

Decision **84 G4 010** April 4, 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of MobileComm of California, Inc. for a certificate of public convenience and necessity pursuant to Section 1001 of the Public Utilities Code to construct a radio paging system in and around San Diego, California.

Application 83-12-46
(Filed December 23, 1983;
amended January 17, 1984)

O P I N I O N

Applicant MobileComm of California, Inc., a California corporation, requests a certificate to construct and operate radio-telephone facilities for the purpose of providing public utility one-way paging service in the San Diego area. The application shows that a copy was served on Gencom, Inc., General Telephone Co. of California, Pacific Telephone & Telegraph Co., Allied Telephone Companies Assoc., County of San Diego, and principal cities involved in the proposed service area. Notice of filing the application was published in the Commission Daily Calendar of December 28, 1983. No protests to the application have been received. Applicant possesses the requisite Federal Communications Commission (FCC) permit.

Applicant was organized by Mobile Communications Corporation of America (MCCA) for the purpose of conducting radiotelephone utility operations in California, but applicant is not engaged in business at the present time. Applicant is a wholly owned subsidiary of MCCA, which is a communications holding company operating through subsidiaries which provide paging, two-way mobile radiotelephone service, and other communication services. MCCA serves customers in 46 metropolitan areas in the United States. MCCA provides financial, operational, and technical support to its subsidiaries through its management and engineering staffs and its

computerized billing, bookkeeping, budgeting, inventory control, and market information capacity. MCCA claims to be the fourth largest radiotelephone utility in the United States with more than 100,000 paging units in service and represents that its management and staff have extensive experience in the paging business.

MCCA presently owns and operates three radiotelephone utilities serving the Southern California area: MobileComm of Los Angeles, Inc. (formerly known as Intrastate Radiotelephone, Inc. of Los Angeles), Intrastate Radio Telephone Inc. of San Bernardino and American Mobile Radio, Inc. Pursuant to an agreement approved by the Commission on December 7, 1983, in Decision (D.) 83-12-009, MCCA is purchasing a controlling interest in Mobile Radio System of Ventura, Inc., a radiotelephone utility serving Ventura County. These operating companies are among those radio common carriers issued "grandfather" certificates of public convenience and necessity to operate as radiotelephone utilities by Commission D.62156. Pursuant to such certificates, they provide two-way mobile telephone and one-way paging services in an area extending generally from Ventura in the north to Laguna Beach in the south and from the Pacific Ocean eastward to San Bernardino.

The application shows that for the nine months ended September 30, 1983 MCCA had an income of approximately \$22,610,600 and a net income of approximately \$1,981,232. As of that date MCCA had assets of approximately \$79,245,037 and a net worth of approximately \$33,552,547. Exhibit N to the application is a letter from MCCA to applicant confirming MCCA's intent to make available to applicant such funds as will be necessary for the construction and initial operation of the radiotelephone utility facilities and additional facilities, if necessary.

Applicant proposes to construct a radiotelephone utility system for the purpose of providing selective signaling, tone-alert, digital display and alphanumeric paging services in and around San Diego, California. The system will employ three base station transmitters on existing towers operating on frequency 35.34 MHz located at San Miguel Mountain, 5555 Grossmont Center Drive in La Mesa, and 600 B Street in San Diego. Calls will be automatically dispatched through use of a BBL System 3 paging terminal, and the system will be fully interconnected with the public switched telephone system at the terminal site. The proposed service area extends generally from the Mexican border northward to Del Mar and El Cajon and from Dulzura and Alpine in the east, westward to the Pacific Ocean. The technical specifications of each of the base station facilities together with related service area engineering is attached as Exhibit J to the application.

A subscriber will carry on his person a small radio receiver tuned to the transmitter frequency. The receiver will react when the unique seven-digit telephone number associated with the subscriber's receiver is dialed from any station on the public switched telephone network, using selector level dialing techniques. Toll-free access to the system from points throughout the applicant's service area will be accomplished through the use of FEX lines or the equivalent. Suitable paging receivers may be leased or purchased from an affiliate of applicant which will maintain sales and service facilities at convenient locations throughout the San Diego area. Receivers are also available from a number of non-affiliated sources.

