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Decision No. 78806

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Jack Loperena, dba RADIO DISPATCH
FRESNO, TULARE COUNTY RADIO DISPATCH
AND COMMUNICATION ENGINEERING COMPANY
for authority to transfer assets, and
AIRSIGNAL OF CALIFORNIA, INC., a
California corporation, for authority
to acquire assets.

Application No. 52474
(Filed March 1, 1971)

O P I N I O N

By this joint application Jack Loperena (hereinafter Loperena), doing business as Radio Dispatch Fresno, Tulare County Radio Dispatch and Communication Engineering Company seeks authority to transfer his radiotelephone utilities to Airsignal of California, Inc. (hereinafter Airsignal).

Radio Dispatch Fresno was one of numerous miscellaneous common carriers found to be telephone companies and directed to file rates as a radiotelephone utility by Decision No. 62156 in Case No. 6945, dated June 20, 1961.

Pursuant to the authority granted in Decision No. 70804, dated June 8, 1966, in Application No. 48366, Loperena acquired a second radiotelephone utility business which he now operates as an individual doing business as Tulare County Radio Dispatch.

Pursuant to the authority granted in Decision No. 76982, dated March 24, 1970, in Application No. 51416, Loperena acquired a third radiotelephone utility business which he now operates as an individual doing business as Communication Engineering Company.

These three radiotelephone utility operations provide radiotelephone and one-way paging service to the public in the Counties of Fresno, Madera, Merced, Mariposa, Tulare and Kings and portions of Stanislaus, San Joaquin, Calaveras, Tuolumne, Kern, San Benito and San Luis Obispo Counties.

Airsignal is a corporation organized and existing under and by virtue of the laws of the State of California. A certified copy of Airsignal's current Articles of Incorporation was placed on file with the Commission in connection with Application No. 52339, filed December 2, 1970. Decision No. 78152, dated January 5, 1971, granted authority to Airsignal to acquire the one-way paging and two-way radiotelephone operations of Carford Corporation in the City of Modesto and surrounding communities. Federal Communications Commission approval of the transfer of the licenses necessary to provide these radiotelephone utility operations is expected prior to March 30, 1971.

On February 10, 1971, Loperena and Airsignal entered into an agreement wherein Loperena agreed to sell the radiotelephone utility businesses operated by him under the fictitious names of Radio Dispatch Fresno, Tulare County Radio Dispatch and Communication Engineering Company to Airsignal for a total price of \$383,000. A copy of this agreement is attached to the application as Exhibit "A". \$353,000 of the purchase price is to be allocated among the three radiotelephone utility businesses as follows: Radio Dispatch Fresno, \$173,000; Tulare County Radio Dispatch, \$150,000; and Communication Engineering Company, \$30,000.

The last available balance sheets of Radio Dispatch Fresno, Tulare County Radio Dispatch and Communication Engineering Company covering the results of operations to and including September 30, 1970, are attached to the application as Exhibit "B". A consolidated balance sheet of all three radiotelephone utility operations is attached to the application as Exhibit "C". Income statements for the period from the close of 1969 to September 30, 1970 for Radio Dispatch Fresno, Tulare County Radio Dispatch and Communication Engineering Company are attached to the application as Exhibit "D". A consolidated income statement for all three radiotelephone utility operations is attached to the application as Exhibit "E".

The equipment to be transferred upon the consummation of this sale is described in Schedule A of Exhibit "A". Said equipment is encumbered by a security agreement dated September 3, 1966, by and between Jack Loperena and Joanne M. Loperena, Debtors, and Harry F. Fisher, Secured Party, given to secure an indebtedness of \$53,000 and by a security agreement dated July 31, 1970, by and between Jack Loperena and Joanne M. Loperena, Debtors, and Alan T. Margot, Secured Party, given to secure an indebtedness of \$30,000. The secured parties have agreed to release their security interest in said equipment which will be held by Airsignal free and clear of any liens or encumbrances.

Airsignal's financial statement is as follows:

- (a) Airsignal is authorized to issue only one class of stock; the total number of said shares is 100,000 and the par value of each such share is \$1.00. The Commission, by Decision No. 78152, has authorized the issuance of 1,000 shares.

- (b) Airsignal has no preferred stock authorized, issued or outstanding.
- (c) Airsignal has no security agreements, mortgages or deeds of trust on its property.
- (d) No bonds have been issued or are outstanding.
- (e) No notes have been issued or are outstanding.
- (f) Airsignal has no other indebtedness.
- (g) As Airsignal has only been recently incorporated, no dividends have been paid during the last five fiscal years.
- (h) A pro forma balance sheet which will reflect Airsignal's financial status upon the transfer approved by the Commission in Decision No. 78152 is attached as Exhibit "F" to this application.

All of the stock of Airsignal will be owned by Airsignal International, Inc., a Delaware corporation, and a wholly owned subsidiary of Western Union International, Inc. A copy of the 1969 Annual Report of Western Union International, Inc. was filed with the Commission in connection with Application No. 52339. A copy of Western Union International, Inc.'s income statement from the close of 1969 to September 30, 1970, is attached as Exhibit "G" to this application.

Upon the approval of this transaction by this Commission and the Federal Communications Commission, Western Union International will, through Airsignal International, transfer not less than \$383,000 in cash and promissory notes to Airsignal as paid-in capital. Airsignal will use the cash and promissory notes of Airsignal International to consummate the Agreement of Sale.

