

Decision No. 85141

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Industrial Communications Systems, Inc.,)
Complainant,

vs.

R. L. Mohr, dba Radio Call Corp.,
Advance Electronics, Multiple M
Enterprises, Advance Radiotelephone
Co. and Does I thru X,
Defendants.

Case No. 9373
(Filed May 4, 1972)

Warren A. Palmer, Attorney at Law, for Industrial
Communications Systems, Inc., complainant; and for
Allied Telephone Companies Association, Mobilfone
Inc., Intrastate Radio Telephone Inc. of Los
Angeles, and American Mobile Radio, Inc.,
intervenor.

Carl Hilliard and Ron Bauer, Attorneys at Law, for
R. L. Mohr, dba RadioCall Corp.; Advanced Mobile
Radiotelephone Services, Inc., dba Advanced
Electronics; Multiple M Enterprises; and Advance
Radiotelephone Service, Inc.; defendants.

Timothy E. Treacy, Attorney at Law, and Roger Johnson,
for the Commission staff.

O P I N I O N

Summary of Proceedings

On May 4, 1972 Industrial Communications Systems, Inc. (ICS), a radiotelephone utility operating throughout the Los Angeles basin, filed this complaint against the defendants, including R. L. Mohr (Mohr), dba RadioCall Corp. (RadioCall), a radiotelephone utility operating in the South Bay communities of Los Angeles County. The defendant Advanced Electronics (sued as Advance Electronics) was identified at the hearing as being the fictitious firm name of

Advanced Mobile Radiotelephone Services, Inc. AMRS). We consider AMRS as a named defendant in this case.

The complaint alleged that Mohr had applied to the Federal Communications Commission (FCC) to relocate his utility transmitters from Palos Verdes to San Pedro Hill (a higher elevation), thereby substantially expanding his service area to include the cities of San Pedro, Wilmington, Long Beach, and other incorporated cities and areas in the south-central portion of Los Angeles County without first having obtained authority from this Commission. The complaint further alleged that Mohr, under the name of Advance Radiotelephone Service, was operating as a "pseudo common carrier,"^{1/} offering service to the public for compensation over a business radio frequency from his transmitter located at Mt. Wilson which was directly connected to the wire line exchange facilities of The Pacific Telephone Company, without prior authority from this Commission.

The complaint requested a cease and desist order be issued restraining Mohr from continuing the acts complained of and an order requiring Mohr to show cause why ICS should not be granted the operational rights awarded the defendant by Decision No. 66101 of this Commission. On May 16, 1972, the Commission by Decision No. 80069 denied the request of ICS for a cease and desist order and an order to show cause.

In 1973, by Decisions Nos. 81409, 81413, 81806, and 81881, the Commission granted the petitions to intervene and become a party to this proceeding by Mobilfone, Inc., Intrastate Radio Telephone, Inc., Allied Telephone Companies Association, and American Mobile Radio, Inc. Petitioners Mobilfone, Inc., Intrastate Radio Telephone, Inc., and American Mobile Radio, Inc. are radiotelephone utilities

^{1/} A pseudo or quasi common carrier, is an uncertificated radio-telephone operation, which provides service to some segment of the public in a manner similar to that of a certificated RTU.

serving the greater Los Angeles metropolitan area (including Los Angeles and Orange Counties) or portions thereof, and Allied Telephone Companies Association is an unincorporated association of California radiotelephone utilities, several members of which provide mobile and paging service in the greater Los Angeles metropolitan area (including Los Angeles and Orange Counties) or portions thereof. The intervenors were opposed to Mohr's expansion of his service area by relocation of his utility transmitters without first obtaining Commission authorization and approval. They were further opposed to Mohr's offering and providing paging service over a business radio frequency from a transmitter located on Mt. Wilson on the ground such operation was an unauthorized and illegal public utility service.

