

Decision No. 86402

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Suspension and Investigation on the Commission's own motion of tariffs filed under Advice Letter No. 3157 by General Telephone Company of California.

Case No. 9757  
(Filed June 25, 1974)

A. M. Hart, H. R. Snyder, Jr.,  
Kenneth K. Okel, by Kenneth K. Okel, Attorney at Law, for respondent.

Hilliard, McGuire & Bauer, by Carl Hilliard, John D. McGuire, and Ronald L. Bauer, Attorneys at Law, for Intrastate Radio Telephone, Inc. of San Bernardino; and Warren A. Palmer, Attorney at Law, for Industrial Communications Systems, Inc.; protestants.  
Warren A. Palmer, Attorney at Law, for Intrastate Radio Telephone, Inc. of Los Angeles and Radio Relay Corp. - California, interested parties.

Roger Johnson, for the Commission staff.

O P I N I O N

On May 30, 1974 General Telephone Company of California (General) filed tariff sheets under Advice Letter No. 3157 providing for the expansion of the personal signalling service in its Pomona and Ontario exchanges to include its Redlands and San Bernardino exchanges in San Bernardino County, California. Protests were received from Intrastate Radio Telephone, Inc. of San Bernardino (Intrastate) and Industrial Communications System, Inc. (ICS) alleging (1) that General is proposing to extend

service beyond its certified area without requisite Commission authority; (2) that the proposed expansion of service by General is a duplication of service provided by existing radiotelephone utilities (RTU's) and is not required by the public convenience and necessity; and (3) that the proposed expansion of facilities by General is not economically feasible and will be subsidized by customers of other services. The Commission, on June 25, 1974, suspended General's tariff sheets, through and including October 28, 1974, and instituted Case No. 9757 to investigate whether said tariff sheets are unreasonable or unlawful in any particular and to issue any order or orders that may be lawful and appropriate in the exercise of the Commission's jurisdiction in the premises.

By Decision No. 83623 the period of suspension was extended to and including April 28, 1975. On April 14, 1975 General filed a supplement to Advice Letter No. 3157 requesting the permanent suspension of the tariffs in question and concurrently filed a substitute for those tariffs under Advice Letter No. 3341 to permit continuation of the investigation beyond the normal statutory limit. By Decision No. 84408 issued May 6, 1975 this Commission ordered that the operation and effectiveness of the tariff sheets filed by Advice Letter No. 3341 be suspended to and including September 11, 1975 unless otherwise ordered.

By Decision No. 84801 the period of suspension was extended to and including March 11, 1976. On February 25, 1976 General filed a supplement to Advice Letter No. 3341 requesting its permanent suspension and concurrently filed a substitute for it under Advice Letter No. 3713 to permit once again continuation of the investigation beyond the normal statutory limit. By Decision No. 85555 issued March 9, 1976 the Commission ordered

that the operation and effectiveness of the tariff sheets filed by Advice Letter No. 3713 be suspended to and including July 24, 1976 unless otherwise ordered.<sup>1/</sup>

Hearings were held before Examiner Main in Los Angeles on April 22, 1975, in San Bernardino on July 15, 16, and 17, 1975 and on October 14, 15, and 16, 1975, and again in Los Angeles on December 12, 1975. At the conclusion of the December 12, 1975 hearing the matter was submitted subject to filing of transcripts and briefs. Reply briefs were received on March 8, 1976 and the matter stands ready for decision.

Description of Service

General is currently providing automatic dial access, tone-only, signaling service from transmitters located in its Pomona and Ontario exchanges. General is proposing to add a transmitter at a Redlands location and expand this service to include its Redlands and San Bernardino exchanges.

Pages placed for customers subscribing to either the existing Pomona/Ontario service or the proposed Redlands/San Bernardino service will be transmitted over three paging transmitters simultaneously so that the paging customer may be contacted anywhere within the area encompassed by the service contours of all three transmitters. This will enable customers having a community of interest between the Redlands/San Bernardino area and the Pomona/Ontario area to subscribe to General's service. The service can be offered to customers in any area served by General within the approved service contours.

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<sup>1/</sup> By Decision No. 86149 dated July 19, 1976 the period of suspension was extended to and including January 24, 1977, unless otherwise ordered.

The existing paging terminal in Pomona which is used to provide General's Pomona/Ontario paging service will also be used to provide the proposed Redlands/San Bernardino service. The terminal presently has the capacity to service 770 paging receivers. This capacity will be increased to 1,000 receivers if General's service proposal is approved.

