Public Utilities Commission of the State of California; therefore, it is hereby found that:

1. Radiotelephone utilities, sometimes known as miscellaneous common carriers, which are licensed by the FCC pursuant to Part 21 of that Commission's Rules and which offer to the public within the State of California intrastate telephone communications service, with or without the use of wires, are public utility telephone corporations as such term is defined in Section 234 of the California Public Utilities Code and are subject to all applicable provisions of said code and of this Commission's general orders, except as herein modified.

2. Public convenience and necessity require continuation of the California intrastate radiotelephone service as presently offered and that utilities rendering such service should be authorized and directed to continue in operation under present rate levels and conditions of service.

The completed questionnaires, as returned, indicate that certain of the proprietary respondents have incorporated their radiotelephone utility businesses since the issuance of the first interim order in these proceedings, Appendix A of which contained a revised list of respondents. The order herein will provide for dismissal of such proprietary respondents and for the addition of their successor corporations as respondents.

A former partner of Coast Counties Radio Dispatch, W. E. Bowe, has advised the Commission that the partnership has been dissolved and that no operations are contemplated under that business name. The order herein will therefore dismiss this firm as a respondent to this investigation.

SECOND INTERIM ORDER

An order instituting investigation on the Commission's own motion having been filed, hearing having been held, and the Commission having considered the responses to its questionnaires filed by the respondents pursuant to the First Interim Order herein, and having found that radiotelephone utilities are subject to its jurisdiction; therefore,

IT IS HEREBY ORDERED that:

1. Each radiotelephone utility listed in Appendix A attached hereto and made a part hereof is authorized and directed to continue its California intrastate public utility communications service at the rates and charges and under the conditions authorized by the Federal Communications Commission in effect on the effective date of this decision.

2. Within thirty days after the effective date of this decision, each radiotelephone utility listed in Appendix A hereto, is directed to file, in quadruplicate, tariffs with this Commission in accordance with instructions set forth in Appendix B attached hereto and made a part hereof. Such tariffs to become effective on the date of filing.

3. Within thirty days after the effective date of this decision, each radiotelephone utility listed in Appendix A hereto is directed to file with this Commission a copy of its annual report for the year 1960 as filed with the Federal Communications Commission, or to file a statement showing that such annual report was not required by the Federal Communications Commission.

4. No radiotelephone utility listed in Appendix A hereto shall, after the effective date of this decision, expand its operations to include any territory not theretofore served by it except in accordance with the provisions of Section 1001 of the Public Utilities Code.

5. No radiotelephone utility listed in Appendix A hereto shall discontinue the offering of its service to the public or withdraw any portion of its service offering from the public except upon a showing before this Commission and a finding by the Commission that such discontinuance or withdrawal is justified.

6. Except where exempted by Section 1001 of the Public Utilities Code, no radiotelephone utility of the miscellaneous common carrier class shall begin the construction of a plant, or system, or any extension thereof without first obtaining from the Commission a certificate that the present or future public convenience and necessity require or will require such construction, nor shall any such utility offer its service to the public without authorization of this Commission.

7. Tariffs for radiotelephone service filed with this Commission shall be in accord with the rules prescribed in General Order

No. 96, except that the utilities specified in Appendix A hereto, are authorized to deviate from the requirements of General Order No. 96 to the extent contemplated by the instructions set forth in Appendix B hereto.