Ten days of public hearings were held before Examiner Gillanders at Los Angeles. The matter was taken under submission, subject to the filing of concurrent briefs by the complainant, defendants, and the Commission staff by January 20, 1975. Briefs were filed and the matter is ready for decision.

During the course of the proceedings, defendants filed a petition (in April 1974) for a proposed report. This petition was denied.

Basic Operations of Complainant and Defendants

ICS provides public utility radiotelephone two-way mobile and one-way paging service, both tone only and tone and voice, from two base station locations, Santiago Peak southeast of Los Angeles and Verdugo Peak northeast of Los Angeles, in metropolitan Los Angeles and adjacent areas, including portions of Orange County, San Bernardino County, Riverside County, San Diego County, and Los Angeles County. ICS provides such radio service on both UHF and VHF frequencies within a service area encompassing more than ten million people. ICS was "grandfathered in" by Decision No. 62156 ((1961) 58 CPUC 756). Currently ICS has pending before the FCC at least three

applications for transmitters at sites known as Loma Linda, Fremont, and Saddle Peak, the purpose being to improve paging service within its authorized service area.

Mohr, through RadioCall, provides two-way mobile and one-way paging service, both tone only and tone and voice, from transmitters located at his residence, Palos Verdes Estates, Los Angeles County. Mobile and tone and voice paging service is provided by RadioCall on UHF frequency 454.025 MHz, call letters KLF-515. Tone only paging service is provided on VHF frequency 158.7 MHz (guard band channel), call letters KSV-927. As of January 31, 1974, RadioCall served 7 mobile customers (8 units) and 310 paging customers (149 tone only units and 392 tone and voice units). Additionally, RadioCall provides coastal-marine service from this location (currently on a standby basis) on VHF frequency 161.95 MHz, call letters KUF-487.

RadioCall's operating authority is found in Decision No. 66101 of this Commission, dated October 1, 1963. Pursuant to Application No. 44642 filed in July 1962, and an amendment thereto filed in March 1963, this Commission, after hearing, granted RadioCall (then known as Advanced Electronics) a certificate of public convenience and necessity to construct and operate a public utility system providing two-way (mobile) radio service to the South Bay communities adjacent to the city of Los Angeles. The grant of such certificate was expressly limited to the rights and privileges granted under an FCC construction permit and license. The construction permit and license were not obtained from the FCC until 1968. By Decision No. 74821 of this Commission, October 15, 1968, Mohr was granted permission to exercise the rights and privileges granted by the FCC, and he commenced offering two-way radiotelephone utility service on October 16, 1968 (Decision No. 75278).

In September 1968, Mohr, then doing business under the trade name Advanced Electronics, applied to this Commission (Application No. 50563) for authority to sell his certificate of public convenience and necessity to RadioCall, Inc., a California corporation. The application was denied on the ground that defendant Mohr failed to sustain the burden of proving the proposed transfer was not adverse to the public interest (Decision No. 75278 dated February 4, 1969). The application showed the transferee, RadioCall Inc. would have no assets other than \$1,000 in cash. A similar situation apparently prevails today. Although RadioCall's annual reports on file with this Commission would indicate otherwise, the evidence in this proceeding shows, basically, that defendant Mohr's utility operations (RadioCall) - with a net worth of \$620.72 - are conducted without assets, employees, and essential records.

Late in 1968 RadioCall (then R. L. Mohr, dba Advanced Electronics), applied to the FCC for authority to provide paging service on a guard band channel, frequency 158.70 MHz. RadioCall, for state authorization, relied on its certificate for two-way (mobile) service on frequency 454.025 MHz (call letters KLF-515). On June 30, 1971, FCC File No. 3624-C2-P-69, the FCC authorized RadioCall to provide such paging service within its state authorized service area, estimated to encompass a half million people. Official notice of such decision has been taken in this proceeding. In granting such authorization the FCC stated:

