

ORIGINAL

Decision No. 76097

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of POMONA RADIO DISPATCH CORP. to
extend its service area.

} Application No. 50594
(Filed October 8, 1968;
Amended December 23, 1968)

Carl B. Hilliard, Jr., and Richard A. Howard,
for applicant.
Homer N. Harris, for Industrial Communica-
tions Systems Inc., protestant.
Frank Chalfont, for Chalfont Communications,^{1/}
B. H. Warner, for Orange County Radio-
telephone Service, and Phillips Wyman, Jr.,
for Allied Telephone Companies Association,
interested parties.
Robert L. Howard, for the Commission staff.

O P I N I O N

In this application, as originally filed and amended,
Pomona Radio Dispatch Corp., a radiotelephone utility (RTU), seeks
authority to expand its local exchange calling service area by
removing its present transmitter and antenna from 840 E. 2nd St.,
Pomona and by installing a transmitter and antenna in the Kellogg
Hills near Puddingstone Reservoir in Los Angeles County and by
installing a transmitter and antenna on Sunset Ridge located north
of the City of Pomona in the foothills of the San Gabriel Mountains.

^{1/} Chalfont changed his appearance to "protestant" at the hearing
of May 1, 1969.

Exhibits I and J attached to the Amendment are copies of letters dated April 29, 1968 to applicant from and signed by officers (or authorized representatives) of Orange County Radiotelephone Service Inc., in Santa Ana; American Mobile Radio, Inc., in Long Beach; Industrial Communications Systems, Inc., in Los Angeles; Intrastate Radio Telephone Inc., of Los Angeles, in Burbank; Intrastate RadioTelephone Inc., of San Bernardino, in Long Beach; Mobilfone Inc., in Los Angeles; and Radio Page, in Santa Ana. By said letters, of all of the radiotelephone utilities,^{2/} which might be affected by the application as originally filed and as amended consented to applicant's Kellogg and Sunset transmitter installations and expanded service area proposals.

The population of applicant's present service area has been estimated by it to be in excess of 157,475 including the cities of Pomona, LaVerne (50 percent) San Dimas (50 percent), Chino, Norco, Claremont (60 percent) and Montclair, as shown in Exhibit F attached to the original application. Within the area applicant conceives to be in its "region of service", there is a total population of 1,463,153, as alleged by applicant in its amendment to the application.

Public hearings were held before Examiner Warner on April 10, 11, 17, 18 and 28, and May 1, 1969, at Pomona. A Motion to put the matter off calendar and combine it with

^{2/} ICS withdrew its consent on August 27, 1968.

Case No. 3320, an Investigation on the Commission's Own Motion into the operations, statewide, of all radiotelephone utilities, was denied at the original hearing by the presiding officer; said Motion having been filed by Industrial Communications Systems, Inc., on April 3, 1969 and having been opposed by the applicant at said hearing by the filing of a Memorandum, and the Motion having been argued by the parties, including the president of Allied Telephone Companies Association of Salinas. The matter was submitted on the last-named hearing date, subject to the filing of opening and closing statements which were filed and received on or before June 10 and on or before June 20, 1969, respectively.^{3/}

Industrial Communications Systems, Inc., filed a petition to Set Aside Submission and to Reopen the Proceeding for the Taking of Additional Evidence on July 3, 1969. The purpose of said Petition was to provide ICS an opportunity to subject the applicant's statements, in its opening statement, to cross examination, and to show that the applicant's statements were false.

^{3/} A petition to the Commission for review of the examiner's ruling was filed by Industrial Communications System, Inc., on April 21, 1969, requesting that the Commission set aside the examiner's ruling; remove matter from calendar; and combine this matter with Case No. 8880, supra.

On May 13, Frank Chalfont filed a petition to reopen the record and receive additional evidence, and filed a correction of petition on May 14, 1969. Said petition was opposed by the applicant by its Memorandum and Points and Authorities, filed May 28, 1969, and Frank Chalfont responded thereto on May 29, 1969.

We have considered all of the allegations in the Motions and Petitions; find no merit or relevancy; and conclude that they should be denied. The record is sufficient unto itself regarding the economic aspects of the application and the extent to which the public interest would be involved by the grant or denial thereof. There is no need to combine this matter with the Commission's statewide Investigation heretofore referred to, and the instant application may and should be decided, separately, on its merits.

The record shows that applicant was organized in 1956 to serve the Pomona Valley area, but due to its limited transmitting abilities, it has failed to attract large numbers of subscribers and has, in fact, lost most of them. Those subscribers who had either formerly utilized applicant's service or had considered subscribing, complained that the transmitting service from downtown Pomona faded and became unclear in the Ontario-Upland region, and failed completely in the foothill canyon regions north of Pomona.

