

APR 13 1988

Decision 88 04 C12 APR 13 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Metrocall of Delaware,)
 Inc. (ID No. U-2079-C), a Delaware and)
 Virginia corporation (MOD), for a)
 Certificate of Public Convenience and)
 Necessity to construct and operate a)
 Radiotelephone Utility paging system)
 in the Cities of Stockton, Bakersfield,)
 Palm Springs, Vacaville, Sonoma, Los)
 Gatos, Salinas, Modesto, Grass Valley,)
 San Bernardino, Gibraltar Peak,)
 Victorville, Barstow and Palmdale.)

Application 87-12-008
 (Filed December 2, 1987)

OPINION

Metrocall of Delaware, Inc. (applicant), qualified to do business in California, requests a certificate of public convenience and necessity to construct and operate fourteen additional radiotelephone utility (RTU) facilities to provide one-way paging and signaling services in the cities of Stockton, Bakersfield, Palm Springs, Vacaville, Kellogg, Los Gatos, Salinas, Modesto, Grass Valley, Santa Barbara, Victorville, Barstow, and Palmdale. Engineering statements and maps of the proposed service area are attached to the application as Exhibits E and F, respectively.

Copies of the application were served on cities and counties within the proposed service area and on other entities with which applicant's proposed service is likely to compete, as listed on Exhibit K to the application.

Notice of the application appeared on the Commission's Daily Calendar of December 7, 1987. No protests to the application have been received; therefore, a public hearing is not necessary.

Applicant is a certificated RTU providing one-way paging and signaling services in and around the cities of Los Angeles, San Francisco, San Jose, and San Diego.

By a former application (Application (A.) 86-03-021) applicant sought authorization to construct and operate its paging system in California. While applicant's original intent was to construct at multiple sites throughout the San Francisco, Los Angeles, and Central Valley markets, it had only received FCC permits and Commission authorization for seven specific sites. Upon certification, applicant intended to add subsequent sites by Advice Letter Filings as "minor extensions" under Rule 18(o) (5) of the Commission's Rules of Practice and Procedure.

Applicant began construction of additional sites on the advise of its former counsel that construction could proceed under the Commission's "ten percent rule", and that an appropriate Advice Letter had been sent to the Commission. Subsequently, applicant was advised that its interpretation of the rule is incorrect. Accordingly, applicant filed its Advice Letter Nos. 3 and 4 describing the original seven locations permitted by the FCC as well as certain additional sites that are subject to the Advice Letter procedure.

Construction activities on all additional sites authorized by the FCC involving substantial extensions into new communities have ceased. These additional sites, together with sites for which FCC permits are still pending, are the subject of this application.

Although applicant proceeded with the construction of certain base station facilities, applicant has substantiated that it exercised good faith in constructing such facilities for which it had no Commission authority. Therefore, a CPC&N should be granted to applicant to operate the proposed base station facilities identified in this application.

Applicant possesses the requisite Federal Communications Commission (FCC) permit for six of the fourteen base stations identified in this application, as shown in Exhibit D to the application. A permit for the Bakersfield, Salinas, Modesto, Grass

Valley, Santa Barbara, Victorville, Barstow, and Palmdale base station facilities is pending before the FCC.

Applicant represents that its long-range marketing analysis and studies, as well as voluminous inquiries and requests from existing and potential customers, demonstrate that there is a public need and demand for its proposed service. Its proposed service is designed to meet and satisfy the needs or desires of potential customers, whether industrial, commercial, business, government, or residential. According to applicant the additional service will provide the public a choice of carriers and an opportunity for selecting a service of quality and a coverage area which best meets their particular needs or desires.

The equipment applicant proposes to use in its extended area is state-of-the-art, and is of standard engineering design and proven technology. Applicant represents that its submitted engineering materials demonstrate that the proposed system is technically feasible (Exhibit E to the application).

Applicant anticipates a net operating loss of \$310,000 during its first year of operation, and a net operating revenue of \$1,200,000 before income taxes at the end of the fifth year of operation. It projects an increase from 2,080 average paging units in the first year of operation to 8,320 units, or 6,240 units, in the fifth year of operation.

Applicant projects a total capital requirement for the proposed facilities of approximately \$500,000. Applicant's financial statements as of September 30, 1987 show that applicant's net worth of approximately \$7 million is sufficient to provide the necessary funds for the construction and operation of the proposed facilities.

The proposed base stations are to be located at existing communication sites, including transmitters, antennae, buildings, and other structures. Therefore, it can be seen with certainty

that there is not any possibility that the proposed facilities may have a significant effect on the environment.