"The first is a letter from the Public Utilities Commission of the State of California dated May 2, 1969 (Appendix 1) expressing serious concern that with a number of applicants vying for exclusive licensing on these two frequencies, it could take years to determine to whom they should be granted. With the public need for paging such a delay was considered by the California PUC to be intolerable. The Commission was, therefore, urged to implement procedures to facilitate assignment of these frequencies. While the PUC letter represented a PUC staff view, it is, nevertheless, entitled to considerable weight, inasmuch as the California Commission regulates the rates and practices of licensees in this service. The California PUC staff stated no objection to a sharing of the two channels by all the applicants, such that each licensee would operate its own transmitter and simply use the frequency on a co-channel, time-shared basis with all the other licensees. The PUC staff also stated that the above-described proposal to share channels would not require any action by the California PUC, since the new service would be entirely within the presently certificated areas of the MCCs."

In early 1972 RadioCall applied to the FCC for authority to change its transmitter location for frequency 454.025 MHz, station KLF-515, from Palos Verdes Estates to a site on San Pedro Hill, four miles southeast of the then authorized site. The authorized contour, 39 dbu, would remain the same. A directional, tilted antenna, beaming a signal in a northwesterly direction toward the South Bay communities would be installed, increasing the elevation from approximately 1,150 to 1,530 feet. RadioCall represented that the new transmitter site would improve service to the public and would not result in degradation of service.

Also, in early 1972 RadioCall filed a similar application with the FCC to change its transmitter location for frequency 158.70 MHz from Palos Verdes Estates to the San Pedro Hill site. In addition RadioCall requested authorization to increase effective radiated power from 104.6 watts to 500 watts, in order to improve service, based on a 43 dbu contour, within its authorized 39 dbu contour.

In both those applications RadioCall relied for state authorization on Decision No. 66101 of this Commission. The applications were opposed by ICS and have not been granted.

In 1972 the FCC granted RadioCall (then R. L. Mohr, dba Advanced Electronics) a license to operate a VHF public coast marine station at Mohr's residence at Palos Verdes Estates on frequency 161.95 MHz (emergency frequency 156.8 MHz). In this proceeding, defendant Mohr stated he had obtained an FCC license in 1974 to move his marine transmitter to the San Pedro Hill site, utilizing the transmitter at his residence on Palos Verdes Estates for standby service. He represented to the FCC that no authority was required from this Commission to effect such relocation. A written motion by ICS to include a determination in this proceeding whether such relocation was unauthorized was denied by the presiding officer primarily on the ground the Commission had not taken jurisdiction over coastal marine radio service. Subsequently, by Decision No. 83493 issued September 24, 1974, the Commission, in granting a certificate of public convenience and necessity to Dana Point Marine Telephone Co. (over the protest of defendant Mohr), assumed jurisdiction over public utility marine radio stations operating in California coastal waters.

Defendant Mohr maintains a control point for his utility operations at Torrance, California. Under the trade name RadioCall Service and Systems, Mohr owns and operates a telephone answering service which acts as a dispatching service for his utility operations and other business concerns (including the 462.750 MHz system). RadioCall also owns and rents the majority of the pagers used by paging customers of RadioCall, the utility. At this Torrance control point RadioCall and/or AMRS have installed an automatic paging terminal which allows tone and voice paging customers, both of the utility and "pseudo common carrier" operations, to perform their own dispatching.

Mohr's principal place of business is at Wilmington, California, the business location of AMRS which is 90 percent owned by Mohr. Its primary business is the maintenance of mobiles and pagers as an authorized service station for Motorola. AMRS uses the trade name Advanced Electronics (Mohr formerly conducted his utility operations under that name).

