

ORIGINAL

Decision No. 81878

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
JAMES T. DOWNEY and DAVID D. WALIZER,
dba HIGH SIERRA MOBILFONE for a
Certificate of Public Convenience
and Necessity to Construct a New
Radiotelephone Utility System.

Application No. 54100
(Filed June 11, 1973)

O P I N I O N

James T. Downey and David D. Walizer (applicants), a partnership doing business as High Sierra Mobilfone, seek a certificate of public convenience and necessity, pursuant to Section 1001 of the Public Utilities Code, to construct and operate a common carrier mobile radiotelephone system in Bishop, Inyo County, and neighboring territory in Inyo and Mono Counties.

Applicants also request, pursuant to Section 1003 of the Code, an order declaring that the Commission will, upon supplemental application, issue a certificate of public convenience and necessity to exercise the construction permit that it is requesting, and the license that it will request, from the Federal Communications Commission (FCC).

The application states that applicants are in the process of filing with the FCC application for a construction permit to construct the facilities described above; that the FCC, before issuing a permit, will require applicants to present evidence of having obtained authority from this Commission to engage in the proposed common carrier business under California statutes; and that applicants are not required to obtain any other special permit or franchise.

The proposed base station for transmitting and receiving will be located at Silver Canyon Peak, located approximately 12 miles

east northeast of Bishop. The base station will be controlled at applicant's principal place of business in Bishop, where the message center will be located. Applicants state that they will maintain 24-hour service.

By a letter dated August 14, 1973, applicants submitted information requested by the staff, including a revised map of the area to be served. This letter and the accompanying information are received as Exhibit 1.

The proposed system would provide primary service within the station's 37 dbu contour, and according to the map in Exhibit 1 would cover an area ranging from Tinemaha on the south, Oasis on the east near the Nevada state line, Benton Station on the north, and Tom's Place on the northwest, the last two communities being in Mono County. The effective radiated power of the base station would be 10.4 watts, and it would operate on the 152 MHz band.

Applicants state that equipment necessary for initiation of service and the first year's growth is estimated to cost \$8,000, and that applicants already own some of the necessary equipment.

At this point in time there is no radiotelephone common carrier providing service in the Bishop area. The application shows that applicants possess the experience and financial resources to institute and maintain the service for which a certificate is sought. The application also includes 15 letters from governmental agencies, businesses, and professional persons indicating an interest in the service.

According to first- and fifth-year estimates of revenues and expenses submitted with the application, the service would be profitable from the start, and in the fifth year would produce \$29,270 in revenues and incur \$24,200 in expenses, including \$2,400 for management salaries. Revenue and expense levels for the fifth year are based on an anticipation of 25 two-way and 40 paging subscribers.

The staff of the Commission has not expressed any objection to the proposed certificate. No protests have been received.

Pursuant to Rule 17.1 of our Rules of Procedure, the application contains a motion requesting a "Negative Declaration", as defined by Division 6, Title 14, Chapter 3, Article 1, Section 15033 of the California Administrative Code, the "Guidelines for Implementation of the California Environmental Quality Act of 1970" (Guidelines).

In support for the motion, applicants allege that all equipment will be installed in existing buildings and all antennas will be installed on existing antenna structures. The antenna site on Silver Canyon Peak is an existing radio site within the Inyo National Forest and is presently used by both government and commercial users. The United States Forest Service has issued a "Notice of Site Availability" without an environmental impact study being required.

The Commission can see no significant effect that the proposed service would have on recreational and park areas or historical and aesthetic values. By providing a presently unavailable mode of communication, the service would enhance community values. The application shows, with reasonable certainty, that the project involved in this proceeding will not have a significant effect on the environment (Guidelines Section 15060), and no Environmental Impact Report (EIR) will be required (Guidelines Section 15027).

The Commission is the lead agency for the proposed project (Guidelines Section 15030). A copy of this decision, containing a "Negative Declaration" as one of its findings, will be filed by the Secretary of the Commission with the Secretary for Resources.

The Commission finds that:

1. The public has need for the proposed services which are not presently available, or obtainable by the use of other services in Bishop and neighboring territory in Inyo and Mono Counties.

2. Public convenience and necessity require that applicants construct and operate a radiotelephone and paging service within the 37 dbu contour shown on the revised map included in Exhibit 1.

3. The rates proposed by applicants are fair and reasonable for the services to be rendered.

4. Public convenience and necessity require the exercise by applicants of the construction permit that applicants are requesting, and license that it will request, from the Federal Communications Commission covering its proposed radiotelephone and paging system.

5. The proposed service would have no significant effect on recreational and park areas nor on historical and aesthetic values.

6. The proposed service would enhance community values.

7. The proposed project will have no significant effect on the environment.

8. The Commission is the lead agency for the proposed project.

9. No EIR is required.

The certificate herein granted and any to be granted for the exercise of any permit or license shall be subject to the following proviso:

The Commission shall not authorize the capitalization of the permit and license involved herein or this certificate of public convenience and necessity or the right to own, operate, or enjoy such permit, license, or certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for the grant of such franchise, 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 granted to James T. Downey and David D. Walizer, a partnership doing business as High Sierra Mobilfone, authorizing the partnership to construct and operate a common carrier mobile radiotelephone and paging system in the city of Bishop and in neighboring territory

in Inyo and Mono Counties within the 37 dbu contour as shown on the revised map, included in Exhibit 1.

2. Applicants are authorized to file, after the effective date of this order, the schedule of rates and charges set forth in Exhibit E attached to the application, to be effective on or before the date service is first rendered to the public under the authority herein granted, and rules governing service to subscribers, tariff service area maps, and sample copies of printed forms normally used in connection with subscribers' services, 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 as hereinabove provided.

3. Applicants shall notify this Commission, in writing, of the date service is first rendered to the public under the rates and rules authorized herein, within ten days thereafter.

4. Applicants shall file with this Commission copies of all annual reports made to the Federal Communications Commission.

5. Applicants shall determine accruals for depreciation by dividing the original cost of the depreciable utility plant, less estimated future net salvage and less depreciation reserve, by the estimated remaining life of the depreciable plant. Applicants shall review the accruals as of January 1, following the date service is first furnished to the public under the rates and rules authorized herein and thereafter when major changes in depreciable utility plant composition occur, and at intervals of not more than five years. Results of these reviews shall be submitted to this Commission.

6. Applicants shall maintain its books of account in accordance with the Uniform System of Accounts for Radiotelephone Companies as prescribed by this Commission.

7. The certificate herein granted and the authority to render service under the rates and rules authorized herein will expire if not exercised within one year after the effective date of this order.

8. Pursuant to Section 1003 of the Public Utilities Code, the Commission will, upon supplemental application, under such terms and conditions that it may designate, issue a certificate of public convenience and necessity to exercise all rights and privileges granted pursuant to the permit applicants are requesting, and the license that it will request, from the Federal Communications Commission covering its proposed radiotelephone system.

9. The Secretary of the Commission is directed to file a copy of this decision with the Secretary for Resources.

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

Dated at San Francisco, California, this 14th day of SEPTEMBER, 1973.

Vermon L. Sturgeon
President

William Sproul, Jr.

William S. ...

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Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.