

Decision S4 02 009

FEB 1 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of (a) COMMON CARRIER)
COMMUNICATIONS, INC., to issue 1,000)
shares of \$10.00 par value stock; and)
(b) AMERICAN MOBILE RADIO, INC.,)
INDUSTRIAL COMMUNICATIONS SYSTEMS,)
INC., INTRASTATE RADIOTELEPHONE, INC.)
OF LOS ANGELES, INTRASTATE RADIO-)
TELEPHONE, INC. OF SAN BERNARDINO,)
MOBILPHONE, INC., ORANGE COUNTY)
RADIOTELEPHONE SERVICE, INC., RADIO)
DISPATCH CORPORATION, and ROBERT L.)
MOHR, dba RADIOCALL CORPORATION, to)
purchase, acquire and hold capital)
stock of COMMON CARRIER COMMUNICATIONS,)
INC.)

Application 57016
(Filed January 17, 1977)

ORDER MODIFYING DECISION 83-10-036

By Application (A.) 57016, American Mobile Radio, Inc., Industrial Communications Systems, Inc., Intrastate Radio Telephone, Inc. of Los Angeles, Intrastate Radio Telephone, Inc. of San Bernardino, Mobilphone, Inc., Orange County Radiotelephone Service, Inc., Radio Dispatch Corp., and Robert L. Mohr, doing business as Radiocall Corporation, sought authority to purchase, acquire, and hold 125 shares, each, of the 1,000 shares of \$10 par value capital stock to be issued by Common Carrier Communications, Inc. (CCC), a California corporation.

Decision (D.) 86972, dated February 15, 1977, granted the requested authority for CCC to issue 1,000 shares of capital stock to be sold to the above-listed eight radiotelephone utilities (RTUs). At the time of issue of D.86972, it was contemplated that

CCC would be an independently certificated entity. However, CCC never filed an application for a certificate of public convenience and necessity (CPC&N). Consequently, when by A.59906, filed August 28, 1980, CCC requested authority to carry out the terms and conditions set forth in an Intercarrier Agreement dated August 1, 1980 between CCC and the eight RTUs we, by D.82-03-010 dated March 2, 1983, dismissed the application on the basis that CCC did not possess the required CPC&N.

As of May 1, 1983, a new agreement was executed which continued CCC as an agent of and under the complete control of the eight RTUs. Under these circumstances CCC is not a public utility subject to our jurisdiction. In D.83-10-036, dated October 19, 1983, we found in part that CCC, operating in accordance with the provisions of the Intercarrier Agreement dated May 1, 1983, is not a public utility subject to our jurisdiction (mimeo. page 4) and concluded that since CCC is not subject to our jurisdiction, D.86972 should be rescinded. D.83-10-036 therefore rescinded D.86972.

The parties to A.57016 are concerned that because the decision was couched in terms of rescission, a doubt has been raised as to the very existence of CCC, and as to the validity of the various actions it has taken since early 1977 as agent for its shareholders. Consequently, on December 9, 1983 the parties filed a petition to modify D.83-10-036 to make clear that while the Commission does not have jurisdiction over CCC, or its shares, bonds, notes, etc., there was no intent on the Commission's part to nullify or invalidate the acts of CCC which were taken prior to D.83-10-036 and in reliance on the original authority granted by D.86972. This position is well taken and modification to D.83-10-036 is desirable.

Consequently, IT IS ORDERED that D.83-10-036 is modified as follows:

1. Page 1 - "ORDER RESCINDING DECISION 86972" be changed to "ORDER MODIFYING DECISION 86972".

2. Page 3 - First full paragraph be changed to:

It is obvious from the above that the contemplated operations of CCC have been drastically changed. It will own no plant, cannot exercise independent judgment, and is under complete control of the RTUs. Under these circumstances it is obvious that CCC is not a public utility subject to our jurisdiction. Consequently, CPUC approval is no longer required for the issuance and sale of stock and D.86972 should be modified accordingly.

3. Page 4 - Conclusion 2 be changed to:

2. D.86972 should be modified to state that CCC's activities relating to the issuance of shares, bonds, notes, and other evidences of indebtedness, or create liens on its property, are no longer subject to the jurisdiction of this Commission under PU Code Section 816, et seq.

This order is effective today.

Dated FEB 1 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO

PRISCILLA C. GREW

DONALD VIAL

WILLIAM T. BAGLEY

Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


-3- Joseph E. Bodovitz, Executive Director