Most of the equipment that will be required for the new service will be used in common to provide the paging service offered in all four exchanges. The only equipment that will be specifically dedicated to the new service will be the paging number groups assigned to Redlands/San Bernardino customers and two incoming foreign exchange lines that will be installed to the terminal from General's Redlands and San Bernardino exchanges.

The paging antenna and transmitter, which General will have to install for the proposed service, will be located in the city of Redlands. The transmitter and antenna will be reached from the paging terminal in Pomona by means of a private line. The paging service will be offered over the radio frequency of 158.1 megahertz which is the frequency presently used by the two transmitters in General's Pomona and Ontario exchanges. This is one of the frequencies assigned by the Federal Communications Commission (FCC) to the wireline telephone companies for use in providing paging service (Guardband decision, 12 FCC 2d 841 (May 8, 1968)).

The contours for General's existing Pomona/Ontario paging service and the proposed Redlands/San Bernardino paging service are shown on Exhibits 1 and 2. The contours were developed in accordance with Parts 21.115 and 21.504 of the Rules and Regulations of the FCC. General's proposed Redlands/San Bernardino paging service was intentionally designed so that the

service contour for the proposed signalling service from the Redlands transmitter would be entirely within the service contour of General's existing Redlands two-way mobile telephone service. The paging receiver General proposes to use in the proposed service is the Page Boy II manufactured by Motorola. The same receiver is currently in use in General's Pomona/Ontario paging service.

Under automatic dial access, tone-only, signalling service the customer is notified by an audible tone emitted from a small portable radio receiver, in this instance the Page Boy II, usually carried on the customer's person, to take some predetermined course of action. The paging customer normally designates one person, often his secretary or a telephone answering service, to be the only person or entity to page him.

When this person or entity receives a request to contact the paging customer, the designee will dial a designated local 7-digit telephone number to gain access to the paging terminal. After the designee dials the 7-digit number to gain access to the terminal, the paging terminal sends an acknowledgment tone when it is ready to receive the number of the customer's paging receiver. Once the acknowledgment tone is received the person attempting to contact the customer, using either a touchtone telephone or a touch-calling pad if he has a dial telephone, will key in the 4-digit number assigned to the customer's paging receiver. Once the 4-digit number has been keyed into the terminal an acknowledgment will again be sent to confirm the receipt of the paging message. The terminal will then store the message in its memory unit until the channel is free to transmit the message. When the channel is clear, all messages stored in the memory will be transmitted by FM radio to the customer three times at 30-second intervals.

Certification Issue

One of the issues raised by the protestants is whether the proposed extension of General's paging service to the Redlands/San Bernardino areas requires prior certification. Protestants contend that it does, relying on the provisions of Section 1001 of the Public Utilities Code and on our holding in Application of George Smith (1967) 67 CPUC 16. General disagrees and contends that based on provisions of Section 1001 and on our holdings in Malis v General Telephone Company (1961) 59 CPUC 110 and Loperena v Fresno Mobile Radio, Inc. (1970) 71 CPUC 645, it clearly has authority to provide the proposed service without obtaining additional certification from this Commission.

In relevant part Section 1001 provides that:

"No...telephone corporation...shall begin the construction of...a line, plant, or system or of any extension thereof, without having first obtained from the Commission a certificate that the present or future public convenience and necessity require or will require such construction.

"This article shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within which it has theretofore lawfully commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its...line, plant, or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business."

In Malis, supra, this Commission enunciated a policy of fostering limited competition in mobile telephone service and indicated that "pursuance of such a policy by this Commission will, in a manner consistent with the established licensing policies of the FCC, go far toward assuring optimum utilization in California of the respective portions of the radio frequency spectrum allocated by the FCC to telephone utilities as a class and to miscellaneous common carriers as a class." The desirability of this competition was reaffirmed by the FCC in the Guardband decision, 12 FCC 2d 841 (May 8, 1968). In that decision, to foster such competition in the provision of personal signalling service, which is precisely the kind of service at issue in this proceeding, the FCC allocated separate radio frequencies for paging service to each of the two classes of carriers.

In Malis this Commission held that General was entitled to institute two-way mobile telephone service in an area where it already provided wireline telephone service. We concluded that General's authority to offer mobile telephone service without obtaining a certificate of public convenience and necessity was contained in Section 1001 which provides in part that a telephone utility is not required to secure such a certificate for an extension within or to territory already served by it, necessary in the ordinary course of its business.