AMRS also owns in excess of 30 transmitters on Mt. Wilson, Mt. Lukens, and Santiago Peak, and at Palos Verdes Estates, which are used in the business radio service (Part 91 of the FCC Rules and Regulations) for shared- or joint-user systems. One of these systems, which utilizes a transmitter of AMRS on top of Mt. Wilson, elevation approximately 5,600 feet, is a joint-user tone and voice paging system operating on business radio frequency 462.750 MHz. There are approximately 32 joint-user licensees, with approximately 325 tone and voice paging units, which utilize this system. The system is used for the transmission of telephone messages or in connection with and to facilitate communication by telephone. The system currently is connected to the public telephone network through an automatic paging terminal at Torrance, used indiscriminately by

the utility, RadioCall, and by AMRS for the joint-user system. The automatic paging terminal permits the joint-user, or a utility customer, to perform his own dispatching. The area coverage from Mt. Wilson is substantially greater than from Palos Verdes or San Pedro Hill. It is this system which is the subject of complaint by ICS and the intervenors as constituting an illegal and unauthorized public utility system, i.e., a "pseudo common carrier".

The defendant Multiple M Enterprises is a California corporation wholly owned by defendant Mohr's mother, and located at Wilmington, California. Formerly, it was engaged in the community repeater business, owning 20 to 25 transmitters on various mountain tops in the Los Angeles area on which space was rented to commercial concerns for business radio service. According to Mohr, all of the assets and business of Multiple M Enterprises were acquired by AMRS as of July 1, 1973 and the corporation is inactive.

The issues according to complainant are:

1. Whether the proposed relocation of the mobile and paging transmitters of RadioCall to a higher elevation and with increased paging power, and the actual relocation of RadioCall's marine transmitter to such higher elevation (including the utilization of a Los Angeles foreign exchange line), require prior certification from this Commission.

2. Whether the joint- or shared-user system of AMRS, operating on business radio frequency 462.750 MHz, constitutes in fact and in law a public utility service, requiring prior certification from this Commission.

3. Whether overriding considerations warrant and compel Commission action to protect regulated public utility radiotelephone operators from the unrestrained competition of such joint-user systems.^{2/}

According to defendants the issues are:

1. Service area.
2. Mobile telephone patronage.
3. Joint-user systems.

According to the staff the issues are:

1. Whether Mohr has failed to provide service as proposed in his application for a certificate of public convenience and necessity, Application No. 44642, as amended.
2. Whether Mohr is attempting to expand his service area without Commission approval by filing an application with the FCC for authorization to move RadioCall's transmitters from Palos Verdes to San Pedro Hill.
3. Whether Mohr operates an illegal common carrier service from Mt. Wilson.

Although some evidence concerning marine service was introduced without objection, there is no issue before us regarding coastal marine radio service as such issue is beyond the scope of this proceeding.

^{2/} According to complainants, the complaint in this proceeding raises another issue, namely, whether ICS should be granted the operational rights awarded RadioCall by Decision No. 66101 of this Commission. However, as such issue necessarily involves revocation of RadioCall's state and federal operating authority, it will be the subject of a separate proceeding which ICS contemplates instituting before this Commission. ICS has already instituted such a proceeding with the FCC in the latter part of August 1974 (FCC File Nos. 25071-C2-R-74 and 8887-C2-L-72).

The issues as we see them in the order of their importance are:

1. Does Mohr operate an illegal common carrier service from Mt. Wilson?
2. Is Mohr attempting to expand his service area?

Discussion

Issue 1

Testimony by Mohr, plus various exhibits, indicates that the transmitter operating on 462.750 MHz at 600 watts ERP located on Mt. Wilson and operated by Mohr serves approximately 32 FCC licensees who utilize approximately 325 tone and voice pagers. They are charged a fee of either \$25 or \$50 per month for use of the transmitter and the remote control unit or touch-tone pad which, with the unlisted phone number, allows the FCC business radio licensee to have access to the Mt. Wilson transmitter from downtown Los Angeles over Mohr's FEX lines to the Mt. Wilson site. Similar systems have, for many years, been called "shared repeaters" or "joint-user" systems. In our dealings with the RTUs we have found that the regulated carriers refer to such systems as "pseudo common carriers".

