

Decision No. 79640

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WILLIAM R. FOX, dba SANTA CRUZ TELE-)
PHONE ANSWERING AND RADIO SERVICE,)
for authority to transfer assets;)
and of VERLE D. BOGUE, for authority)
to acquire assets of a California)
Radiotelephone Utility. }

Application No. 53012
(Filed November 19, 1971)

O P I N I O N

By this joint application, William R. Fox (hereinafter Fox), doing business as Santa Cruz Telephone Answering and Radio Service, seeks authority to transfer his radiotelephone utilities to Verle D. Bogue (hereinafter Bogue).

Fox is an individual resident of Santa Cruz County doing business in Santa Cruz and surrounding areas as a radiotelephone utility (RTU) subject to the jurisdiction and regulation of this Commission under the name and style of "Santa Cruz Telephone Answering and Radio Service". Ownership by Fox was approved by this Commission in Decision No. 69013, dated May 4, 1965, in Application No. 47370.

Santa Cruz Telephone Answering and Radio Service is authorized to provide RTU service in the Counties of Santa Cruz, Monterey, and in portions of San Benito, Santa Clara, Alameda and San Mateo Counties.

Verle D. Bogue is an individual residing in Monterey County. According to the application, Mr. Bogue is well experienced in the communication business, having operated a telephone answering business in Illinois since 1962. That business is still owned by Mr. Bogue and is operated by employees through the vehicle of a

wholly owned Illinois corporation known as Bogue Answering Services, Inc. Mr. Bogue is past president (1969-1970) of Associated Telephone Answering Exchanges (ATAE), the national trade association of answering services. He is past president (1966-1969) of the Illinois telephone answering service trade association. He is presently a member of the Board of Directors of ATAЕ, and has served on the liaison committee of ATAЕ with AT&T for many years. Mr. Bogue in this application is seeking, as an individual resident of California, permission to acquire the public utility assets of Fox, and in a collateral application to the Federal Communications Commission is seeking an assignment of the radio station licenses of Fox and Santa Cruz Telephone Answering and Radio Service. Mr. Bogue has been active in civic affairs and in service clubs and is in all ways a proper person to carry out public utility service responsibilities.

Fox and Bogue have entered into an escrow agreement (Appendix A to the application) for sale of the public utility assets of Fox to Bogue, subject to prior approval of the transfer by the California Public Utilities Commission, and subject also to prior approval of the Federal Communications Commission as to transfer of certain radio transmitter licenses. Collateral agreements referred to in Appendix A are shown as Appendices B and C thereto. The public utility assets agreed to be sold, the present book value of said assets and the proposed allocation of the purchase price to particular assets are shown on Exhibits A, B and C of Appendix A thereto.

Public utility assets sold and purchased in this transaction are to be transferred to the books of the proposed public utility business of Verle D. Bogue at Fox's then current book value. A pro forma balance sheet showing the effect of the transaction on the utility service balance sheet is shown as Appendix H to the application.

As justification of the fact that the proposed transfer will be in the public interest, applicants allege as follows:

The present licensee William R. Fox also is engaged in other business enterprises away from the Monterey Bay area and has family health problems which are such that he is increasingly hard pressed to give personal supervision to his business interests. These factors cause him to wish to terminate his active control of the business. The proposed new owner and operator, Verle D. Bogue, is experienced in serving the public as owner and operator of a large telephone answering service, and is well acquainted with radio-telephone activities frequently engaged in by persons operating telephone answering services by virtue of his activities as director and officer of both state and national associations of telephone answering services. He has long service on the telephone answering industry liaison committee dealing with AT&T. Mr. Bogue has recently become a permanent resident within the service area of the Santa Cruz Telephone Answering and Radio Service, has the resources of all types and the desire to own and operate that utility business so as to serve the public interest.

Mr. Bogue has the financial resources to enlarge and improve the public utility service as may be required in the public interest, and is ready, willing and able to do so as the state of the communications art and public needs dictate. Mr. Bogue initially intends to continue the existing utility operations substantially unchanged, and intends to retain the present experienced operating personnel as employees.

Mr. Bogue proposes to contract with Santa Cruz Telephone Answering Service and with Watsonville Telephone Answering Service for dispatching public utility calls. The form of contracts proposed are attached as Appendices J and K to the application. It should be noted that the above answering services are to be purchased by Bogue Answering Services, Inc. from Fox.

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.

Moreover, nothing in this decision shall be construed as authorizing Verle D. Bogue to issue or to assume any evidence of indebtedness or to encumber any public utility property, or indicating that the Commission would grant any of such authority if requested.

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. William R. Fox (Fox), on or after the effective date hereof and on or before December 31, 1972, may sell and transfer, and Verle D. Bogue (Bogue) may acquire, the radiotelephone certificate of public convenience and necessity and other assets referred to in this proceeding.
2. As a condition of the authority herein granted, Bogue is hereby directed to continue the public utility responsibilities of Fox with respect to the area served by the radiotelephone system being transferred.

3. Within sixty days after the date of actual transfer, the tariffs of Fox now on file with this Commission shall be refiled under the name of Bogue, in accordance with the procedure prescribed in General Order No. 96-A, or, in lieu of such refiling, Bogue 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.

4. Fox, 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 Bogue.

5. On or before the date of actual transfer of the specific properties herein authorized, Fox shall transfer and deliver to Bogue, and the latter shall receive and preserve all records, memoranda and papers pertaining to the construction and operation of the radiotelephone utility authorized to be transferred.

6. If the authority herein granted is exercised, Bogue 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.

7. On or before the end of the third month after the consummation of the transfer as herein authorized, Bogue 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.

8. Upon compliance with the above ordering paragraphs, Fox is hereby relieved of its public utility responsibilities with respect to the property being transferred coincident with the full assumption of such responsibilities by Bogue.

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

Dated at San Francisco, California, this 25th day of JANUARY, 1972.

[Signature]
Chairman
William Stephens, Jr.
[Signature]
Leonard P. Sturgeon
[Signature]
Commissioners