In George Smith, supra, a case which came before the FCC's Guardband decision, a basic conflict between applicant Smith and General centered on their both proposing to provide paging service on the same frequency (35.22 mc/s). In George Smith this Commission found that General could not provide tone-only signalling service in territory where it did not then provide telephone and other communication services without first obtaining a certificate of public convenience and necessity pursuant to Section 1001 of the Public Utilities Code.

In Loperena, supra, one of the issues was whether the defendant RTU was required to obtain a certificate of public convenience and necessity to offer one-way paging service within the contours of its two-way mobile telephone service. We held that no such additional certification was required, i.e., a further certificate is not required for any two-way operator who institutes concentric one-way service. The offering of such one-way service was held to be simply an extension of service necessary in the ordinary course of business, thus qualifying under one of the exceptions to certification contained in Section 1001.

Since the signal contours for General's proposed Redlands/San Bernardino one-way signalling service are totally encompassed by the contours of General's existing Redlands two-way mobile telephone service, General contends such proposed service may be rendered without obtaining from this Commission a certificate of public convenience and necessity. More specifically, General contends that under Loperena the service is simply an extension of General's service necessary in the ordinary course of its business, thus qualifying under one of the exceptions to certification contained in Section 1001 of the Public Utilities Code. Protestants, however, take exception to this contention and allege that General is unlawfully providing its Redlands two-way mobile telephone service. It is their position that General's Redlands two-way mobile telephone service area is limited to General's Redlands/San Bernardino wireline exchange boundaries rather than the area encompassed by the signal contour based on reliable signal strength computed in accordance with the FCC rules. Pivotal in determining whether General's Redlands two-way mobile service was lawfully established is a proper and realistic interpretation of Section 1001 as it relates to relevant service areas for mobile telephone service.



In Application of Radio Dispatch Corp., Decision No. 84819 dated August 26, 1975 in Application No. 55195, this Commission stressed that the reliable signal strength contour computed in accordance with the FCC rules should be used in defining relevant service areas for RTU's providing mobile telephone and one-way paging services. In so doing, the Commission specifically rejected the use of telephone exchange boundaries and said with reference to delineating the utility's authorized service area on the basis of the reliable signal strength contours defined by the FCC rules:

"Only this service area bears a logical relationship to radio signal strength and to the limits of reliable reception. Only this service area enables maximum effective utilization of the utility's capital plant, with resultant savings to the public. The lowest possible rate can be achieved only if the utility is not hampered by artificial restraints upon its ability to serve the public."

Accordingly, the findings in Radio Dispatch Corp. included: "...the relevant dbu contours are the primary standard used by this Commission for the definition of radio-telephone utility service areas..." and "...use of the telephone exchange boundaries to define the applicant's service area is an impractical, unnecessary, and uneconomical deviation from the Commission's primary standard."

From the standpoint of mobile telephone service the significance of exchange boundaries, which as recited above are unrelated to any factors affecting strength of radio signals, should be to determine where the service is to be offered by telephone utilities (i.e., telephone utilities only offer the service in their own exchanges) and relatedly whether the message

center or terminal can be reached by a local call. In this context the fact that under General's proposal a General one-way signalling subscriber happened to be physically standing in wireline territory of The Pacific Telephone and Telegraph Company (Pacific) when he receives his radio page should not constitute the serving by General of a Pacific customer. The inherent value of a one-way signalling service lies in its ability to dispatch the necessary intelligence by radio within the full area that customers tend to occupy during the business day. Thus, some signal spillover into adjoining territory is usually not only unavoidable but useful. The question remains, however, whether further certification is required where the reliable signal strength contour would exceed the wireline exchange boundaries of a telephone company, and, in the matter before us, a pivotal inquiry remains whether General's mobile telephone service employing the Redlands transmitter was lawfully established. In that regard General's tariffs<sup>1/</sup> specifically provide that mobile telephone service is offered in the San Bernardino and Redlands

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<sup>1/</sup> Pertinent, but more general clauses on tariff applicability and territory are:

"APPLICABILITY

Applicable to mobile telephone service furnished or made available to units in the territories designated herein:

"TERRITORY

Within the following exchange areas:

Courtland	Oxnard	Santa Barbara
Covina	Palm Springs	Santa Maria
Hemet-San Jacinto	Pomona	Twentynine Palms
Indio	Redlands	West Los Angeles
Lancaster	Redley	Yucca Valley"
Lompoc	San Bernardino	
Long Beach	San Fernando	

exchanges and that "...service is available to any mobile or fixed unit...when such units...are equipped for the appropriate service when within range of a base station through which such service is furnished...."