Customers will have the chance of subscribing to local service, which will enable receipt of messages within the service area depicted in applicant's proposed service area or of subscribing to one of two wide-area service options which will enable receipt of

messages in an area extending along the Pacific Coast from Santa Barbara on the north, to the Mexican border on the south and extending as far inland as Lancaster and Palm Springs. Wide-area service will be implemented through an intercarrier agreement between applicant and MCCA's other California subsidiaries, whereby applicant's dispatch terminal will be linked by wireline with applicant's affiliate terminal in Los Angeles. The affiliate's terminal will control 14 additional 35.34 MHz transmitters being constructed by MCCA subsidiaries throughout Southern California.¹

Customers who desire that all of their calls be transmitted throughout the wide-area contour may obtain such service for \$5.00 a month in addition to their regular monthly service charge. Customers with less frequent need to receive messages outside of the immediate San Diego area may choose a lower cost selective area option which employs dual function pagers. Such customers will be assigned two distinct telephone numbers. Dialing one number will cause applicant's paging terminal to activate only local system transmitters. Dialing the other will cause the terminal to route the call to applicant's affiliate in Los Angeles, thereby activating transmitters covering the areas outside San Diego. The charge for selective area service will be \$2.00 a month plus \$.10 per out-of-area call, in addition to a regular monthly service charge of \$10 for tone alert service, \$13 for numeric digital display, and \$16 for alphanumeric service. The regular monthly charge allows for an unlimited number of calls.

A qualified manager will be employed to run the day-to-day operations of applicant and ultimate responsibility for management of the company will reside in the officers of MCCA who are also officers and directors of applicant. Base station and control equipment will

¹ MCCA also has before this Commission A.84-01-23, in which authority is sought for the construction and operation of these additional facilities. The provisions of service on an integrated basis with these additional facilities is necessarily dependent upon the granting of that application.

be maintained by Quigley Communications of San Diego which will also provide 24-hour repair and technical monitoring of all locations on an ongoing basis. This company employs properly qualified technicians holding first or second class radiotelephone operator licenses.

Applicant has conducted a marketing survey among a small segment of randomly selected potential users of paging service in the San Diego area. The prospects have been informed generally of the local area to be served by the proposed facilities, the nature of the proposed service and the monthly cost of the service. As a result of this survey, applicant has obtained written commitments from 19 prospective subscribers for service to 44 tone-alert or visual display units. The business and professional categories of these prospective subscribers and the number of units for which they have expressed a need are as follows:

<u>Category</u>	<u>Prospective Subscribers</u>	<u>Number of Units Requested</u>
Medical	4	5
Entertainment	1	2
Architects	2	2
Insurance	2	2
Banking	3	11
Engineer	1	7
Secretary/Bookkeeper	2	2
Construction	1	1
Restaurant	1	1
Management	1	1
Government	1	10
Total	19	44

From its extensive experience in the Southern California paging market, applicant is aware that demand for paging in the San Diego area is growing at a rapid rate and that the results of its limited survey are indicative of a substantially greater demand for its proposed service.

Applicant estimates its initial capital requirements to construct and operate the system will be \$595,000. Applicant states that standard engineering techniques predict that the system will provide reliable service within the service area contour. However, actual operations may indicate that additional fill-in transmitters are desirable to optimize signal penetration of buildings and/or to cover shadow areas. Fill-in transmitters will be constructed where and if operating experience indicates they will substantially enhance service. Therefore, as a cautionary measure, financial planning reflects the construction of three fill-in transmitters in the second year of operation.

Applicant expects to have 2,804 paging units in operation at the end of the first year of operation and 8,814 by the end of the fourth year of operation. It anticipates a net loss from operations for the first two years of \$197,370 and \$77,130 respectively. From and after the third year of operations it expects its business to return a profit.

This application was received by the Commission Docket Office on December 15, 1983 though it was date-stamped as being received for filing "December 23, 1983." The time interval was due to the fact that it was held pending determination whether the application met the filing time requirements of Public Utilities (PU) Code § 4907 and Rule 18(o)(1) of the Commission's Rules of Practice and Procedure, each of which requires that applications for radiotelephone certificates be filed not later than 30 days after the

grant of the requisite FCC construction permit. The FCC permit attached to the application in this case shows that the FCC permit had been issued November 9, 1983. The application was tendered for filing December 15, 1983, or 37 days after the permit was issued. On December 23, 1983 applicant filed a motion for waiver of the filing time requirements, or, in the alternative, for leave to file an incomplete application. Since the application is unopposed we see no reason to deny applicant's request for a waiver of the filing time requirements in this instance.

