

Applicant's Present Operations

Applicant's present operations are conducted through a base station located at 1415 Kenwood Road, Santa Barbara. He presently has two control points located within the City of Santa Barbara and his coverage, as indicated by the 37 DBU contour on Exhibit No. 3, encompasses the area immediately surrounding the City of Santa Barbara. At the time of the hearing applicant was serving approximately 25 subscribers.

Applicant's Proposed Operations

Applicant proposes to move his base station from the present location in the City of Santa Barbara to Santa Ynez Peak located in unincorporated territory in Santa Barbara County north and west of the present location. Operation of the transmitter with an effective radiated power of 228 watts at the proposed location 4,320 feet above sea level would greatly enlarge applicant's service area, and should improve the quality of service within applicant's present service area. The relocated base station would be connected with control points by a radio link. The cost of the proposed construction is estimated to be \$3,000, and applicant states that the necessary equipment would be purchased outright and be paid for by funds on hand without the necessity of any financing. Applicant proposes to apply his presently filed tariffs for the expanded service and states that he would amend such tariffs to include service to rural radio subscribers at the same rates as presently offered for mobile service.

Applicant's Position

The record shows that applicant is being required to move his base station from its present location at the urging of the City of Santa Barbara and the local improvement association in that area.

The site selected for the relocation, according to the testimony of applicant's engineer, is the best site available relative to mobile telephone operations in Santa Barbara County. Various public witnesses testified as to the inadequacy of service rendered by applicant within certain portions of its present service area such as Goleta and Carpenteria Valley. A number of public witnesses testified as to their need for service ranging out from Santa Barbara to Gaviota, Buellton, Solvang, Santa Ynez Valley, Lompoc and Vandenburg Air Force Base. In addition to these witnesses, letters from 25 individuals expressing a desire for expanded service were introduced into evidence. It is applicant's position that the public demand for extension of his service has been clearly demonstrated.

Radio Interference

Tulare County Radio Dispatch, operating out of Visalia in Tulare County on the same channel as applicant, did not enter a specific objection to the granting of applicant's request, but expressed a concern that harmful interference might result to his operation from the relocation. Applicant presented evidence through its engineer and by late-filed exhibits, particularly Exhibit No. 10, a profile of the terrain between Santa Ynez Peak and Visalia, which indicates that harmful interference in the Visalia area should not result from the proposed installation on Santa Ynez Peak. With respect to the other co-channel operations, Exhibits Nos. 5 and 6 were received into evidence consisting of letters from Mobilphone, Inc., in Los Angeles and Radio Dispatch Engineering Company at Bakersfield, stating that they had no objection to the granting of the application provided applicant would do whatever is necessary to protect

subscribers of such systems from any increase in interference which might result. In addition, late-filed Exhibit No. 9, consisting of a profile of the terrain between Santa Ynez Peak and Bakersfield, indicates that harmful interference should not result in the Bakersfield area.

Industrial Communications, Inc., raised a question at the hearing as to whether or not the proposed radio link between applicant's control points and the base station might create an interference problem with its operations. Applicant provided Industrial Communications, Inc., with the precise frequencies to be used for this radio link and it appears that such frequencies will not interfere with any frequencies used by Industrial Communications, Inc.

Competitive Operations

With respect to the competitive aspects of the expanded service of applicant, Exhibit No. 3 shows that the 37 DBU contour of General Telephone Company's radiotelephone operations lies completely within the 37 DBU contour of applicant under its existing operation. This demonstrates that the relocation of applicant's base station would not alter this competitive relationship. General Telephone Company did not protest the granting of the instant application.

With respect to the service area to the south of Santa Barbara, Mobile Radio System of Ventura, operating out of the City of Ventura, indicated it would have no objection to the granting of the application provided that any certificate granted would contain a restriction prohibiting applicant from establishing a control point

or fixed station south of the Santa Barbara-Ventura County line. Applicant stated he would accept such a restriction.