According to the staff, in setting up the above-described operation, Mohr runs afoul of the following sections of the Public Utilities Code:

"Section 23: 'Every private corporation and every individual...owning, operating, managing, or controlling any...plant or equipment...for the transmission of telephone or telegraph messages ...to or for the public...is hereby declared to be a public utility.'

"Section 207: '"Public or any portion thereof" means the public generally, or any limited portion of the public, including a person...for which the service is performed....'

"Section 216(a): "Public utility" includes every ...telephone corporation...where service is performed for...the public or any portion thereof."

"Section 233: "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments and appliances, and all other real estate, fixtures and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires."

"Section 234: "Telephone corporation" includes every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state."

The staff argues that by applying those definitions to Mohr's shared FEX line together with his touch-tone pad, Amcor terminal, wires, cables, instruments, and appliances which he either owns, controls, manages, or operates to facilitate communications over his shared transmitter on Mt. Wilson for compensation, Mohr or his dba, AMRS, is a public utility and therefore must apply for authority from this Commission to serve the public. ✓

The staff recommends that an order to cease and desist its Mt. Wilson operation be served upon Advanced Mobile Radiotelephone Services, Inc.

Complainants argue at length that Mohr's shared repeater service is illegal while defendants argue in many pages of their brief that such operation does not come under our jurisdiction.

This Commission has held that federal law has not preempted the regulation of intrastate communication by wire or radio by this Commission except as provided by the provisions of 47 USCA, Section 301, which relate to the federal licensing of channels for radio transmission. This Commission has repeatedly taken jurisdiction of proceedings similar to that here involved to determine whether or not the paging service offered or provided by the defendants is a public utility radiotelephone service subject to the jurisdiction and regulation of the Commission. (Mobile Radio System of San Jose,

Inc. v Vogelman, et al. (1969) 69 CPUC 333; Chalfont Communications v Tesco Communications, et al. (1968) 69 CPUC 124; Radio Electronic Products Corp. v Boer (1972) 73 CPUC 153.)

In Chalfont v Tesco we said:

"It is clear that the examiner concluded that any device used to accomplish interconnection with the general telephone network brings the owner-operator of such device under our jurisdiction. It is equally clear that the examiner concluded that the offering of interconnection also brings the entity making such offer under our jurisdiction.

"Under the guidelines recommended by the examiner, a telephone answering service (TAS) as such performing interconnections with the general telephone network as an employee or agent of a radiotelephone utility would not come under our jurisdiction as a TAS, but as a TAS owning and operating interconnection equipment or performing interconnection by any method, not as an employee or agent of a radiotelephone utility, but as a principal, would be subject to our jurisdiction. In the case first mentioned in this paragraph the RTU and the TAS agent together would be within our jurisdiction. ✓

"It should be emphasized that the examiner's recommendations apply only to interconnections of a radiotelephone with the general toll and switching facilities of a landline telephone company and do not apply to interconnection of private radio systems with the private line facilities of a landline telephone company." ✓
(69 CPUC at 135.)

The common thread binding the above decisions is the fact of interconnection to the landline telephone companies by a person or entity which also owns, controls, manages, or operates the equipment used for interconnection.

The record clearly and convincingly shows that Mohr's 462.750 MHz system does indeed connect with the landline telephone companies.^{3/} Therefore Mohr and AMRS are public utilities. The record further shows that there is no need for this service on a public utility basis. Thus no certificate of public convenience and necessity should be issued.

Mohr and AMRS will be ordered to cease and desist their Mt. Wilson operation on 462.750 MHz, and we will also order Mohr and AMRS not to establish similar service on any other frequency without first securing a certificate from this Commission.

