

Decision 84 03 011

MAR 7 1984

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Happy Valley Telephone Company, a California corporation, for a certificate of public convenience and necessity to construct and operate a radiotelephone paging system.

Application 83-06-22  
(Filed June 10, 1983;  
amended November 16, 1983)

O P I N I O N

Applicant Happy Valley Telephone Company, a California corporation, requests a certificate of public convenience and necessity to construct and operate a public utility one-way radiotelephone paging system in a service area in the upper Sacramento River Valley in parts of Tehama and Shasta Counties. A copy of the application and the amendment to the application show they were served on Radio Electronics Products Corporation (Repc). The application is protested by Repco. Applicant has the requisite Federal Communication Commission (FCC) construction permit (Exhibit 1).

Applicant is a wireline telephone company serving an area west of the City of Anderson. Applicant's balance sheet attached to the application shows that applicant had a net worth of approximately \$560,000 as of June 30, 1982.

Applicant proposes to offer a tone-and-voice paging service from a transmitter located in Olinda near the City of Anderson in a service area which can be generally described as an oval whose long axis generally follows Interstate Highway 5 (I-5) from Project City on the north to a point on I-5 seven miles north of Red Bluff on the south and with an east-west distance at its widest point of approximately 26 miles. Seventy percent of the proposed paging service area lies outside of applicant's wireline telephone exchange area.

The paging system will be fully interconnected with the public switched telephone network at the control point in Olinda by the use of selector-level telephone numbers. Toll-free access to the system will be provided from its present wireline telephone exchange area as well as from the Anderson, Redding, and Cottonwood areas where it presently has Extended Area Service (EAS). The proposed system will be designed to operate on a completely automatic basis, not requiring operators in attendance. Transmissions will be monitored routinely on a 24-hour basis to detect any system malfunction and company personnel will have the capacity to diagnose equipment failure by remote dial-up to the system control point, which will be located in the same structure as applicant's telephone central office. Day-to-day maintenance and repair of the system will be performed by service personnel who will hold valid FCC radiotelephone operator's licenses to the extent required by FCC rules. The control point will be located in the same building as applicant's wireline telephone central exchange and the base station antenna also will be located at that point on an existing tower.

Applicant estimates the cost to install the system will be approximately \$16,000. During the first year of operation it estimates that it will serve approximately 33 pagers and during the fifth year of operation it will be serving 150 pagers. The initial investment to construct the proposed facilities will provide for sufficient capacity to provide service to the estimated 150 pagers expected to be subscribing at the end of the fifth full year of operations. It intends to charge subscribers \$12 per pager per month. At this charge applicant has shown that it will break even the first year of operation. In the second and subsequent years as it adds more pagers its operation will show a profit. Subscribers will be required to furnish their own pagers.

Applicant's estimate that it will serve 33 pagers the first year of operation resulted from a survey it made to determine a need for its operation among six of its present customers and others. Of the six present customers it contacted one such customer indicated it would potentially subscribe for 10 pagers, while the other customers indicated a potential subscription of, respectively, 5, 5, 2, 3, and 5 pagers. Among its present noncustomers applicant found that there would be a potential subscription of 3 pagers.

Repro objects to the application being granted on the following grounds:

- "(i) The application fails to show that the existing radiotelephone service provided by the RTUs authorized to serve the area is unsatisfactory as required by Rule 18(e);
- "(ii) The application fails to show that the public convenience and necessity for its proposed services is not and could not be met by the RTUs authorized to service the area, as required by Rule 18(e);
- "(iii) The application does not contain a map of suitable scale showing the relation of the proposed construction or extension to all other public utilities, especially protestant and other RTUs, with which it is likely to compete as required by Rule 18(c);
- "(iv) The application does not contain a complete disclosure of all operating costs associated with the proposed RTU system as required by Rule 18(f). More particularly, it appears that the application and the proposed rates fail to account for the

necessary costs of interconnection of the proposed system to the telephone network, including without limitation the costs of selector-level numbers and foreign exchange or other landline facilities required to provide the automatic, toll-free operation of the proposed system. Consequently, the proposed rates for paging service appear to be noncompensatory.

"(v) The application fails to show the requirements of customers and the associated fixed and operating expenses of the proposed system in the fifth (5th) year of operation as required by Rule 18(j).

"(vi) The application fails to supply the supporting engineering data for the proposed system without which a full understanding of the proposed RTU system and the proposed service area is impossible."

Repro requests that the application be dismissed without prejudice for failure to comply with Rule 18 of the Commission's Rules of Practice and Procedure, or in the alternative require applicant to file appropriate amendments to the application. Repco also requests that the application be set for hearing to determine whether public convenience and necessity require the grant of the proposed certificate.

#### Discussion

The Commission no longer requires an application for a radiotelephone certificate to conform with Rules 18(c), 18(e), or 18(j) of the Commission's Rules of Practice and Procedure.<sup>1</sup> Hence, protestant's objections numbered (i), (ii), (iii), and (v) are irrelevant.

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<sup>1</sup> See Appendix D to Decision 83-08-59. That decision allowed both applicant and protestant to amend their respective pleadings to conform to the new rules. Applicant amended its application but protestant did not amend its protest.

Concerning protestant's objection number (iv), we believe the application, as amended, satisfies this objection. Exhibit C to the original application describes the major material items and costs and expenses necessary to construct the system. In the amendment to the application, applicant explains that interconnection between the radiotelephone and landline telephone facilities will take place in the same structure which houses applicant's landline telephone exchange facilities, so applicant will not incur any private landline tariff charges to access the public switched telephone network. In addition, applicant's present landline telephone service already provides Extended Area Service; thus it will incur no extra cost in providing toll-free access to the proposed paging system.