The rates to be charged for applicant's proposed one-way paging service are the same rates and charges for similar services that applicant presently has on file with the Commission, excerpts of which are attached to the application as Exhibit I.

Findings of Fact

1. Applicant requests a certificate of public convenience and necessity to construct and operate additional RTU facilities to provide one-way paging and signaling services.

2. Copies of the application were served on cities and counties within the proposed service area and on other entities with which applicant's proposed service is likely to compete.

3. Notice of the application appeared on the Commission's Daily Calendar of December 7, 1987.

4. No protests to the application were received.

5. Applicant exercised good faith in constructing certain base station facilities for which it had no Commission authority.

6. Applicant possesses the requisite FCC permits for six base station facilities.

7. Requisite FCC permits for eight base station facilities are pending before the FCC.

8. Applicant is a certified RTU.

9. Public convenience and necessity require the granting of this application.

10. The proposed operation is technically feasible.

11. The proposed operation is economically feasible.

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

Conclusions of Law

1. The application should be granted to the extent provided in the following order.

2. Only the amount paid to the State for operating rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly features of these rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPC&N) is granted to Metrocall of Delaware, Inc. (applicant) for the construction and operation of a public utility one-way radiotelephone system with 14 base stations as identified in Appendix A to this order within the service areas shown in Exhibit F to Application (A.) 87-12-008.

2. The CPC&N granted in Ordering Paragraph 1 for base station locations identified in Appendix A as Items g through n shall be conditioned upon applicant demonstrating to the Commission's Advisory and Compliance Division (CACD) Director that applicant possesses the requisite Federal Communications Commission (FCC) permits.

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

4. Applicant is authorized to file, after the effective date of this order and in compliance with General Order 96-A, tariffs applicable to the service authorized containing rates, charges, and rules applicable to its radiotelephone services. The tariffs shall become effective on not less than 5 days' notice. The rates and charges shall be the same as for similar services that applicant has on file with the Commission.

5. Applicant shall file as part of its individual tariff, after the effective date of this order, and consistent with Ordering Paragraph 4, an engineered service area map drawn in

conformity with FCC Rule 22.504(b)(2), consistent with its proposed service areas as shown on the maps in Exhibit F to A.87-12-008.

6. Applicant shall notify the CACD Director in writing of the date service is first rendered to the public as authorized herein, within 5 days after service begins.

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

8. The corporate identification number assigned to Metrocall of Delaware, Inc. is U-2079-C which should be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

This order becomes effective 30 days from today.

Dated APR 13 1988, at San Francisco, California.

STANLEY W. HULETT
President
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

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


Victor Weisser, Executive Director

APPENDIX A

BASE STATION LOCATIONS

- a. Loma Prieta, 11 miles southeast of Los Gatos.
(Lat. 37° 06' 39" N, Long. 121° 50' 31" W)
- b. Mount Saint Helena, Kellog.
(Lat. 38° 40' 10" N, Long. 122° 37' 50" W)
- c. Mount Vaca, Vacaville.
(Lat. 38° 24' 32" N, Long. 122° 06' 34" W)
- d. 5323 Carpenter Road, Stockton.
(Lat. 37° 55' 54" N, Long. 121° 12' 32" W)
- e. Edom Hill, 3.6 miles northeast of Palm Springs.
(Lat. 33° 51' 56" N, Long. 116° 26' 04" W)
- f. 1.1 mile south of Taft Routes, Taft.
(Lat. 35° 06' 58" N, Long. 119° 38' 13" W)
- g. 23rd and Q Street, Bakersfield.
(Lat. 35° 22' 49" N, Long. 119° 01' 36" W)
- h. Mt. Oso, Modesto.
(Lat. 37° 30' 26" N, Long. 121° 22' 19" W)
- i. Wolf Mountain, 5 miles south of Grass Valley.
(Lat. 39° 08' 01" N, Long. 121° 05' 58" W)
- j. Fremont Peak, 9 miles east of Salinas.
(Lat. 36° 45' 23" N, Long. 121° 30' 05" W)
- k. Hauser Mountain, Palmdale.
(Lat. 34° 32' 50" N, Long. 118° 12' 43" W)
- l. Quartzite Mountain, Victorville.
(Lat. 34° 36' 38" N, Long. 117° 17' 20" W)
- m. 4 miles north of Barstow.
(Lat. 34° 58' 15" N, Long. 117° 02' 22" W)
- n. Gibraltar Peak, Los Angeles (Santa Barbara).
(Lat. 34° 27' 58" N, Long. 119° 40' 37" W)

(END OF APPENDIX A)