Issue 2

Mohr testified that he proposed to move his RTU 454.025 and 158.70 MHz base stations to San Pedro Hill where his VHF maritime station KUF 487 was located. He also stated that the power of the guard band channel, 158.70 MHz, would be increased from 104 watts to 500 watts ERP, while the 454.025 MHz transmitter's antenna would be mechanically tilted and its power increased. This testimony is supported by Exhibits 3 and 4. The transmitters and antennas would be moved approximately 3.9 miles southeast and the antennas elevated an additional 374 feet. This change would amount to an approximate 100 percent increase in service area as shown in the engineering calculations supporting Figure 1 of Exhibit 4.

From the above, the staff concluded that the magnitude of RadioCall's proposed changes in base station location and power output plus antenna elevation would require authorization from this Commission as required by Section 1001 of the Public Utilities Code.

^{3/} We point out to defendants that while this decision refers to the frequency 462.750 MHz we are aware that there are seven other UHF frequencies available for business use. Defendants must not circumvent our order by changing to some other frequency.

The evidence to support this conclusion is compelling, according to the staff, particularly in view of Mohr's testimony that the present transmitter site is at his home in a residential area, which is unsatisfactory, and that the new location is at a commercial site on San Pedro Hill. The staff recommended that this Commission authorize the proposed move, but under the conditions that RadioCall's present service area not be enlarged significantly and that service to existing subscribers not be decreased or adversely affected.

According to complainants, the relocation of RadioCall's mobile, paging, and marine transmitters to a higher elevation (San Pedro Hill) with increased power will, inescapably, substantially expand RadioCall's existing authorized service area against the protests of competing radiotelephone utilities, thus requiring prior certification by this Commission.

According to defendants, the relocation of RadioCall's transmitter will inevitably result in a small and insignificant change in the size and shape of its theoretical contour, but there will be no enlargement of RadioCall's certificated area as authorized by this Commission.

Mohr asserts that the new location which has been chosen for this utility's transmitter has been designed to provide better service to the customers within the present service area and will permit Mohr to sell his home.

Before Mohr will be authorized to offer service from San Pedro Hill, the Commission must be furnished a field survey and report of performance of the installed equipment certified to by a competent radio engineer, which will show actual reliable operation throughout the certificated area. The report must include contours computed in accordance with current FCC standards and such contours must fall within the boundaries of his presently authorized service area.

Findings

1. Mohr, dba RadioCall Corp., is a radiotelephone utility providing two-way mobile and one-way paging service on frequencies 454.025 and 158.70 MHz, from transmitters located at Palos Verdes Estates, to the South Bay communities adjacent to the city of Los Angeles, California.

2. By Decision No. 66101 of this Commission, dated October 1, 1963, Mohr, then doing business as Advanced Electronics, was authorized to serve an area consisting of the communities of Rolling Hills Estates, Rolling Hills, Palos Verdes Estates, Torrance, Redondo Beach, Hermosa Beach, Manhattan Beach, El Segundo, Hawthorne, Gardena, Inglewood, and unincorporated areas of the county of Los Angeles intermixed with such communities.

3. Mohr owns and operates a telephone answering system at Torrance, California, which also acts as a dispatching agent for his utility operations. It also provides dispatching services for other business concerns, and for joint-user licensees of 462.750 MHz business radio frequency system. It also owns and rents pagers to customers of Mohr's utility operations.

4. AMRS is a California corporation, 90 percent of the stock of which is owned by Mohr. AMRS, which also used the trade name Advanced Electronics, is an authorized agent of Motorola for maintenance of mobiles and pagers. AMRS also owns and rents space on approximately 30 transmitters located on mountain tops in the

Los Angeles area for shared- or joint-user systems in the business radio service, licensed under Part 91 of the FCC Rules and Regulations.

5. AMRS owns, controls, operates, and manages, in whole or in part, a transmitter and related equipment, including antenna, wires, cables, instruments, and appliances operating on business radio frequency 462.750 MHz, 600 watts ERP, located on Mt. Wilson at an elevation of 5,600 feet and used to provide or to facilitate the providing of tone and voice paging over the public telephone network system for 32 persons, concerns, and institutions, using 325 tone and voice paging units, holding or purporting to hold FCC business radio licenses under Part 91 of the FCC Rules and Regulations.