8. This investigation be, and it hereby is, dismissed with respect to the following-named respondents:

Simon Siegal, Robert R. Meyer, Gordon G. Armstrong & W. E. Bowe, partners, Coast Counties Radio Dispatch;

James R. Coin, doing business as Jim Coin Telephone Answering Service;

Robert C. Crabb, doing business as Mobilphone;

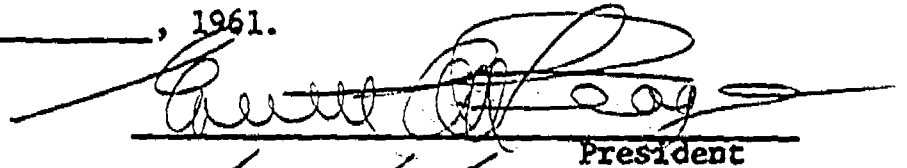
Frank Chalfont;

G. B. Peterson, doing business as Radio Communications Service.

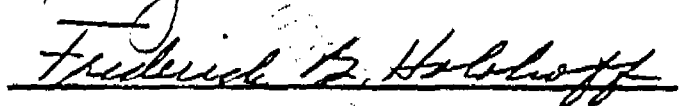
The Secretary is directed to cause a certified copy of this order to be served upon each of the parties listed in Appendix A hereto.

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

Dated at San Francisco, California, this 21st day of June, 1961.


President





_____ Commissioners

Refer E. Mitchell
Commissioners C. Lynn Fox, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A
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Kay Kelso Kidd, doing business as
Radio Dispatch Engineering Co.
215 E. 18th Street
Bakersfield, California

Jim Coin, Inc.
P. O. Box 506
El Centro, California

Alvor E. Olson, doing business as
Nor-Cal Tele-Radio System
315 W. 7th Street
Eureka, California

Jack Loperena, doing business as
Fresno Electronics
238 North Fresno Street
Fresno, California

Fresno Mobile Radio, Inc.
160 North Broadway
Fresno, California

Cook's Telephone and Answering Radio, Inc.
160 North Broadway
Fresno, California

Donald R. Cook, doing business as
Hanford Mobile Radio Service
160 North Broadway
Fresno, California

Edna F. McClure, doing business as
Secretarial Telephone Answering Service
321 N. California Street
Lodi, California

Lyman G. Berg, doing business as
Radio Dispatch Service
419 E. 6th Street
Long Beach, California

Lyman G. Berg, doing business as
Airpage of Long Beach
419 E. 6th Street
Long Beach, California

Farrell A. McKean, doing business as
Business & Professional Telephone Exchange
6331 Hollywood Boulevard
Los Angeles 28, California

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Mobilphone, Inc.
234 W. 37th Place
Los Angeles 7, California

Industrial Communications System, Inc.
1500 W. 58th Street
Los Angeles 62, California

Fred C. Massetti, doing business as
Madera Radio Dispatch
215 South D Street
Madera, California

Kenneth A. Riggs, doing business as
Riggs Radio Dispatch
1833 M Street
Merced, California

Glen D. and Virginia Page, doing business as
Page's Telephone Answering Service
1512 E Street
Modesto, California

Chalfont Communications (Inc.)
P. O. Box 334
Palm Springs, California

Pomona Radio Dispatch Corp.
303 Airport Drive
Upland, California

A. T. Margot and F. Martinelli,
doing business as
Communications Engineering Co.
167 Leggett Drive
Porterville, California

Radio Electronic Products Corp.
P. O. Box 1753
Redding, California

Herbert M. Watson
10533 San Pablo Avenue
Richmond, California

Delta Valley Radiotelephone Co., Inc. (Sacramento)
2171 Ralph Avenue
Stockton 6, California

Electropage, Inc.
4799-24th Street
Sacramento 22, California

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Donald M. Rice, doing business as
Courtesy Mobilphone
872 North D Street
San Bernardino, California

Wm. K. Harper, doing business as
American Mobile Radiotelephone Enterprises
1007 30th Street
San Diego 2, California

Lyman G. Berg, doing business as
Airpage of San Diego
Bank of America Building
625 Broadway
San Diego, California

Walter F. Corbin, doing business as
United Radio Communications
450 Sutter Street
San Francisco, California

Marian N. Lee, doing business as
Radio Paging Company
1615 Polk Street
San Francisco, California