The equipment to be sold and purchased in this transaction is to be transferred at Loperena's book value at the closing date. A schedule of the acquisition cost and depreciation currently applicable to such equipment is attached to the application as Exhibit "H". A pro forma balance sheet showing the effect of this transaction based on the current book value of the equipment to be transferred is attached to the application as Exhibit "I".

Airsignal has agreed, upon approval of this transaction, to enter into the following lease, rental, maintenance and dispatch agreements: Lease of 150 square feet of building and tower space at a transmitter location known as Meadow Lakes for a term of ten years at a monthly rental of \$125. Sublease of a portion of the building located at 110 North Oak, Visalia, for the balance of the term which will be approximately fifty-four months for a monthly rental of \$100, including utilities. Assignment of lease of transmitter site known as Lewis Hill for a term of five years at a monthly rental of \$27.50. Lease of a portion of the building located at 238 North Fresno Street, Fresno, for a term of ten years at a monthly rental of \$300. Rental of 357 pagers, a dial terminal and two base stations for a term of five years at a monthly rental of \$2,150. Rental of not less than 225 mobiles for a term of six years at a basic monthly rental of between \$8.40 and \$12 for tube-type and \$12 for transistor type. Maintenance agreement with Fresno Electronics for maintenance in Fresno of VHF mobiles at \$4.80 per unit per month, UHF mobiles at \$6.40 per unit per month and pagers at \$1.00 per unit per month. Maintenance agreement in Visalia with Allied Communications for maintenance of VHF and UHF mobiles at \$6.75 per unit per

month and pagers at \$1.00 per unit per month. Maintenance agreement in Porterville with Alan T. Margot for maintenance of VHF mobiles at \$4.00 per unit per month plus parts. Dispatch agreement with Percy Answering Service in Visalia for \$25 per month plus \$1.25 per mobile and per pager per month. Dispatch agreement with Porterville Answering Service for \$1.50 per mobile and per pager per month with a minimum of \$150 per month.

As justification and explanation of the transaction proposed herein, applicants allege as follows:

The equipment presently used in Loperena's utility operations will become obsolete within the next three to five years and it is anticipated that a substantial capital investment will be required during this period. Airsignal will be able to draw on the technical and financial resources of Airsignal International and Western Union International to meet this need and upgrade and modernize the system. Airsignal International has been and is now engaged in a program of research and development that has thus far produced a new lightweight pocket pager currently being used by Airsignal International and its affiliates. It is expected that this program will result in other improvements, innovations and inventions which will be made available to Airsignal.

Airsignal initially intends to continue the existing utility operations substantially unchanged. The within arrangements to use the same dispatch points and same maintenance locations will ensure an orderly transition period. Airsignal intends to improve the existing network by replacing the 72 MHz control links with microwave. This will eliminate the radio interference now being experienced in the present utility operation and will facilitate the conversion of the system to full duplex operation.

Applicants therefore request the Commission to issue its order authorizing, pursuant to Sections 851-853 of the Public Utilities Code the transfer of all of the assets listed in Schedule A of Exhibit "A" attached to the application to Airsignal, together with said certificates of public convenience and necessity.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

The action taken herein is for the purpose of this proceeding only and is not to be construed as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

The authority herein granted is subject to the following provision of law:

The Commission shall have no power to authorize the capitalization of the right to be a corporation, or the capitalization of any franchise or permit, or the right to own, operate, or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise, permit, or right.

O R D E R

IT IS ORDERED that:

1. Jack Loperena (Loperena), on or after the effective date hereof and on or before December 31, 1971, may sell and transfer, and Airsignal of California, Inc. may acquire, the radiotelephone certificate of public convenience and necessity and other assets referred to in this proceeding.

2. Airsignal of California, Inc., on or after the effective date hereof and on or before December 31, 1971, in acquiring said assets, may sign the long term leases referred to in the application.

3. As a condition of the authority herein granted, Airsignal of California, Inc. is hereby directed to continue the public utility responsibilities of Loperena with respect to the area served by the radiotelephone systems being transferred.

4. Within sixty days after the date of actual transfer, the tariffs of Loperena now on file with this Commission shall be refiled under the name of Airsignal of California, Inc. in accordance with the procedure prescribed in General Order No. 96-A, or, in lieu of such refiling, Airsignal of California, Inc. may file within thirty days after the date of actual transfer, by advice letter, a notice of adoption of said presently filed tariffs. No increase in the presently filed tariffs shall be made unless authorized by this Commission.

5. Loperena, on or before the date of actual transfer, shall refund all customers' deposits and advances which are subject to refund. Any unrefunded deposits and advances shall be transferred to and become the obligation for refund of Airsignal of California, Inc.

6. On or before the date of actual transfer of the specific properties herein authorized, Loperena shall transfer and deliver to Airsignal of California, Inc., and the latter shall receive and preserve all records, memoranda and papers pertaining to the construction and operation of the radiotelephone utilities authorized to be transferred.

7. If the authority herein granted is exercised, Airsignal of California, Inc. shall, within thirty days thereafter, notify the Commission, in writing, of the date of such completion of the property transfer herein authorized and of its compliance with the conditions hereof.

8. On or before the end of the third month after the consummation of the transfer as herein authorized, Airsignal of California, Inc. shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

9. Upon compliance with the above ordering paragraphs, Loperena is hereby relieved of its public utility responsibilities with respect to the property being transferred coincident with the full assumption of such responsibilities by Airsignal of California, Inc.

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

Dated at San Francisco, California, this 22nd day of JUNE, 1971.

[Signature]
Chairman
William L. Loperena
[Signature]
Vernon L. Loperena
[Signature]
Commissioners