The reliable signal strength contour for the mobile telephone service offered in the Redlands and San Bernardino exchanges, computed in accordance with the FCC rules, roughly approximates the reliable range of the base station and thus the practicable service boundaries for mobile units. That contour appears to provide reasonable coverage, within terrain limitations of pertinent General exchanges. Clearly, it appears to be reasonably compatible with the location of General's exchanges in relation to those of Pacific and with the inherent characteristics of radio wave emissions. Notwithstanding that signal's spillover into adjoining Pacific exchanges, we conclude, as developed in the following paragraphs, that additional certification is not required to render that service.

As we see it, the concept of "territory" within Section 1001 must be rationally construed for mobile telephone service if that code section is to provide for a relevant service area for that service. Because relevant area or territory for such service depends upon signal strength which is unrelated to wireline boundaries, the word "territory" as used in the part of Section 1001 reading "...extension within or to territory already served by it, necessary in the ordinary course of its business..."<sup>2/</sup> should accordingly not be limited to an area not to exceed a telephone utility's wireline boundaries. Realistically, it should be designated as that service area delineated by an appropriate signal

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2/ Second paragraph of Section 1001:

"This article shall not be construed to require any such corporation to secure such certificate for an extension within any city or city and county within which it has theretofore lawfully

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strength contour which provides reasonable coverage of the land line telephone utility's pertinent exchanges and such adjacent area as necessary to provide a rational contour.

Given that definition, a land line telephone utility is entitled to provide mobile radio service beyond its exchange areas without additional certification so long as the reliable signal strength contour provides reasonable coverage of its pertinent exchanges and such adjacent area as necessary to provide a rational contour. Interpreting Section 1001 in this manner follows the policy laid down in Malis of fostering limited competition between telephone utilities and RTU's, with the inherent nature of radio signals which cannot be arbitrarily confined to the fixed boundaries of telephone exchanges, and with a need for appropriate adaptation made necessary by this code section having been designed for classes of utilities with fundamentally different physical and operating characteristics than those of utilities in the radio communications field. Moreover, if telephone companies continue to expressly offer mobile radiotelephone service only in their own exchanges, it probably reflects what has actually transpired in the development of that service by telephone companies.

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commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its street railroad, or line plant, or system, and not theretofore served by public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line, plant, or system, interferes or is about to interfere with the operation of the line, plant, or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable."

We hold that the word "territory" as used in that part of Section 1001 reading "...extension within or to territory already served by it, necessary in the ordinary course of its business..." can and should denote, for mobile radiotelephone service by a land line telephone utility, that service area delineated by an appropriate signal strength contour which provides reasonable coverage of its pertinent exchanges and such adjacent area as necessary to provide a rational contour.

In further regard to Malis we later commented upon the operating authority determination therein as follows:

"In Malis, supra, we held that an established land line telephone utility did not require a certificate of public convenience and necessity, under Section 1001 of the Public Utilities Code to offer telephone service by means of a radio link to subscribers in vehicles, since such service was a normal extension of its plant and service and it was immaterial that it was to be accomplished by a radio link rather than a wire link. The Commission noted that in any event, the utility, before it could render the proposed service, had to obtain an appropriate construction permit and station license from the FCC. (P.T. & T. Co. v. Industrial Communications Systems, Inc. (1966) 65 Cal.P.U.C. 227, 232.)"

Under the further interpretation of Section 1001 which we are making in this decision and the resultant non-coterminus

wireline and radio link territories, it follows that the service to one telephone utility's exchange subscriber, whose mobility takes him into another telephone utility's exchange area where he receives the former's radio signal, is being provided in the former's mobile telephone service territory for that radio frequency.

At this point it should be brought out that there is nothing in this record to indicate that the tariffs for General's mobile telephone service provided from its Redlands transmitter were other than properly filed or became effective other than in accordance with the Commission's procedural requirements. Since, consistent with the foregoing interpretation of Section 1001, that was all that was required, we conclude that General has heretofore lawfully established mobile telephone service from the Redlands transmitter within its reliable signal strength contour. Accordingly, General does not require additional certification to provide its Redlands/San Bernardino paging service, the signal for which, as brought out earlier, falls within that contour.

