

ORIGINAL

Decision No. 85534

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

INDUSTRIAL COMMUNICATIONS SYSTEMS,
INC.,

Complainant,

v.

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)

O P I N I O N

On January 22, 1976, defendants filed a "Petition for Stay of Decision" asking this Commission for a 120-day stay of the effective date of Decision No. 85141,^{1/} as it relates to the defendant's shared user system. This petition is based upon:

1. Urgency of imminent time limit for compliance.
2. Impossibility of orderly compliance within time limit.
3. Severe hardship to public.
4. No countervailing factors of public policy.

On January 26, 1976 complainant filed a "Reply of Industrial Communications Systems, Inc. and Intervenors in Opposition to Defendants' Petition for Stay of Decision No. 85141".

^{1/} January 27, 1976.

According to complainant and intervenors,

"* * *

- "(d) The petition by defendants for a stay is an obvious attempt to evade the restraints and conditions of Decision No. 85141, particularly Ordering Paragraph No. 3.
- "(e) The defendants' petition for a stay and their failure to seek prior authorization from this Commission buttresses their lack of credibility manifested in the record in this proceeding.
- "(f) The self-serving claim that defendants had no inkling until recently that their joint-user operation must cease is without any factual support and is totally contrary to the fact that Decision No. 85141 was issued over two months ago."

Complainant requests that defendants' petition for stay be denied.

Discussion

Decision No. 85141 was to become effective on December 8, 1975. Two separate petitions for rehearing were filed by the defendants on November 28, 1975. One was filed by R. L. Mohr, dba Radio Call Corp, which sought clarification of the Commission's order granting a certificate to Mohr to construct base radio station equipment at San Pedro Hill. Decision No. 85370 effective January 20, 1976, denied this petition. The other petition requested review of the portions of Decision No. 85141 which related to the operation by R. L. Mohr individually and as owner of Advance Mobile Radiotelephone Services and Advanced Mobile Radiotelephone Services, Inc. of interconnection of shared private radio facilities with the landline telephone switched network. By Decision No. 85398 effective January 27, 1976, this petition was denied.

According to the present petition, Mohr requested The Pacific Telephone and Telegraph Company on December 18, 1975 to install "a private line circuit serving some 47 points throughout the greater Los Angeles basin to serve F.C.C. licensees using a common shared transmitter atop Mount Wilson". Pacific quoted an approximate in-service date of May 10, 1976 to connect these 47 points.

Apparently Mohr believes that by connecting his shared user systems by private lines instead of the switched network he will not have dedicated his system to the public or a portion thereof and thus will not be a public utility radiotelephone operation requiring a certificate of public convenience and necessity from this Commission. This proposition has never been tested before this Commission. We can see no reason not to grant Mohr's request for an extension of time if it is conditioned on his furnishing all parties to this proceeding, within 30 days, a schematic diagram showing in complete detail his new method of operation. Upon being furnished such a schematic diagram we will expect our staff to analyze the diagram and inform us whether or not in its opinion such an arrangement removes Mohr's operation from our regulation. We would also expect that complainants and intervenors would avail themselves of the opportunity to inform us of their views. In granting the petition, we emphasize that we are not passing any judgement on Mohr's proposal--all that we are doing is allowing Pacific time to install equipment Mohr believes will enable him to comply with Ordering Paragraph 4 of Decision No. 85141. We specifically reject defendant's reasons as stated in its petition and base our granting of the request only on the fact that defendant's proposed system might remove his operation from our jurisdiction.

The Commission concludes that the effective date of this order should be the date on which it is signed because time is of the essence in resolving the question posed by defendant's proposed system of operation.

O R D E R

IT IS ORDERED that:

1. The effective date of Decision No. 85141 as it applies to defendant's shared user system is one hundred twenty days from the effective date of this order.

2. Within thirty days of the effective date of this order defendant shall furnish this Commission, and serve a copy on all parties, a schematic diagram showing in complete detail the operation of its shared user system using private line circuits.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 24
day of MARCH, 1976.

William L. Gussow Jr. President
George L. Sturgeon
D. W. Holmes
Robert A. ... Commissioners

Commissioner D. W. Holmes, being necessarily absent, did not participate in the disposition of this proceeding.