Mobile Radio System of San Jose, Inc.
260 Vine Street
San Jose, California

R. C. S., Inc.
1224 Murray Street
San Luis Obispo, California

Perle L. Warner and Earl L. Jones,
a Co-partnership, doing business as
Peninsula Radio Secretarial Service
135 South B Street
San Mateo, California

Orange County Radiotelephone Service, Inc.
702 W. 5th Street
Santa Ana, California

George W. Smith, doing business as
Telephone Answering Bureau
801 North Bush
Santa Ana, California

Sylvan B. Malis, doing business as
Coast Mobilphone Service
325 State Street
Santa Barbara, California

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Harley Anthis and Esther Anthis,
doing business as
Anthis Answering Service
628 Ocean Street
Santa Cruz, California

Stockton Mobilphone, Inc.
2171 Ralph Avenue
Stockton 6, California

Knox LaRue, doing business as
Tracy Mobilphone
2171 Ralph Avenue
Stockton 6, California

Thomas Poor, doing business as
Kern Radio Dispatch (Taft)
815 - 24th Street
Bakersfield, California

Mobile Radio System of Ventura, Inc.
2538 E. Main Street
Ventura, California

Harry F. Fisher, doing business as
Tulare County Radio Dispatch
1500 West College Avenue
Visalia, California

C. L. Tadlock, doing business as
Tadlock's Radio Dispatch
26 Main Street
Woodland, California

James E. Walley, doing business as
Auto-Phone Company
Route 1, Box 38-C, Lincoln Road
Yuba City, California

Appendix B

Instructions for Preparation and Filing
of Tariffs of Radiotelephone Utilities

- A. Each radiotelephone utility subject to the jurisdiction of the California Public Utilities Commission shall file four copies of tariffs with the Commission consisting of the following sheets:
1. Cal. P.U.C. Title Sheet
 2. Table of Contents
 3. Preliminary statement setting forth the following information:
 - a. Territory served.
 - b. Location of message centers.
 - c. Services furnished.
 - d. Procedure to obtain service.
 - e. Hours of service.
 - f. Base station facilities.
 4. Service Area Map. If available, there shall be attached to a tariff sheet a map showing the computed or measured field strength contour of 37 decibels above one microvolt per meter for base stations engaged in two-way communications with mobile stations and 43 decibels above one microvolt per meter for base stations engaged in one-way signaling or paging service. Several service areas may be shown on one map or on separate maps. Where separate maps are filed, each shall be attached to a separate, properly numbered, tariff sheet. If a service area map is not filed, a tariff sheet should be labeled "Map Not Available".
 5. Rate Schedules.
 - a. Radiotelephone utilities not having tariffs on file with the Federal Communications Commission shall file schedules

of rates, conditions of service, and rules in accordance with this Commission's General Order No. 96. Schedules of rates pertaining to two-way mobile service shall be designated "Schedule No. L-1". Schedules pertaining only to one-way signalling or paging service shall be designated "Schedule No. L-2".

- b. Radiotelephone utilities having tariffs on file with the Federal Communications Commission may, in lieu of the provisions of the last paragraph (A.5.a.), file three copies of such FCC tariffs, excluding the FCC Title Page, together with the four copies of tariff sheets contemplated in Paragraphs A.1., A.2., A.3. and A.4., above.
 - c. At the time any change is made in the tariffs filed pursuant to the last paragraph (A.5.b.), the entire rate schedules shall be refiled consistent with the provisions of General Order No. 96 and in a form acceptable to the Commission.
- B. Tariff filings shall be transmitted with an advice letter, in four copies, which shall contain the following information:
- 1. Name and address of utility.
 - 2. Date submitted.
 - 3. Advice Letter No.
 - 4. Statement of the sheets being transmitted.
 - 5. Where FCC sheets are filed as contemplated by A.5.b., above, a statement shall be made to that effect together with a listing of the FCC page numbers.
 - 6. A statement as to the reason for and effect of the filing.
 - 7. Signature showing name of utility and name and title of utility officer.

