

Decision 84 06 130

JUN 20 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 Mobilecomm of Los Angeles, Inc., a
 California corporation, for an
 expanded certificate of public
 convenience and necessity pursuant
 to Section 1001 of the Public
 Utilities Code authorizing the
 construction and operation of a
 radio paging system in and around
 Los Angeles, California.

Application 84-01-23
 (Filed January 9, 1984)

O P I N I O N

Applicant Mobilecomm of Los Angeles, Inc., a California corporation, requests a certificate of public convenience and necessity to construct and operate facilities for the purpose of rendering public utility one-way radiotelephone paging service in extensive areas in Southern California as more particularly set out in Exhibit D to the application. The application shows that a copy of the application was served on 17 radiotelephone utilities (RTUs) and two principal wireline telephone companies. Notice of the filing of the application appeared in the Commission's Daily Calendar of January 13, 1984. The application was protested by General Telephone Company of California insofar as applicant may intend to use selector level access into the wireline telephone network. Applicant possesses the requisite Federal Communication Commission (FCC) construction permits.

Applicant, formerly known as Intrastate Radio Telephone, Inc. of Los Angeles (Intrastate-LA) presently provides fully interconnected one-way paging and two-way mobile radiotelephone service in and around the Los Angeles Basin. For the calendar year 1982 applicant had gross income of \$1,588,539 from operations and a net profit from operations of \$152,824, but overall, because of other income and deductions, it had a net loss of \$75,282. As of

December 31, 1982 it had total assets of \$1,586,330 and a net worth of \$110,388 and was serving approximately 4,599 paging units belonging to 2,281 customers.

By this application applicant seeks to establish 13 one-way paging base stations to serve an area along and inland from the Pacific Coast bounded roughly by a line running from approximately Gaviota eastward to Edwards Air Force Base, thence southeast to Perris below Riverside, thence southwest to the Pacific Ocean at Laguna Beach. In addition, applicant intends to establish a base station to serve the Palm Springs area and another base station to serve Escondido and points east, northeast, and north of Escondido. All fifteen base station locations are already in use as radio transmitter sites.

Initial capital expenditures to construct the system, as estimated by applicant, will be \$300,000 and will include the cost of upgrading an existing BBL paging terminal, constructing control facilities on 900 megahertz (MHz) frequencies licensed for such purposes by the FCC, and constructing transmitters and antennas at each of the base stations. Applicant anticipates that incremental recurring expenses will be minimal in view of the fact that maintenance, marketing, billing, and similar activities will be performed by existing personnel working out of existing facilities belonging to applicant, its parent company, or its affiliated companies. Nonetheless, applicant estimates that the incremental costs of renting the sites will approximate \$54,000 in annual site rentals, plus \$25,000 for an added full-time technical employee. At the end of the fifth full year of operations, incremental marketing, billing, collection, and bad debt expenses are estimated at an additional \$192,000.

Applicant anticipates 2,000 units will be in service at the end of the first full year of operations, and 8,000 units in service at the end of the fifth full year of operations. It also anticipates that the monthly gross revenue at the end of the first full year of

operations will on an annualized basis yield approximately \$240,000, and at the end of the fifth full year of operations will approximate \$960,000.

Applicant will provide tone-alert, digital display, and alphanumeric paging service at the rates and subject to the conditions set forth in its existing tariffs. It will simulcast paging messages from all its transmitters on frequency 35.34 MHz. Applicant is aware that the propagation characteristics of 35.34 MHz are such that in heavily built-up areas the reliable service contours as depicted on the service area map attached to its application are not necessarily an adequate indication of the ability of a paging signal to penetrate man-made structures. While simulcasting from all transmitters will assist in overcoming possible defects, applicant appreciates the fact that actual experience may dictate further "fill-in" transmitters in some areas.

Applicant states that because of frequency congestion and the failure until recently of the FCC to make radio frequencies available for wide-area paging systems, there is presently no paging operation on a single frequency capable of delivering a usable signal throughout the populated areas of Southern California. Applicant states that its proposed system will form a part of such an operation and will respond to the public's need to travel in Southern California while remaining accessible to an RTU paging service.

Applicant's parent corporation, Mobile Communications Corporation of America (MCCA), also owns two other RTUs serving Southern California--American Mobile Radio, Inc. (American) and Intrastate Radio Telephone, Inc. of San Bernardino (Intrastate-SB)--and has secured Commission approval to acquire control of Mobile Radio Systems of Ventura, Inc. (Mobile-Ventura). Applicant states that it is the present intent of MCCA ultimately to merge those three RTUs into applicant, with applicant being the surviving corporation. Applicant points out that only three of the 15 base station locations which it proposes to construct in this application are outside of the service areas of the Southern California RTUs currently owned by

MCCA. These locations are at Palm Springs, Santa Barbara, and Mount Palomar. Applicant states that because the construction permits were obtained in the exclusive name of applicant, and since, even with extensions, construction will be necessary prior to the consummation of any merger, applicant seeks the herein authorization to construct and operate. In the event of no merger prior to commencement of operations, the four commonly owned RTUs will enter into an intercarrier arrangement pursuant to which the customers of any of them will be able to subscribe to the wide area services made possible by the new system and pursuant to which the costs and revenues of the system will be apportioned among them.

