

ORIGINAL

Decision No. 78244

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
OSCAR M. CHRISTOF, dba CITY ANSWERING )  
SERVICE, For a Certificate of Public )  
Convenience and Necessity to Construct )  
a New Radiotelephone Utility System. )

Application No. 52164  
(Filed August 27, 1970;  
Amended October 22, 1970)

Phillips B. Patton, Attorney at Law, for applicant.  
George M. Malti and Lester W. Spillane, Attorneys  
at Law, for Delta Valley Radiotelephone Co., Inc.,  
protestant.  
James E. Walley, for Auto-Phone Co., protestant.  
R. G. Thayer, Attorney at Law, and Roger Johnson,  
for the Commission staff.

O P I N I O N

By this application, Oscar M. Christof (dba City Answering Service) seeks a certificate of public convenience and necessity to construct and operate a public utility radiotelephone system at Placerville for service to said city and surrounding areas in El Dorado County.

Public hearings in the matter were held before Examiner Emerson on October 29 and 30, 1970 at Placerville and on November 9 and December 7, 1970 at San Francisco. Submission was taken on the latter date.

Applicant owns and operates a telephone answering service (TAS) business in Placerville. A substantial number of his TAS patrons have sought two-way mobile radio and radio paging services. The application herein is primarily in response to such public demand.

Applicant proposes to construct and operate a public utility radio-telephone system which would provide service to all of that portion of El Dorado County lying to the west of the crest or summit of the Sierra Nevada. Initially, applicant's service would be provided within a 37 dbu signal-strength contour centered on Placerville. The radio frequencies to be utilized would lie in either the 150 MHz or 450 MHz bands depending upon licensing assignment by the Federal Communications Commission.

Public need for applicant's proposed operations and public support therefor has been amply demonstrated through the testimony of 18 witnesses who are potential subscribers to the service. Applicant's exhibits respecting his financial situation and the economic results of his proposed RTU operations constitute a convincing showing that such operations are economically feasible. The rates and charges proposed for the various services to be offered are those generally charged by the RTU industry in California and appear to be just and reasonable.

Delta Valley Radiotelephone Co., Inc. (Delta Valley) originally appeared as a protestant in this matter, claiming that it already served the area and was able to cover existing radio-telephone needs in El Dorado County. Delta Valley bases its claim to the territory on so-called "grandfather rights" acquired in 1961. The exercise of "grandfather rights" necessarily presupposes an actual rendering of service to the public in the claimed area at the time those "rights" were created (in this case, 1961). It is clear, however, that Delta Valley's records disclose no service in El Dorado County prior to 1967 and that since such year Delta Valley has served no more than two Sacramento County-based subscribers on

a seasonal basis in El Dorado County. At the times of hearing in this matter, neither was being served by Delta Valley. Since Delta Valley's tariffs, contrary to the requirement of the Commission's General Order No. 96-A, contain no service area map (nor any other signal-strength contour delineation) it is not known whether or not there is in fact an overlapping of signal areas. It is clear that Delta Valley has no message center within the area in El Dorado County which it allegedly has served. We thus find the fact to be that Delta Valley has no claim to territorial "rights" in El Dorado County. On the final day of hearing, Delta Valley withdrew its protest; its attorney declaring "...we just wish not to continue to be a participant in the proceeding" (TR 309, lines 19-20).

James E. Walley (dba Auto-Phone Co.) originally appeared as a protestant in this matter because of an assumed mutual radio interference problem. When the possibility of such problem was dispelled on the first day of hearing, he withdrew his protest.

In view of the record, the Commission makes the following findings of fact:

1. Public convenience and necessity require and will require the public utility radiotelephone services proposed by applicant.
2. Applicant possesses the ability and resources to construct and operate the proposed system.
3. The proposed operations are economically feasible.
4. The rates proposed in the application are just and reasonable for the service to be rendered.

5. Applicant should file rules, standard forms and other tariff sheets, including a service area map, as needed to define conditions of rendering public utility service.

The Commission concludes that the application herein should be granted, as provided in the order which follows.

The certificate hereinafter granted is subject to the 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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Oscar M. Christof (City Answering Service) for the construction and operation of a public utility radiotelephone system for service to that portion of El Dorado County, California, lying westerly of the crest of the Sierra Nevada, including the City of Placerville.

2. Applicant is authorized to file, on or after the effective date of this order and in conformity with the provisions of General Order No. 96-A, tariffs containing the schedule of rates and charges set forth in Exhibit E attached to the application herein together with rules governing conditions of service to subscribers, service area maps and sample copies of printed forms normally used in connection with subscribers' services and, on not less than five days'

notice to this Commission and to the public to make said tariffs effective for service as of the date of such filing.

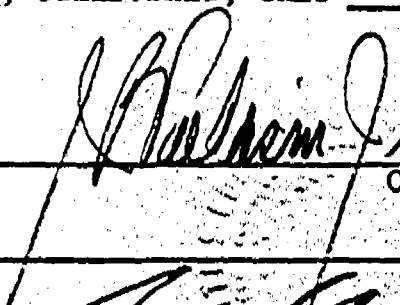
3. Applicant shall notify this Commission, in writing, of the date service is first rendered the public under the rates and rules hereinabove authorized, within five days thereafter.

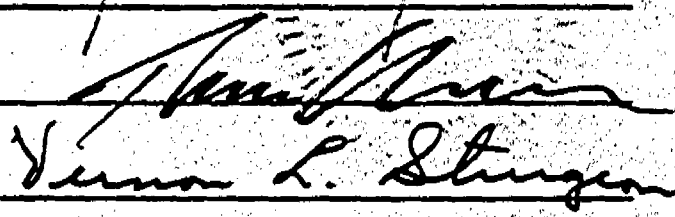
4. Applicant shall keep his books and records in accordance with the Uniform System of Accounts prescribed by the Commission for radiotelephone utilities and shall determine accruals for depreciation by dividing the original cost of depreciable utility plant, less estimated future net salvage and less depreciation reserve, by the estimated remaining life of the depreciable plant. Further, applicant shall review said accruals as of January 1, following the date service is first rendered and thereafter whenever major changes in plant composition may occur and at intervals of not more than five years. Results of these reviews shall be submitted to this Commission.

5. The certificate herein granted and the authority to render service under the rates and rules hereinabove authorized will expire if not exercised within thirty months after the effective date of this order.

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

Dated at San Francisco, California, this 2<sup>nd</sup> day of FEBRUARY, 1971.

  
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Chairman

  
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Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.