A consulting economist, with wide experience in population studies and community planning, testified that the applicant's proposed service area in the East San Gabriel Valley, including Monrovia, Duarte, Covina, West Covina, Bassett, La Puente, Valinda, and Walnut, would comprise a population of about 1,000,000 persons by 1980, and that the area extending from East San Gabriel Valley of Los Angeles County into the Yucaipa-Calamesa area of San Bernardino County, would hold a population

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of some 2,225,500 persons by 1980. This extended area would include also Pomona, Riverside and Corona, as well as Diamond Bar, Chino, Claremont, Montclair, Upland, Ontario, Alta Loma, Etiwanda, Cucamonga, Fontana, Colton, Loma Linda, and Redlands by the use of a directional antenna on Kellogg Hill. Applicant's Kellogg signals, with increased power output, could be well received at the outer extremities of the eastern portion of this vast growth potential area. At the present time, applicant's channel (34) is operated on a co-user basis with Orange County Radiotelephone Service, Inc., and cannot be relocated higher than Kellogg Hill without interference. The Sunset transmitter would operate on a new and separate channel (to be applied for and received from the Federal Communications Commission), and local toll-free calling service would be available as far east as Cucamonga; as far north as the foothills north of Claremont, as far west as Covina; as far south as Chino, Diamond Bar and Walnut; and in the Norco-Corona area to the southeast. The last-named area would be served on a local exchange toll-free calling basis by the extension of its agreement with General Telephone Company now in effect in the Pomona area.

Applicant's economic consultant based his conclusions that the proposed service area would experience accelerated economic and population growth over the next several decades on his analyses of the effects of the extension of the freeway system through the area; the merger of the Ontario International Airport with Los Angeles International Airport; and the fact that the largest vacant reservoir of industrial land on the coastal plain of Southern California surrounds Ontario International Airport; plus the results of an extensive study of a development and growth in Los Angeles County which revealed that one in six industrial firms in Los Angeles County plans to move from the industrial area of Los Angeles to another location within the next five years. An additional factor to support his thesis of economic growth was the fact that employment in the Pomona Valley area totaled 52,650 persons in 1960 and increased to 97,300 persons by July, 1962, an increase of 30,650 of which 11,450 were in manufacturing lines of activity, 4,900 were in wholesale and retail trade and 11,500 in the so-called service industries. He stated as a fact that General Dynamics, Pomona, is the major employer

in the Pomona Valley employing about 6,000 persons. Of these 35 percent live in Pomona; 30 percent live in Montclair, Upland, Ontario; 20 percent live in the communities of Covina, West Covina and Glendora; 10 percent in Claremont-LaVerne; and the remaining five percent in areas extending from the beaches to the high desert.

The Pomona freeway is rapidly approaching completion in the Diamond Bar area and is estimated to be completed through the southern portion of the City of Pomona in 1971. The foothill freeway is proceeding at a very rapid pace, and a North-South freeway, bisecting the area is planned. The yearly patronage at Ontario International Airport about three years ago was originating and bringing to destination (O&D) about 125,000 air passengers a year. Last year the patronage increased to a level of 600,000, and the Los Angeles City Airport Authority indicates a build-up of passenger patronage between ten million and 15 million O&D, per year, between 1975 and 1980. His final definition of an economic region such as applicant's proposed service area would be a geographic area within which a direct relationship between place of residence and place of work, place of residence and place to shop, place of residence and place to pursue cultural activities could be identified, and, in terms

of economic interrelationships, it was his opinion that the area extending from the East San Gabriel Valley, Duarte, Bassett, Valinda line moving eastward to Alta Loma, Etiwanda, encompassing Cucamonga, Chino, represented an integrated regional subeconomy of the eight Southern California Counties. He characterized the latter to be a regional economy.

The results of applicant's market survey, together with the testimony its public witnesses, developed a present need of 27 to 62 mobile telephone units within the Kellogg Hills and Sunset Ridge antenna patterns; and its field survey developed a potential need of 665 units, therein.

ICS serves Covina out of Los Angeles from its Santiago peak and Verdugo transmitters on a local exchange basis, but does not provide, nor has it applied for, local exchange toll-free calling service in the Pomona Valley area, and no other RTU's provide service in the Pomona Valley. The mobile telephone service offered by General Telephone is over crowded, with inadequate coverage and is not on a local exchange service basis in Pomona, Ontario or Corona.