6. AMRS and/or Mohr own, control, operate, and manage an automatic paging terminal at Torrance, California, which is utilized in the operation of the 462.750 MHz joint-user system. Under current operations all of the 32 FCC licensees, called joint-user licensees, use an unlisted telephone number to obtain access to the automatic paging terminal over the public telephone network system, the terminal being connected to the Mt. Wilson transmitter through a foreign exchange telephone line paid for by AMRS. Once access to the automatic terminal has been obtained, the joint-user licensee, employing a paging code number and a special data pad furnished by AMRS, turns on the Mt. Wilson transmitter for a tone and voice message.

7. The automatic paging terminal, owned, managed, installed, and operated by AMRS and/or Mohr was installed for, and is used by, tone and voice public utility paging customers of RadioCall, and by tone and voice paging licensees of the 462.750 MHz joint-user system, to perform their own dispatching. The automatic paging

terminal was also installed and is used for dispatching services performed by Mohr and by other telephone answering systems.

8. The joint-user licensees of the 462.750 MHz system normally each pay AMRS for tone and voice paging service; \$50 a month for 20 tone and voice paging units or less, \$1 per month for each additional unit over 20 using the system. AMRS also has a flat one-time charge of \$100 for the special data pad furnished by AMRS. In addition to his regular telephone charge, the joint-user pays the telephone company 50 cents a month for a voice connecting arrangement.

9. The 462.750 MHz joint-user system covers a much wider service area than is covered by Mohr's utility operations from the public utility transmitter location at Palos Verdes Estates.

10. Any member of the public who obtains an appropriate FCC license, and who has compatible equipment, will be, and is, served without restriction by the 462.750 MHz joint-user system. The users of the 462.750 MHz system have no control over the system and do not have any say or decision as to who may use the system. Joint-users, licensed and unlicensed, are added to the system by defendants without the knowledge or consent of others using the system.

11. The 462.750 MHz joint-user system provides tone and voice paging service which is the same as or similar to tone and voice paging service provided by numerous radiotelephone utilities in the Los Angeles metropolitan area, and such joint-user system is highly competitive with and economically damaging to such radiotelephone utilities.

12. Mohr and AMRS are engaged in owning, managing, operating, and controlling, in whole or in part, property for the transmission of telephone messages or in connection with and to facilitate communication by telephone, for compensation, which is devoted to use by the public or a portion thereof.

13. Multiple M Enterprises, a California corporation, while ostensibly inactive, owns, controls, manages, and leases property for the transmission of telephone messages or in connection with and to facilitate communication by telephone. ✓

14. No certificate of public convenience and necessity has been issued to defendants Mohr, AMRS, and/or Multiple M Enterprises for the offering and providing of radiotelephone public utility service over the 462.750 MHz joint-user system.

15. Public interest would not be served by granting a certificate of public convenience and necessity in this proceeding authorizing the continued operation of the 462.750 MHz joint-user system as a public utility.

16. Mohr proposes to relocate RadioCall's mobile and paging transmitters and related equipment from their existing site at Palos Verdes Estates to San Pedro Hill, a distance southeasterly of four miles and at an increase in elevation of 400 feet.

17. Mohr further proposes to increase the power on RadioCall's tone-only transmitter (158.70 MHz frequency) from 104 watts to 500 watts (ERP).

18. The proposed relocation of RadioCall's mobile and paging transmitters and increased power will increase the defendant's authorized service area by approximately 100 percent.

19. The proposed relocation of RadioCall's mobile and paging transmitters would enable him to serve communities not lying within his presently authorized service area.

20. The additional area that would be served by the proposed relocation of Mohr's RadioCall mobile and paging transmitters is already adequately served by at least four competing radiotelephone utilities.

21. The proposed relocation of Mohr's RadioCall mobile and paging transmitters would be economically damaging to complainant and intervening radiotelephone utilities, and they are opposed to such relocation.

