

ORIGINAL

Decision No. 85086

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Suspension and
Investigation on the Commission's
own motion of tariffs filed under
Industrial Communications Systems,
Inc. Advice Letter No. 60 estab-
lishing a new base station.

Case No. 9696
(Filed April 2, 1974)

Warren A. Palmer, Attorney at Law, for Industrial
Communications Systems, Inc., respondent.
Carl Hilliard, Attorney at Law, for Intrastate
Radiotelephone, Inc. of San Bernardino,
protestant.
Roger Johnson, for the Commission staff.

INTERIM OPINION

This proceeding concerns a suspension and investigation on the Commission's own motion of tariffs filed by Industrial Communications Systems, Inc. (ICS) under Advice Letter No. 60 to establish a low-level base station at a site near Loma Linda, California, for the purpose of improving paging service within its authorized service area. According to ICS, due to terrain-limiting factors, a reliable paging signal within the Loma Linda-Redlands pocket of its authorized service area cannot be received at all times, particularly within concrete buildings such as the Loma Linda Medical Center. The transmissions from the proposed base station would improve the quality of the paging service of ICS within this "shadow" area.

Six days of hearing were held before Examiner Gillanders on this matter, namely, October 15 through October 17, 1974, and on February 4, 5 and 6, 1975 at Loma Linda. The evidence adduced is

convincing that there is a public need and desire for the improved service proposed by ICS from said base station; that ICS, both technically and financially, is qualified and capable of providing such improved service; that the public utility paging service provided by ICS is not obtainable from protestant Intrastate Radiotelephone, Inc. of San Bernardino; that the competition provided by ICS to said protestant is in the public interest; and that the proposed improvement, if within the authorized service area of ICS, is required.

At the final day of hearing, February 6, 1975 the examiner expressed concern relative to the perimeter of the authorized service area of ICS and directed the Commission staff to prepare and file a late-filed exhibit of the authorized service area of ICS, based on the Grandfather certification in 1961 of ICS pursuant to Decision No. 62156, 58 CPUC 756, of this Commission. Under the examiner's direction, parties would have 10 days from date of receipt of the staff's late-filed exhibit to reply and, if there was need for further hearing, to examine the Commission staff on its determination of such Grandfather certification of ICS.

More than seven months later, on September 19, 1975, ICS counsel received copies of the Commission staff's late-filed exhibit, recomputing the certificated service area of ICS, purportedly based on Federal Communications Commission (FCC) standards for field strength contours which were prescribed in 1961 at the time ICS was granted its Grandfather certificate.

The proposed base station of ICS near Loma Linda lies within the certificated service area of ICS, as computed by ICS and as computed by the Commission staff. In view of the record in this proceeding and the urgent need and desirability of improving paging service of ICS in the Loma Linda-Redlands pocket, we will issue an

interim decision finding and concluding that the Loma Linda base station and paging service proposed in Advice Letter No. 60 be approved.

ICS is in disagreement with the Commission staff's recomputation of its authorized service area, as grandfathered, in that the late-filed exhibit substantially reduces the outer boundaries of the service area of ICS authorized and certificated by Decision No. 62156 under the then prevailing standards of the FCC. Accordingly, ICS requested on September 23, 1975 in accordance with the directions of the examiner, that further hearings be held by the Commission in San Francisco for examination of the Commission staff and for presentation by ICS of rebuttal engineering testimony, which it claims will demonstrate that the perimeter of the service area of ICS, as recomputed by the Commission staff, is in error and substantially reduces such authorized service in a manner inconsistent with Decision No. 62156, and the then prevailing FCC standards for field strength contours. ICS' request will be granted in the order which follows:

Findings

1. ICS' paging service cannot at all times be received in the Loma Linda-Redlands area.
2. ICS proposes to install a base station near Loma Linda which will provide adequate service to the Loma Linda-Redlands area.
3. The 43 dbu contour of the proposed base station lies within the authorized service area of ICS as computed by ICS and as recomputed by the Commission's staff.
4. There is a public need and desire for the improved service proposed by ICS from the proposed base station.
5. ICS, both technically and financially, is qualified and capable of providing such improved service.

6. The public utility paging service provided by ICS is not obtainable from protestant Intrastate Radiotelephone, Inc. of San Bernardino.

7. The competition provided by ICS to protestant is in the public interest.

8. We find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment.

Conclusions

1. The proposed construction should be authorized.
2. The Commission order dated April 29, 1975 in Case No. 9696 suspending Advice Letter No. 60 should be set aside.
3. Further hearing should be held on the question of ICS' authorized service area.

INTERIM ORDER

IT IS ORDERED that:

1. The Commission order dated April 29, 1975 in Case No. 9696 suspending Advice Letter No. 60 is hereby set aside and ICS may construct the proposed base station near Loma Linda in accordance with the requirements of General Order 96-A, Sections V-D.

2. Further public hearings shall be held before Examiner Gillanders at a time and place to be determined.

The effective date of this order is the date hereof. ✓

Dated at San Francisco, California, this 12th day
of NOVEMBER, 1975.

William J. Quinn
President
Vernon J. Stangen
W. J. Stangen

Commissioners

Commissioner Robert Batimovich, being necessarily absent, did not participate in the disposition of this proceeding.