Protestant states that it is a wireline telecommunications company providing telephone and other communications services within the area proposed to be served by applicant. Protestant points out that the application does not specify whether applicant's service will include end-to-end or selector level access (involving the assignment of a separate telephone number to each pager). Protestant believes that the use of telephone facilities to provide an individual telephone number to each paging device is wasteful and unnecessary, a drain on telephone company capacities, and can be expected to have an adverse impact on protestant's customers. General states that there are other alternatives now being utilized by existing paging systems which are more appropriate than a selector access system.

Protestant asserts that applicant must, under Rule 18(o)(2)(iii), state which type of access it intends to use. If applicant intends to use selector level access, the large number of telephone numbers required will be wasteful and unnecessary, be a drain on telephone company capacities, and have an adverse impact on protestant's customers. General states that there are other alternatives now being utilized by existing paging systems which are more appropriate than a selector level access system. However, General does not have any opposition to the application beyond that

previously stated. Its intent in filing its protest is to make the Commission aware of a problem which may arise if the application is granted.

Applicant takes issue, first, with protestant's contention that Rule 18(o)(2)(iii) requires an applicant to divulge the type of access that will be used. Applicant believes that the rule requires only a general description of the proposed service and that this description, in considerable detail, has in fact been provided in the application. Applicant states that its present system utilizes both end-to-end signaling techniques, as well as selector level numbers purchased in blocks on a contract basis from the relevant wireline carriers. At this time it is impossible to foresee to what degree, if at all, it will seek selector level numbers from protestant as its needs for such numbers will be determined, among other things, by the state of radiotelephone technology at the time applicant's system is established, customer preferences, and the availability of such numbers. It acknowledges that its ability to secure such numbers will depend on the wireline's own circumstances at the time, including the degree of automation of protestant's central offices, and demand by others of protestant's customers. Applicant also acknowledges that it cannot require protestant to reserve blocks of numbers for it at this time, or treat applicant any more favorably than other customers. Applicant, accordingly, would not object to an order granting the application containing provisions to the effect that protestant shall not be required to reserve selector level numbers for applicant (unless, of course, it does so for its other customers), or to provide that applicant's rights, if any, to such numbers shall be determined at the time and under the circumstances obtaining when, if ever, they are actually used.

Discussion Concerning the Protest

We do not agree with protestant's contention that Rule 18(o)(2)(iii) requires an applicant, in this situation, to describe a specific system of automatic interconnection it intends to use. Even if the application did describe a particular system our granting of the application would not tie applicant down to using that system and that system only, since, as pointed out by applicant, choice of any one automatic system over another is dependent on many variables unknown at the time of filing the application. Furthermore, the state of the art of automatic interconnection may change and, if it does, a Commission requirement that an RTU can use only one particular interconnection system would prevent the RTU from upgrading the efficiency of its system. However, granting this application does not assure that protestant or any other wireline telephone company will necessarily be able to meet any or all of applicant's request for selector level telephone numbers. We do not believe that setting forth in our order applicant's legal rights to interconnect with a wireline telephone company through selector level telephone numbers, as proposed by applicant, is at all necessary or appropriate.

Findings of Fact

1. Applicant currently offers fully interconnected certificated one-way paging and two-way mobile radiotelephone services in the Los Angeles Basin area and serves approximately 4,599 pagers belonging to 2,281 customers.

2. For the calendar year 1982 it had gross income from RTU operations of \$1,588,539 and a net profit from RTU operations of \$152,824, but overall, because of other income and deductions, it suffered a loss of \$73,282.

3. As of December 31, 1982 it had total assets of \$1,586,330 and a net worth of \$110,388.

4. By this application applicant seeks a certificate to construct and operate facilities for the purpose of providing

automatically interconnected one-way radiotelephone paging service from 15 base stations at existing broadcasting sites in service areas described in Exhibit D of the application.

5. Applicant intends to provide simulcast tone-alert, digital display, and alphanumeric paging service at the rates and subject to the conditions set forth in its existing tariffs.

6. Initial capital expenditures to construct the proposed system are \$300,000.

7. Applicant anticipates 2,000 units will be in service at the end of the first full year of operations and 8,000 units in service at the end of the fifth full year of operations.

8. Applicant is aware that some "fill-in" transmitters may be required to be established.

9. All but three of the proposed 15 base stations proposed to be established by applicant are within the service area of applicant and its two affiliated companies, which are intended to be merged into applicant in the not too distant future.

10. In the event of no merger prior to commencement of operations by applicant, the commonly owned RTUs will enter into an intercarrier agreement pursuant to which the customers of any of them will be able to subscribe to the wide area services made possible by the new system and pursuant to which the costs and revenues of the system will be apportioned among them.

