

ORIGINALDecision No. 75278

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of R. L. MOHR, dba Advanced Electronics (KLF-515), for authority to sell and transfer, and for RADIOCALL, INC., a California corporation, to purchase and acquire the certificate of public convenience and necessity authorizing common carrier and radiotelephone utility service, and related property; and for RADIOCALL, INC., to issue securities.

Application No. 50563
Filed September 24, 1968

O P I N I O N

R. L. Mohr, doing business as Advanced Electronics (seller), seeks authority to sell and transfer his radiotelephone utility properties to Radiocall, Inc., a California corporation (purchaser), which joins in the application.

Applicant Mohr is a radiotelephone utility holding a certificate of public convenience and necessity granted by this Commission by Decision No. 66101, dated October 1, 1963, in Application No. 44642. Decision No. 66702, dated January 28, 1964, modified Decision No. 66101 by adding to the requirement that Mohr obtain a construction permit from the Federal Communication Commission (FCC) the requirement that he obtain a zoning variance from the County of Los Angeles. By Decision No. 74821, dated October 15, 1968, in Application No. 44642, Mohr was granted permission to exercise the rights and privileges granted by the FCC and the County of Los Angeles. He commenced offering radiotelephone utility service to the public on October 16, 1968.

Radiocall, Inc., is a California corporation organized on August 27, 1968 for the purpose of engaging in the two-way radiotelephone utility business. Radiocall, Inc., requests an order authorizing issuance of 1,000 shares of common stock without par value, for cash, at a stated value of one dollar per share. The proceeds are to be used for working capital.

Applicant Mohr (seller) is president of Radiocall (purchaser). He has agreed with Radiocall to lease necessary equipment to it and to guarantee certain short-term borrowings so as to place Radiocall in a financial position such that it can discharge the obligations of a radiotelephone public utility.

Applicant Radiocall states that it will adopt such tariffs as are on file by Mohr on the date of transfer.

Applicants' reasons prompting this application and the justification for the transaction are as follows:

1. A corporate form for the utility business will permit orderly capital acquisitions as required in the future, subject to the approval of this Commission with respect to additional stock or with respect to debt.
2. The accounting for the revenues and costs of the public utility business will be simplified and improved by operating it as a separate legal entity.
3. Applicant Mohr has incorporated other portions of his total business interests and has found management control to be improved by such separations.

It is apparent from the application that it is the intent of applicant Mohr to separate his business interests between utility and nonutility operations. There is nothing wrong with this type of arrangement per se. It may be in applicant's interest to want such a separation, but the interests of the public may not be served.

Pro Forma Balance Sheet attached to the application shows that Radiocall, Inc., will have no assets other than \$1,000 in cash.

The application does not contain a pro forma profit and loss statement. In applications for certificates of public convenience and necessity we require an applicant to demonstrate that his proposed utility operation will be economically and financially feasible. The same requirement should be met in a transfer application.

The application shows that equipment necessary to conduct the utility operation will be leased by Radiocall from Mohr. The application does not contain the terms of the lease agreement. The application states that Mohr will guarantee certain short-term borrowings of Radiocall. The application does not specify the amounts to be borrowed or the purpose of such borrowing. The application contains no assurance that Radiocall could carry out its public utility responsibilities without Mohr's aid.

Mohr could, if this arrangement were entered into, sell Radiocall's operating equipment without this Commission's authorization.

While this Commission has authority under the Public Utilities Code to determine if a public utility should be authorized to issue stock, once the stock is issued we have no control over the subsequent sales of such stock. It has been just over five years since the initial granting to Mohr of his certificate of public convenience and necessity and the offering of service to the public. The facts upon which the certificate was issued may or may not have changed during this interim. We are aware that a certificate to operate a radiotelephone utility, coupled with a license to use a scarce frequency, could have an intrinsic value greatly exceeding the costs of obtaining such certificate and license. Trafficking in certificates would be against the public interest.

Finding and Conclusion

Applicants have failed to sustain their burden of proving that the proposed transfer and sale is not adverse to the public interest. We conclude that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 50563 is denied.

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

Dated at San Francisco, California, this 4th day of FEBRUARY, 1969.

William Brown, Jr.
President

Augustor

J. P. Monissey

J. P. Vukasin, Jr.

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.