22. A limitation restricting Mohr's RadioCall operation to providing and offering to provide mobile and paging services within his presently authorized service area would not deprive any existing subscribers of any needed or desired mobile or paging service.

Conclusions

1. The 462.750 MHz joint-user system is a public radiotelephone service dedicated to the public or a portion thereof and as such constitutes a public utility radiotelephone operation requiring a certificate of public convenience and necessity from this Commission.

2. Cease and desist orders should be issued by this Commission restraining and prohibiting the defendants Mohr, AMRS, and Multiple M Enterprises, their agents, employees, representatives, and affiliates from continuing to own, operate, manage, and control the 462.750 MHz joint-user system as a public utility radiotelephone system, including, without limitation, such control, operation, management, and ownership as presently manifested, constituted, and operated.

3. The relocation of Mohr's mobile and paging transmitters from Palos Verdes Estates to San Pedro Hill, Los Angeles County, California, would violate the provisions of Section 1001 of the Public Utilities Code without prior Commission authorization.

4. A relocation of Mohr's mobile and paging transmitters from Palos Verdes Estates to San Pedro Hill is in the public interest and is required by public convenience and necessity.

5. A certificate of public convenience and necessity authorizing the relocation of R. L. Mohr's mobile and paging transmitters from Palos Verdes Estates to San Pedro Hill should be granted under the conditions of the order which follows.

O R D E R

IT IS ORDERED that:

1. R. L. Mohr, individually and as owner of Advanced Mobile Radiotelephone Services, Inc. shall forthwith cease and desist from interconnecting the automatic paging terminal installed at Torrance, California, with the general toll and switching facilities of any landline telephone company for or on behalf of any user of its 462.750 MHz joint-user radio system.

2. Advanced Mobile Radiotelephone Services, Inc. and the officers and employees thereof shall forthwith cease and desist from interconnecting the automatic paging terminal installed at Torrance, California, with the general toll and switching facilities of any landline telephone company for or on behalf of any user of its 462.750 MHz joint-user radio system.

3. R. L. Mohr and Advanced Mobile Radiotelephone Services, Inc. shall not interconnect any shared repeater joint-user radio system or user of such system with the general toll and switching facilities of any landline telephone company until they have received authorization from this Commission to effect such interconnection.

4. R. L. Mohr and Advanced Mobile Radiotelephone Services, Inc. shall within five days of the effective date of this order file a statement with this Commission certifying that they have complied with and will continually comply with Ordering Paragraphs 1 and 2.

5. R. L. Mohr, dba RadioCall, is granted a certificate of public convenience and necessity to construct base station radio equipment at his existing site at San Pedro Hill.

6. The construction authorized by Ordering Paragraph 5 may be supplemented by additional construction as required to provide adequate signal strength as determined by current FCC standards within Mohr's RadioCall authorized service area.

7. The construction authorized by Ordering Paragraphs 5 and 6 must confine the service area to that area established by Decision No. 66101 - the communities of Rolling Hills Estates, Rolling Hills, Palos Verdes Estates, Torrance, Redondo Beach, Hermosa Beach, Manhattan Beach, El Segundo, Hawthorne, Gardena, Inglewood, and unincorporated areas of the county of Los Angeles intermixed with such communities.

8. Before the certificate hereinabove issued may be exercised, R. L. Mohr shall furnish this Commission in writing the statement described in Ordering Paragraph 4 and receive from this Commission written authority to offer his service to the public from San Pedro Hill.

9. The certificate hereinabove issued will lapse and be of no further effect unless exercised prior to December 31, 1976.

The Secretary is directed to cause personal service of this order on R. L. Mohr and Advanced Mobile Radiotelephone Services, Inc.

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

Dated at San Francisco, California, this 18th day of NOVEMBER, 1975.

William J. Quinn President
James L. Stinson
1. Alon
Charles H. [unclear] Commissioners