#### The Public Interest

We turn now to a consideration of whether a Redlands/San Bernardino tone-only signalling service rendered pursuant to General's proposed tariffs is in the public interest.

General's evidence in the form of its marketing survey, economic forecast, public witnesses, and the 88 contacts received by General from persons interested in subscribing to tone-only signalling service clearly established, notwithstanding protestants'

contentions to the contrary, that there is potentially a moderately large, unsatisfied demand for personal signalling service in the Redlands/San Bernardino area. As the largest independent telephone company in California, General is clearly financially capable of offering the proposed Redlands/San Bernardino paging service and has the necessary technical skill and experience to provide good quality service. At the present time it provides tone-only personal signalling service in Santa Maria, Lompoc, Santa Barbara, Oxnard, Thousand Oaks, and, of course, Pomona and Ontario and does so in competition with the paging services of the RTU's.

General proposes a charge of \$20 per month for the paging service, which is the same as that charged for General's existing Pomona/Ontario paging service. The tariff rate for the proposed service, which will be operated in conjunction with the existing Pomona/Ontario service, was tested on a cost basis in two ways by General.

General first determined the additional equipment required to provide the service, including expansion of the Pomona paging terminal to handle 1,000 paging units, and the cost of such equipment. The estimated labor hours for installation, maintenance, and removal of this equipment were next determined. An annual charge for each piece of equipment involved was then developed. These charges were combined with the tariff rates for the two required foreign exchange lines, one each from General's San Bernardino and Redlands exchanges, and for the private line to the Redlands transmitter to obtain the annual charges for the expansion of the service.

The revenue requirement for the entire service was developed by adding on the results of an earlier cost study pertaining to the unexpanded service offering. In this way, General in effect developed the annual charges for maintenance, depreciation, administration, return on investment and appropriate taxes. These total annual charges were then divided by twelve to obtain General's revenue requirements on a monthly basis assuming an 8 percent rate of return. Using the estimated demand figures contained in its marketing department's forecast, General tested the proposed \$20 rate. Based on the expected demand for the paging service, General concluded that the \$20 rate was reasonable.

General also prepared a revenue requirement and profitability study using fully allocated costs. This study shows the estimated profitability of General's existing Pomona/Ontario paging service for 1975 and the impact that the expansion of that service to include Redlands and San Bernardino will have on profitability. According to its results, General will achieve a 9-1/2 percent rate of return on depreciated investment for its Pomona/Ontario system during the first six months of 1976. The rate of return for 1975 will be 8.74 percent based on the marketing forecast of 275 paging units in service. As of the end of September 1975, General had 254 paging units in service in the Pomona/Ontario area, which was about on target.

Had the expanded system (i.e., the addition of the Redlands/San Bernardino area) been placed in operation near the end of last year, the study indicates General would have achieved a rate of return in 1975 of only 1.63 percent. Thereafter, the rate of return would be expected to increase rapidly, however, reaching 11.64 percent and 14.8 percent, respectively, in the two ensuing years.



Protestants' contentions that the rates are not compensatory are thus contrary to the evidence. The proposed service rate of \$20 per month is reasonable. Its development stems from a marketing forecast that has thus far proved reliable and it is at a level which has enabled General to provide good quality paging service in its Pomona/Ontario exchanges while generating revenues sufficient to meet revenue requirements. The expanded service is expected to likewise meet and perhaps substantially exceed General's revenue requirements. In the latter event it will contribute modestly to keeping rates for exchange telephone service low.

The protestants also contend that General's service proposal will duplicate the one-way tone-only signalling service they already provide. It is true that both ICS and Intrastate offer one-way tone-only signalling service in General's Redlands and San Bernardino exchanges. However, their service offerings differ from General's in several respects. For example, General's proposed service will be provided in conjunction with its existing Pomona/Ontario paging service. Thus, the total area it proposes to serve is different from the area served by Intrastate. More specifically, Intrastate's service area does not include all of Pomona or General's service areas of West Covina and La Puente. Intrastate differs also in that it offers tone and voice paging service and its tone-only signalling service is operator-assisted. Most of its paging customers subscribe to its tone and voice paging service rather than tone-only paging service. In fact, Intrastate's tariff rates appear to be structured to promote its tone and voice service at the expense of its tone-only service.

