

Decision No. 80928**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 Airsignal of California, Inc., a
 California corporation, successor in
 interest to JACK LOPERENA, dba
 Tulare County Radio Dispatch, for a
 certificate of public convenience and
 necessity to construct additional
 radio-telephone utility facilities to
 be operated in conjunction with the
 utility's existing radiotelephone
 system.

Application No. 51268
 (Filed July 24, 1969;
 Amended October 20, 1971)

Carl B. Hilliard, Jr., Attorney at Law,
 for applicant.
Vaughan, Paul & Lyons, by John G. Lyons,
 Attorney at Law, for Hanford Mobile
 Radio, Inc., interested party.
Roger Johnson, for the Commission staff.

O P I N I O N

By this application filed on July 24, 1969, Jack Loperena (dba Tulare County Radio Dispatch) sought a certificate of public convenience and necessity to construct additional radiotelephone utility facilities to be operated in conjunction with his existing radiotelephone system KMA 261, in order to provide adequate service to the city of Hanford and adjacent areas to the south, north, and west of Hanford.

By letter dated July 25, 1969, Fresno Mobile Radio, Inc. and Hanford Mobile Radio, Inc. objected to the application on the basis that Loperena's proposed service would extend into areas in which all mobile services were being offered by Fresno Mobile Radio and Hanford Mobile Radio.

On September 20, 1971 a "Notice of Hearing" was sent to applicant and all interested parties giving notice that hearing had been set for October 27, 1971 at Hanford.

On October 20, 1971 the application was amended to show that Airsignal of California, Inc., as successor in interest to Loperena, was in fact the applicant.

At the request of Airsignal, the matter was removed from the calendar on October 21, 1971, in the hope that applicant and those who objected to the application might come to an agreement which could be presented to the Commission for its approval.

Understanding that agreement could not be reached between the parties, the Commission by "Notice of Hearing" mailed October 16, 1972 set the matter for hearing to be held on November 28, 1972 at Hanford.

A letter from applicant's attorney dated November 10, 1972 contained the following:

"Application No. 51268 has been protested by Hanford Mobile Radio, Inc. Airsignal and Hanford Mobile Radio, Inc., have now agreed, subject to Commission approval, that they may both expand their facilities to provide paging service in the Hanford area. We understand that such authority may be granted by approval of appropriate tariffs. Accordingly, under separate cover of even date, Airsignal is forwarding to you for filing, tariffs under Advice Letter No. 10 which provide for an expansion of its facilities as requested in Application No. 51268.

"Hanford Mobile Radio, Inc., filed tariffs on or about October 26, 1972, under cover of Advice Letter No. 7 seeking to expand its facilities to provide service to the same area. It would be prejudicial and injurious to Airsignal for the Commission to approve the Hanford Mobile Radio, Inc. tariffs unless and until Airsignal's tariffs are approved.

"Accordingly, pursuant to Rule 96-A, Subsection H, Airsignal hereby protests the above-referenced tariffs of Hanford Mobile Radio, Inc. It is respectfully requested that this protest be withdrawn upon approval of Airsignal's tariffs forwarded under cover of Advice Letter No. 10, or in the alternative, grant of the authority requested in Application No. 51268."

Because of applicant's protest, on November 17, 1972, Hanford Mobile Radio, Inc. filed Application No. 53697 entitled:

In the Matter of the Application of HANFORD MOBILE RADIO, INC., a corporation, for authorization to construct additional radiotelephone utility facilities at Hanford, California, to be operated in conjunction with its existing radio-telephone system.

On November 21, 1972 the Commission opened Case No. 9473 entitled:

In the Matter of the Suspension and Investigation on the Commission's own motion of the tariff sheets covering the offering of "One-Way Radio Paging Communications" filed under Advice Letter No. 7 by Hanford Mobile Radio, Inc.

Hearing on Application No. 51268 was held before Examiner Gillanders at Hanford on November 28, 1972 and the matter submitted.^{1/}

According to applicant the basic purpose of the application is to provide better service to its existing customers - mainly the medical community.

At the hearing public need for applicant's proposed operations and public support therefor was amply demonstrated through the testimony of eight witnesses. Applicant's exhibits respecting its financial situation and the economic results of its proposed RTU operations constitute a showing that such operations could be economically feasible. The rates and charges proposed for the various services to be offered appear to be just and reasonable.

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.

^{1/} At the hearing, Hanford Mobile Radio appeared as an interested party and stated it had no objection to the application.

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 the proposed 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 following provision of law:

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 Airsignal of California, Inc. for the construction and operation of a public utility radiotelephone system for service to Hanford and environs.
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 6 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. 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 9th day of JANUARY, 1972

Verdon L. Sturgeon
President
[Signature]
[Signature]
Commissioners

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