Findings of Fact

1. Applicant requests a certificate to construct and operate radiotelephone facilities for the purpose of providing one-way public utility radio paging service in the San Diego area more particularly described in the application, as amended.

2. Applicant possesses the requisite FCC construction permit.

3. Applicant proposes to provide selective signaling, tone-alert, digital display, and alphanumeric paging service.

4. The proposed system will employ three base station transmitters to be located on existing towers.

5. Applicant will offer local service, and prospectively will offer two wide-area service options which will enable receipt of messages in an area extending along the Pacific Coast from Santa Barbara on the north to the Mexican border on the south.

6. The proposed system will be fully interconnected with public switched landline services.

7. The proposed charge for selective area service will be \$2 a month plus \$.10 per out-of-area call, in addition to a regular monthly service charge of \$10 for tone-alert service, \$13 for numeric digital display, and \$16 for alphanumeric service. The regular monthly charge allows for an unlimited number of calls.

8. Purchase and installation of the proposed facilities will cost approximately \$595,000.

9. Engineering specifications for the system are as set out in Exhibit J to the application.

10. Applicant conducted a marketing survey among a small segment of randomly selected potential users of paging service in the San Diego Area which resulted in applicant obtaining written commitments from 19 prospective subscribers for service to 43 tone-alert or visual display units.

11. Applicant is a wholly owned subsidiary of MCCA which had a net worth of approximately \$33,552,547 as of September 30, 1983.

12. MCCA has issued a letter of intent to make available to applicant such funds as will be necessary for the construction and initial operation of the proposed service.

13. Applicant will employ a qualified manager to run the day-to-day operations and will engage a company employing qualified technicians to provide 24-hour repair service.

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

15. The proposed service is technically feasible.

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

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

18. A hearing is not necessary.

Conclusion of Law

1. The motion of applicant for a waiver of the time filing requirements is granted.

2. The application should be granted.

3. Only the amount paid to the state for operative rights may be used in rate fixing. 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 MobileComm of California, Inc. (applicant) for the construction and operation of a public utility one-way radiotelephone system with base stations and a service area located as follows:

Base station locations:

1. 600 B Street, San Diego. Lat. 32°43'05"05 N, Long. 117°09'32" W.
2. San Miguel Mountain 13 miles east of San Diego. Lat. 32°41'47"N Long. 116°56'06" W.
3. Grossmont Hospital, 5555 Grossmont Center Drive, La Mesa. Lat. 32°46'27" N, Long. 117°01'22 W.

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 K to A.83-12-46.

4. Applicant shall file, after the effective date of this order and in compliance with Ordering Paragraph 3, as part of its individual tariff, an engineered service area map drawn in conformity with the provisions of the FCC Rule 22.504, commonly known as the "Carey Report," consistent with Exhibit I to A.83-12-46.

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

6. Applicant shall keep its books and records in accordance with the Uniform System of Accounts for Radiotelephone Utilities, prescribed by this Commission.

7. Applicant shall file an annual report, in compliance with General Order 104-A, on a calendar-year basis using CPUC Annual Report Form L and prepared in accordance with the instructions included in that form.

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.

9. Applicant's motion for waiver of the filing time requirements pertaining to applications for radiotelephone certificates is granted.

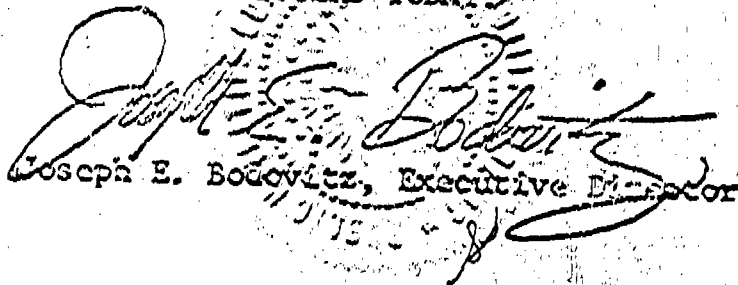
This order becomes effective 30 days from today.

Dated APR 4 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
Commissioners

Commissioner William T. Bagley
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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