11. Whether or not the mergers go through as planned, the local paging frequencies presently used by applicant and each of its affiliates and would-be affiliate--those frequencies being different from applicant's proposed 35.34 MHz frequency--will be available for customers preferring only local service, thus easing frequency congestion on both the local frequencies as well as on the wide area frequency.

12. The proposed system will respond to the public's need to travel in extensive areas in Southern California while remaining accessible to an RTU paging service.

13. The proposed system is economically feasible.

14. The proposed system is technically feasible.

15. Public convenience and necessity require the granting of the application.

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

17. It is not a necessary requirement for a grant of this application that applicant set forth the type of automatic interconnection it intends to make with a wireline telephone company.

18. Granting this application does not assure that protestant will necessarily be able to meet any or all of applicant's request for selector level telephone numbers.

19. It would not be necessary or appropriate to set forth applicant's legal rights to interconnect its proposed system with a wireline telephone company through the use of selector level telephone numbers.

20. A hearing is not necessary.

Conclusion of Law

The application should be granted.

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 Los Angeles, Inc. (applicant) for the construction and operation of a public utility one-way radiotelephone paging system with base stations and service areas located as follows:

A. Base station locations:

1. 8999 Cedro Drive, Beverly Hills.
Lat. $34^{\circ} 07' 08''$ N., Long. $118^{\circ} 23' 30''$ W.

2. End of TV Row, Mt. Wilson.
Lat. $34^{\circ} 13' 36''$ N., Long. $118^{\circ} 03' 57''$ W.
3. Top of Oat Mountain, Los Angeles.
Lat. $34^{\circ} 19' 35''$ N., Long. $118^{\circ} 35' 10''$ W.
6.0 miles
northwest of Ventura. Lat. $34^{\circ} 20' 58''$
N., Long. $119^{\circ} 20' 06''$ W.
5. Mount Houser, Palmdale.
Lat. $34^{\circ} 32' 50''$ N., Long. $118^{\circ} 12' 45''$ W.
6. 3035 Gibraltar Road, Santa Barbara.
Lat. $34^{\circ} 27' 55''$ N., Long. $119^{\circ} 40' 37''$ W.
7. South Mountain 3 miles southeast of Santa
Paula.
Lat. $34^{\circ} 19' 59''$ N., Long.
 $119^{\circ} 01' 00''$ W.
8. First Interstate Tower, 707 Wilshire
Boulevard, Los Angeles.
Lat. $34^{\circ} 02' 58''$ N., Long.
 $118^{\circ} 15' 22''$ W.
9. San Pedro Hill, 3960 Crest Road,
San Pedro.
Lat. $33^{\circ} 44' 46''$ N., Long.
 $118^{\circ} 20' 07''$ W.
10. End of Santiago Canyon Road near Santiago
Peak, Riverside County.
Lat. $33^{\circ} 42' 38''$ N., Long.
 $117^{\circ} 32' 00''$ W.
11. Southcoast Plaza Hotel, 666 Anton Avenue,
Costa Mesa.
Lat. $33^{\circ} 41' 32''$ N., Long.
 $117^{\circ} 53' 04''$ W.
12. Sunset Ridge north of Pomona.
Lat. $34^{\circ} 11' 11''$ N., Long. $117^{\circ} 42' 08''$ W.
13. Sierra Peak 4 miles west of Corona.
Lat. $33^{\circ} 51' 01''$ N., Long. $117^{\circ} 39' 10''$ W.

Service area: As shown on Exhibit D to
Application (A.) 84-01-23 for the above base
stations.

B. Base station location:

3.7 Miles south of Palomar Mountain Observatory, Palomar Mountain. Lat. $33^{\circ} 18' 29''$ N., Long. $116^{\circ} 50' 53''$ W.

Service area: As shown on Exhibit D to A.84-01-23 for this base station.

station location:

Edam Hill, 3.6 miles northeast of Palm Springs. Lat. $33^{\circ} 51' 56''$ N., Long. $116^{\circ} 26' 04''$ W.

Service area: As shown on Exhibit D to A.84-01-23 for this base station.

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 the same as applicant is now charging for its one-way paging service MHz in its Los Angeles Basin operations. This filing shall comply with General Order 96-A. The tariffs shall become effective on not less than 10 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 or maps drawn in conformity with the provisions of the Federal Communications Commission Rule 22.504, commonly known as the "Carey Report," consistent with Exhibit D to A.84-01-23.

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 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.

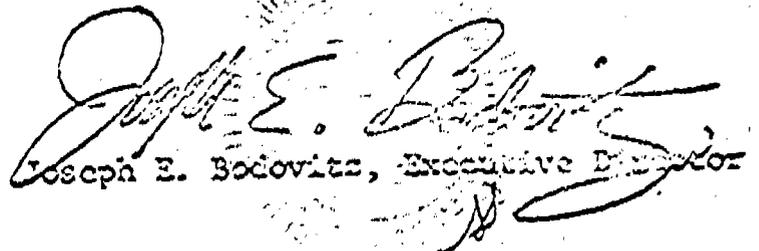
This order becomes effective 30 days from today.

Dated JUN 20 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.


Joseph E. Bodovitz, Executive Director

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