Protestant's objection number (vi) may have been well taken to the application as originally filed, as the original application contained no engineering data about the proposed system. However, engineering data was supplied with the amendment to the application and that engineering data was sufficient to show that the proposed system is technically feasible.

Protestant has made no showing, as required by Rule 18(o)(3), "that granting the application will so damage existing service or the particular marketplace as to deprive the public of adequate service." Since such showing is necessary to maintain a protest to a radiotelephone application and no such showing was made, a hearing on this application is unnecessary.

Findings of Fact

1. Applicant currently operates a public utility wireline telephone system in an area west of Anderson.

2. Applicant requests a certificate to construct and operate radiotelephone facilities for the purpose of providing one-way public utility radio paging service in parts of Tehama and Shasta Counties as more particularly described in the application, as amended.

3. Seventy percent of the proposed paging service area lies outside of Applicant's wireline telephone exchange service area.

4. Applicant possesses the requisite FCC construction permit.

5. The proposed service will offer tone-and-voice paging and will be fully interconnected with the public switched telephone network with the interconnection taking place in the same structure which houses applicant's landline telephone exchange.

6. Applicant intends to offer toll-free access to the proposed paging system through its Extended Area Service.

7. The paging system is designed to operate on an automatic basis, not requiring operators in attendance.

8. Purchase and installation of the proposed facilities will cost approximately \$16,000.

9. Applicant expects that by the end of the first year of operation it will be serving 33 pagers and that by the end of the fifth year of operations it will be serving 150 pagers.

10. Applicant conducted a survey among its present wireline telephone customers and others to determine a need for the proposed service.

11. The results of the survey revealed a need for the proposed service.

12. Applicant expects to break even financially in its first year of operation charging its expected rate of \$12 per pager.

13. As of June 30, 1982 applicant had a net worth of approximately \$560,000.

14. The proposed base station antenna will be installed on existing towers.

15. Applicant has the financial resources available to it to construct and operate the proposed system.

16. The proposed service is technically feasible.

17. Public convenience and necessity require the issuance of the requested certificate.

18. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

19. Protestant's objections to the application numbered (i), (ii), (iii), and (v) are irrelevant. ✓

20. Protestant's objections to the application numbered (iv) and (vi) lack merit.

21. Protestant has not shown that granting the application will so damage existing service or the particular marketplace as to deprive the public of adequate service to the public.

22. A hearing is not necessary.

Conclusions of Law

1. Protestant's protest and request for an oral hearing should be denied.

2. The application should be granted.

Only the amount paid to the State for operative rights may be used in ratefixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Happy Valley Telephone Company (applicant) for the construction and operation of a public utility one-way radiotelephone system with a base station and a service area located as follows:

Base station location: Monte Vista Street  
(Olinda) Anderson. Lat. 40°26' 47" N.,  
Long. 122°25' 30" W.

Service area: As set out on the contour map  
in Exhibit A to A. 83-06-22.

2. Within 30 days after this order is effective, applicant shall file a written acceptance of the certificate granted in this proceeding.

3. Applicant is authorized to file, after the effective date of this order and in compliance with Ordering Paragraph 3, tariffs applicable to the service authorized containing rates, rules, and charges otherwise applicable to its radiotelephone services. The offerings, rates, and charges shall be as proposed in Exhibit E to A.83-06-22. The tariffs shall become effective on not less than 5 days' notice.

4. Applicant shall file, after the effective date of this order and compliance with Ordering Paragraph 3, as part of its individual tariff, an engineered service area map drawn in conformity with the provisions of the Federal Communications Commission (FCC) Rule 22.504, commonly known as the "Carey Report," consistent with Exhibit A. to A.83-06-22.

5. Applicant shall notify this Commission, in writing, of the date service is first rendered to public under the rates, rules, and charges authorized within five days after service begins.

6. Applicant shall maintain its books and records in such a manner as to facilitate separate calculation of the revenues and costs of the radiotelephone service.

7. The request of Radio Electronics Products Corporation that an oral hearing be held and that the application be denied, is denied.



8. The certificate granted and the authority to render service under rates, rules, and charges authorized will expire if not exercised within 12 months after the effective date of this order.

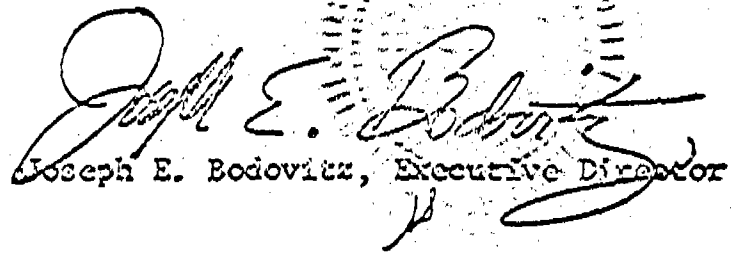
This order becomes effective 30 days from today.

Dated MAR 7 1984, at San Francisco, California.

VICTOR CALVO  
FRISCILLA C. GREW  
DONALD VIAL  
WILLIAM T. BAGLEY  
Commissioners

Commissioner Leonard M. Grimes, Jr.,  
being necessarily absent, did not  
participate.

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

  
Joseph E. Bodovitz, Executive Director

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