With respect to the competitive situation in northern Santa Barbara County, Exhibit No. 4 shows that the 37 DBU contour of applicant resulting from the proposed relocation would overlap in the Santa Maria area with the 37 DBU contour of R.C.S., Inc., operating from a base station in the vicinity of San Luis Obispo. The 37 DBU contour which is derived from theoretical considerations is useful as a general indication of the area within which a reliable signal may be received. It cannot be used, however, as determinative of the absolute limits within which subscriber's mobile units may operate. The effective regulation of radiotelephone utilities' service areas necessitates a consideration of the requirements of the subscribers as related to the utilities' base stations and control points. In the particular area under consideration it is clear from the evidence that some of applicant's subscribers and prospective subscribers based in the City of Santa Barbara and vicinity have need for service extending north to Lompoc and the Vandenburg Air Force Base. Likewise, the record is clear that subscribers of R.C.S., Inc., based in the San Luis Obispo and Santa Maria areas have need for service extending south to Lompoc and the Vandenburg Air Force Base. Thus a certain degree of overlapping of the two operators' service areas is indicated as being in the public interest. At the hearing applicant and R.C.S., Inc., entered into a service area agreement which was later reduced to a map with attached statement and received as late-filed Exhibit No. 14. Briefly, this agreement establishes a straight line extending from Jalama on the coastline north of

Point Conception northeasterly through Los Alamos to applicant's 37 DBU contour. R.C.S., Inc., agrees not to establish a control point, rural radio subscriber dispatch station, dispatch point or other fixed station south and east of such line. Likewise, another line is described by San Antonio Creek running east from the coastline to Los Alamos and thence northeasterly along the previously described straight line to applicant's 37 DBU contour. Applicant agrees not to establish a control point, rural radio subscriber dispatch station, dispatch point or other fixed station north and west of such line. The description of these two lines establishes a triangular joint service area between the coast and Los Alamos encompassing Lompoc and Vandenburg Air Force Base within which both the applicant and R.C.S., Inc., may establish such fixed stations.

Permits

Applicant has made application to the Federal Communications Commission for authority to make the transfer of the base station site together with authority to establish the radio link between the control points and the new base station. The applicant alleges that the Federal Communications Commission is holding that application until applicant can obtain the requisite authority from this Commission relative to the proposed relocation.

The record shows that applicant has filed an application for authority from the United States Forestry Service to use Santa Ynez Peak as a base station and that preliminary approval has been granted. Applicant alleges that it is not required to obtain any special permits or franchises from the County of Santa Barbara relative to the construction or operation of the proposed base station.

Findings and Conclusions

After considering the evidence of record the Commission finds and concludes that public convenience and necessity require:

1. The relocation of applicant's base station from a site within the City of Santa Barbara to a location on Santa Ynez Peak, all as described in the application.
2. That applicant be restricted from establishing a control point or other fixed station south of the Santa Barbara-Ventura County line.
3. That applicant and R.C.S., Inc., be restricted as to location of fixed stations in northern Santa Barbara County by the agreement entered into and received as Exhibit No. 14.

The certificate hereinafter granted shall be subject to the following provision of law:

That the Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate, or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

O R D E R

The above-entitled application having been considered, public hearing having been held, the matter having been submitted and now being ready for decision,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Syivan B. Malis, doing business as Coast Mobilphone Service, to relocate his base station from a site within the City of

Santa Barbara to a location on Santa Ynez Peak in Santa Barbara County.

2. The certificate herein granted is subject to the following restrictions:

- a. Applicant shall not establish a control point or other fixed station south of the Santa Barbara-Ventura County line.
- b. Applicant and R.C.S., Inc., shall be restricted as to location of fixed stations in northern Santa Barbara County by the service area agreement heretofore described and received as Exhibit No. 14.

3. Applicant shall file, in quadruplicate, with this Commission, after the effective date of this order, in conformity with General Order No. 96-A, a revised tariff map incorporating the serving area boundary described by the 37 DBU contour of the base station located on Santa Ynez Peak and showing the limitations set forth in ordering paragraph 2, above, to become effective coincident with the establishment of service from the Santa Ynez Peak base station and upon not less than five days' notice to this Commission and to the public.

4. The authority herein granted shall expire if not exercised within two years from the effective date hereof.

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

Dated at San Francisco, California, this 17th day of APRIL, 1962.

President

John L. Mitchell

Commissioners