With regard to ICS, it provides paging services in an area much greater than that in which General proposes to offer its paging service. ICS's contours blanket much of southern California and only a small percent of its paging business is derived from General's proposed service area. General, on the other hand, is proposing to provide a locally based service that will derive a substantial portion of its customers from the Redlands/San Bernardino area. The remainder will be derived from General's existing Pomona/Ontario service area.

General's service offering will, of course, broaden, not lessen, potential paging customers' selections of service that most closely meet their needs. Any negative impact of General's service proposal on the protestants should be more than offset by the utilization of the Guardband 158.1 MHz radio frequency and the increased utilization of General's Pomona/Ontario paging terminal.

Protestants have also contended that General's proposal constitutes part of a conspiracy between General and Pacific to monopolize the personal paging market throughout southern California. In contrast to the LAEA paging cases,<sup>3/</sup> where the antitrust implications of a joint service plan of General and Pacific to offer tone-only signalling services in the principal southern California market, the Los Angeles Extended Area, were raised, the contention appears misplaced in this proceeding.

In this proceeding both General's proposed service and its existing Pomona/Ontario paging service are offered solely by General and are not provided jointly with Pacific. Moreover, these services are not compatible with the paging services General and Pacific propose to provide in the LAEA and no plans exist for

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<sup>3/</sup> Cases Nos. 9395, 9450, 9715, and 9716.

making them compatible. Furthermore, there is no agreement with Pacific whereby Pacific will refer its customer inquiries about paging service to General. Instead General only intends to provide paging service to Pacific customers on a demand basis; that is, service will be provided to a Pacific customer who contacts General and indicates a need for paging service within General's Redlands/San Bernardino exchanges.

Because neither the proposed Redlands/San Bernardino service offering nor the existing Pomona/Ontario paging service is compatible with the paging services General and Pacific would provide in the LAEA and because no plans exist for making them compatible, the examiner correctly limited the evidence on the competitive aspects of General's proposal to the practices, if any, General engages in which adversely affect protestants' ability to compete in the Pomona/Ontario/Redlands/San Bernardino area. In this regard not only were no unfair practices disclosed, but the record instead disclosed quite candidly that RTU's compete effectively in the Pomona/Ontario paging market where General clearly is not the dominant provider of paging services.

The protestants have also argued that General's proposal will further dilute the market for tone-only signalling service thereby reducing revenues and preventing full utilization of paging facilities. However, in light of the rapid growth experienced in protestants' paging business as well as their admitted ability to compete with General if its service proposal is approved, it appears that any dilution of the existing paging market will not be large. In fact, it could be quite small if the increase in competition should expand the market for paging service by stimulating greater public awareness of its availability. Such stimulated demand should in turn result in increased utilization of the protestants' as well as General's paging facilities.

As brought out earlier in this decision, the 158.1 MHz frequency is one of the radio frequencies assigned to the wireline telephone companies by the FCC in its Guardband decision, supra, for use in providing personal signalling service. Unless General's proposal is approved, this unique natural resource will continue to remain idle, thereby frustrating the policy of the FCC of promoting competition between the wireline carriers and the RTU's.

In summary, there is no evidence in this proceeding which indicates that the public interest would not be served by wireline competition with the RTU's; there is not even persuasive evidence of any significant adverse economic effect on the protestant RTU's. The preponderance of the evidence indicates General's service proposal is in the public interest.

#### Findings

1. General proposes to offer one-way tone-only signalling service in its Redlands and San Bernardino telephone exchanges. General presently furnishes two-way mobile telephone service throughout the proposed Redlands/San Bernardino area from a Redlands transmitter. The proposed service will be provided in conjunction with the paging service General currently provides in its Pomona and Ontario exchanges.

2.a. The word "territory" as used in that part of Section 1001 of the Public Utilities Code reading "...extension within or to territory already served by it, necessary in the ordinary course of its business..." can and should denote, for mobile radiotelephone service by a land line telephone utility, that service area delineated by an appropriate signal strength contour which provides reasonable coverage of its pertinent exchanges and such adjacent area as necessary to provide a rational contour.

b. Under the resultant non-coterminus wireline and radio link territories, a customer of one telephone utility is being served in the utility's territory for mobile telephone service on that radio frequency when his mobility takes him into an adjoining telephone utility's exchange area where he receives his radio signal.