ICS, Frank Chalfont and Allied Telephone Companies Association argued against the granting of the application of Pomona Radio Dispatch Corp. on the grounds that the latter had not demonstrated its ability to fully exercise its certificate of public convenience and necessity within its present service area, and that to permit it to expand would cause uneconomic competition for, and the use of, existing and available channels.

Applicant's president testified that he and his co-stockholder (also applicant's counsel) had the liquid assets sufficient to spend in the neighborhood of \$20,000 for new radio equipment; the cost of establishing a radio transmitter on Kellogg Hill would be in the neighborhood of \$3,500; on Sunset Ridge approximately \$5,000; which, together with the cost of dispatch facilities and additional customer units, would approximate the total figure of \$20,000.

In the application of Coast Mobile Phone Service (1962) 59 CPUC 559, the Commission stated that:

"The effective regulation of radio telephone utilities' service areas necessitates a consideration of the requirements of the subscribers as related to the utilities' base stations and control points".

and further

"Thus a certain degree of overlapping of the two operators' service areas is indicated as being in the public interest".

In the Application of Delta Mobile Radio Telephone Company (1966) 65 CPUC 570, it was our opinion that:

"The evidence clearly establishes that applicant, because of the integrated nature of its proposed operations, offers to provide a service different from and superior to any now available to the public and, we believe, one which will better serve the future and growing radiotelephone needs of the public".

and in the Application of C. E. Stewart, et al., (1966) CPUC 145 we stated that the size of available market and prospective growth are factors which might be considered in determining whether to grant a certificate of public convenience and necessity to a radiotelephone utility.

Findings

The Commission finds that:

1. Pomona Radio Dispatch Corp., organized in 1956, is a radiotelephone utility offering service within a limited and, therefore, unsatisfactory service area, both from a customer usage and an economic standpoint, in and about the City of Pomona.

2. Present radio coverage is poor, or unavailable, under the terms of the proposed tariffs, and is inadequate to serve the population, industrial and economic growth by the year 1980 as forecast for the area.

3. The removal of applicant's present transmitter in downtown Pomona, and the establishment of transmitters on Kellogg Hill and Sunset Ridge, all of which will provide local calling exchange service to mobile telephone subscribers in the east San Gabriel Valley - Pomona Valley-west San Bernardino County area are and will be in the public interest.

Conclusion

We conclude that public convenience and necessity require the granting of the application and the application as amended.

O R D E R

IT IS ORDERED that:

1.a. Motions to dismiss this application, to consolidate this application with Case No. 8880, and to deny this application filed by ICS, Inc., Chalfont Communications and Allied Telephone Companies Association are denied.

b. The motion to strike portions of closing statements (briefs) is denied.

c. Petitions to set aside submission and reopen the proceeding for further hearing are denied.

2.a. Pomona Radio Dispatch Corp. is granted a certificate of public convenience and necessity to extend its radiotelephone transmitting facilities and to expand its service area by the removal of its present transmitter antenna from 840 E. 2nd Street, Pomona, and by the installation of a transmitter and antenna in the Kellogg Hills near Puddingstone Reservoir in Los Angeles County, and by the installation of a transmitter and antenna on Sunset Ridge, located north of the City of Pomona in the foothills of the San Gabriel Mountains.

b. In the exercise of the foregoing certificate, applicant shall not hold itself out as serving, nor shall it offer to serve, beyond the limits of a 39 dbu contour emanating from each of its base stations used for two-way radio communications nor beyond a 43 dbu contour from such base stations used for one-way signaling service, except upon the further authorization of this Commission.

3. Applicant is ordered to file with this Commission within sixty days after the effective date of this order the schedule of rates and charges presently authorized and rules governing service to subscribers, tariff service area maps (39 dbu contour) and sample copies of printed forms normally used in connection with subscribers' services, all in accordance with the requirements of General Order No. 96-A. Such rates, rules, tariff service area maps and forms shall become effective on five days' notice to this Commission and to the public, after filing as hereinabove provided.

4. Applicant shall file with this Commission true copies of any authorizations it may receive from the Federal Communications Commission respecting the licensing or operating of the radio installations covered by the certificate of public convenience and necessity hereinabove issued, within fifteen days of their receipt by applicant.

5. If the aforesaid certificate is exercised, applicant shall notify this Commission in writing of the date upon which public utility service is first rendered from each of its two base stations, within five days thereafter.

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

Dated at San Francisco California, this 26th
day of AUGUST, 1969.

William J. Squires Jr.
President
Robert P. Morrissey
John J. [illegible]
Commissioners