3.a. The reliable signal strength contour, computed in accordance with the FCC rules, for General's two-way mobile telephone service from the Redlands transmitter provides reasonable coverage, within terrain limitations, of pertinent General exchanges and such adjacent area as necessary to provide a rational contour.

b. Consistent with the definition of territory in Finding 2.a. above, we conclude, notwithstanding that signal's spill-over into adjoining Pacific exchanges, that additional certification is not required to render that service.

4. General may institute personal paging service in the Redlands/San Bernardino area, which is within an area in which it has already lawfully established two-way mobile telephone service, without first securing a certificate of public convenience and necessity from this Commission pursuant to the terms of Section 1001 of the Public Utilities Code.

5. General's proposed one-way tone-only personal signalling service will be provided over the frequency of 158.1 MHz, which is one of the Guardband frequencies assigned by the FCC to the wireline telephone companies for their use in providing personal signalling service.

6. Most of the central office facilities necessary to provide the proposed service are currently being used to provide General's existing Pomona and Ontario one-way tone-only signalling service with the result that relatively little additional plant is required in order to institute the new service.

7.a. At present General provides tone-only signalling services in Santa Monica, Lompoc, Santa Barbara, Oxnard, Thousand Oaks, and, of course, Pomona/Ontario. It provides these services in competition with the paging services of radiotelephone utilities. Such competition stems from policies of both the FCC and this Commission.

b. Protestants Intrastate and ICS are each authorized to provide radio paging services in General's Redlands and San Bernardino exchanges as part of more extensive areas. They both currently provide one-way tone-only signalling service and oppose the competitive service proposed by General.

c. The nature of the competition with the protestant RTU's should not differ whether the intervening wireline territory between the Pomona/Ontario and Redlands/San Bernardino areas were all General's, all Pacific's, or part General's and part Pacific's. Accordingly, the competition which protestants are trying to block is precisely that between wireline and nonwireline carriers which our holding in Malis, supra, encourages and our Finding 7.a. above in part pertains to.

8.a. Intrastate's service area, although moderately larger than that encompassed by the reliable signal contours for General's proposed Pomona/Ontario/Redlands/San Bernardino area, does not include either all of Pomona or the service areas of West Covina and La Puente. Its tone-only signalling service is operator-assisted. Its tariff rates are structured to promote its tone and voice signal service.

b. ICS's signal contours blanket much of southern California. Only a minor part of its paging business is derived from General's proposed service area.

c. There is an unfulfilled demand for a locally based personal signalling service of the type General proposes to offer. The public desires a choice of services and the public interest will best be served by competition between wireline and nonwireline regulated utilities. Conversely, the public interest will not be served by depriving public access to a Guardband channel competitively allocated to the wireline carriers.

9.a. There is no evidence in this proceeding that General has engaged in other than fair competition with the RTU's for rendering paging service in its Pomona and Ontario exchanges.

b. The proposed service offering and General's existing Pomona/Ontario paging service are offered solely by General. These services are not provided jointly with Pacific. Moreover, these services are not compatible with the paging services General and Pacific propose to provide in the Los Angeles Extended Area and no plans exist for making them compatible.

c. The provision by General of its proposed personal signalling service will stimulate the growth of personal signalling service in the Redlands/San Bernardino area and will provide beneficial competition with the RTU's presently serving that area.

d. General has not violated the requirements of the Guardband decision nor are the rates, terms, and conditions of the proposed service anticompetitive in any manner.

10. The rates proposed for General's one-way tone-only signalling service are the same as those in effect for General's existing Pomona/Ontario paging service. Those rates are cost-based and are expected to provide in due course not less than an adequate rate of return.

11. General is technically and financially qualified to provide the proposed Redlands/San Bernardino paging service.

12. General's tariffs for one-way tone-only signalling service in the Redlands/San Bernardino area have not been shown to be unlawful in any respect.

The Commission concludes that General's proposed service is in the public interest, that the suspension of the tariffs for this service should be lifted, and that the investigation should be discontinued.

O R D E R

IT IS ORDERED that the tariffs of General Telephone Company of California, suspended and investigated in Case No. 9757, are allowed to go into effect on the effective date of this order and the investigation is discontinued.

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

Dated at San Francisco, California,  
this 21<sup>st</sup> day of SEPTEMBER, 1976.

William Agnew President  
Vernon L. Stutzman  
Leonard Ross  
Robert Bateman Commissioners

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