

Decision 88 04 054 APR 27 1988

APR 27 1988

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Cook Telecom, Inc. of Fresno)
 For a certificate of public convenience)
 to construct and operate a radio tele-)
 phone utility system in Fresno, Madera,)
 Merced, San Joaquin, Stanislaus,)
 Tulare and Tuolumne Counties, and of)
 Tom L. Cook for authorization to con-)
 trol Cook Telecom, Inc. of Fresno.)
 (U-2099-C))

Application 87-10-015
(Filed October 14, 1987)

OPINION

Cook Telecom, Inc. of Fresno (applicant), a California corporation, requests a certificate of public convenience and necessity (CPC&N) to construct and operate radiotelephone utility (RTU) facilities to provide one-way RTU service in Fresno, Madera, Merced, San Joaquin, Stanislaus, Tulare, and Tuolumne Counties, pursuant to Section 1001 et seq. of the Public Utilities (PU) Code. Maps and engineering statements of the proposed service territories are attached to the application as Exhibit B and C, respectively. Also, Tom L. Cook requests authority to control Cook Telecom, Inc. of Fresno, pursuant to PU Code § 854.

Copies of the application were served on the cities and counties within the proposed service area and on other entities with which applicant's proposed service is likely to compete, as listed in the certificate of service attached to the application. However, in lieu of the entire engineering study, attached to the original application as Exhibit C, applicant included in each copy of the application only the first page and terrain and contour data

sheet for each site. Copies of Exhibit C will be forwarded to any interested party upon request. Accordingly, applicant requests a waiver of Rule 7 which requires copies to conform to the original application.

Notice of this application appeared in the Commission's Daily Calendar of October 20, 1987. No protests to the application were received; therefore, a public hearing is not necessary.

Requisite Federal Communications Commission (FCC) permits for three of the nine base stations are held in the name of applicant. The remaining six FCC permits are in the name of Kerman Telephone Co. An application for the transfer of the six permits in the name of Kerman Telephone Co. to applicant is pending before the FCC. Concurrently, Kerman Telephone Co. and applicant have filed a separate application (Application (A.) 87-11-017) with the Commission seeking authority for Kerman Telephone Co. to sell and transfer certain RTU assets, including the six FCC permits, of Kerman Telephone Co., to applicant.

Applicant is a new corporation which has not performed any operations. Its President and Chief Operating Officer, Tom L. Cook, has considerable experience in the operation of wide-area paging systems gained while President of Fresno Mobile Radio and Hanford Mobile Radio from 1969 through 1973, and Intrastate Radio Telephone, Inc. of San Francisco from 1975 through 1984. Currently, Cook controls Cook Telecom, Inc. and Cook Telecom Inc. of San Francisco, California certificated RTUs, none of which is a subsidiary of another corporation.

Applicant asserts that a public need and demand exists for its proposed service. According to applicant, the proposed service will offer residents of the area to be served an alternative to other paging services and provide the public with more opportunity for selecting paging service of a quality and coverage which best fits their particular needs.

The proposed system design utilizes conventional industry standard equipment employing the latest technological advancements. The paging base stations will be high-stability Motorola Paging models which operate in a simulcast mode to improve spectrum efficiency and coverage.

The base station facilities are to be installed by Motorola Factory Service and other subcontractors as needed, under the direction of applicant. Thereafter, maintenance will be provided by regional subcontractors and employees of applicant.

Total capital requirement for the proposed facilities, including transmitters, antennas, transmission line, and related equipment is projected to cost approximately \$211,000, Exhibit E to the application.

The necessary funds to construct and to operate the proposed system will be provided by Cook, applicant's sole shareholder, Exhibit G to the application. Cook's financial statement shows that Cook's net worth of approximately \$13,000,000 at June 1, 1987 is sufficient to provide the necessary funds for the construction and initial operation of the proposed facilities.

It is anticipated that the proposed service will result in an average of 350 paging units in the first year of operation, resulting in a net operating loss of \$67,000. By the fifth year of operation applicant projects an average of 2,200 paging units, resulting in a net operating profit of \$110,000, before income taxes.

The proposed base station facilities are to be installed in existing buildings and antennas are to be added to existing towers on building tops. Therefore, it can be seen with certainty that there is not any possibility that the proposed construction may have a significant effect on the environment.

10. The proposed facility is economically feasible.

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

12. It can be seen with certainty that there is no possibility that the granting of this application may have a significant effect on the environment.

13. A public hearing is not necessary.

Conclusions of Law

1. Waiver of Rule 7 of the Commission's Rules of Practice and Procedure should be granted.

2. Applicant should be subject to the fee system, as set forth in PU Code § 401, et seq., which is used to fund the cost of regulating common carriers and businesses related thereto and public utilities.

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

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. Tom L. Cook is authorized to control Cook Telecom, Inc. of Fresno in accordance with the terms set forth in A.87-10-015.

2. A certificate of public convenience and necessity is granted to Cook Telecom, Inc. of Fresno (applicant) to construct and operate a public utility one-way radiotelephone system with base stations and a service area as follows:

Base Station Locations:

- a. 4043 Geer Road, Hughson.
(Lat. 37° 34' 46" N, Long. 120° 50' 48" W)
- b. KJAX (FM) Site, Hammer Lane, Stockton.
(Lat. 38° 01' 21" N, Long. 121° 16' 03" W)
- c. Elizabeth Peak, approximately 2.0 miles
northwest of Twain Harte.
(Lat. 38° 03' 20" N, Long. 120° 14' 25" W)
- d. Bald Mountain, approximately 7.0 miles
south of Meadows Lakes.
(Lat. 37° 04' 10" N, Long. 119° 25' 39" W)
- e. Bear Mountain, approximately 2.0 miles west
of Squaw Valley.
(Lat. 36° 44' 36" N, Long. 119° 16' 57" W)
- f. Panoche Ridge, approximately 38.0 miles
west southwest of Firebaugh.
(Lat. 36° 43' 32" N, Long. 120° 45' 49" W)
- g. Joaquin Ridge, approximately 12.0 miles
north northwest of Coalinga.
(Lat. 36° 18' 10" N, Long. 120° 24' 03" W)
- h. 5773 East Shields Avenue, Fresno.
(Lat. 36° 46' 28" N, Long. 119° 41' 28" W)
- i. 2220 Tulare Avenue, Fresno.
(Lat. 36° 44' 10" N, Long. 119° 47' 08" W)

Service area: As shown in Exhibit B to
A.87-10-015.

3. The certificate authorized in Ordering Paragraph 2 applicable to base station facilities identified as items e through i shall be conditioned upon applicant demonstrating to the Commission's Advisory and Compliance Division Director in writing that it has obtained the requisite authority it seeks in A.87-11-017, to purchase and acquire certain radiotelephone assets from Kerman Telephone Co., and that the FCC permits have been transferred from Kerman Telephone Co. to applicant.

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CORRECTION

THIS DOCUMENT HAS
BEEN REPHOTOGRAPHED

TO ASSURE

LEGIBILITY

The proposed system design utilizes conventional industry standard equipment employing the latest technological advancements. The paging base stations will be high-stability Motorola Paging models which operate in a simulcast mode to improve spectrum efficiency and coverage.

The base station facilities are to be installed by Motorola Factory Service and other subcontractors as needed, under the direction of applicant. Thereafter, maintenance will be provided by regional subcontractors and employees of applicant.

Total capital requirement for the proposed facilities, including transmitters, antennas, transmission line, and related equipment is projected to cost approximately \$211,000, Exhibit E to the application.

The necessary funds to construct and to operate the proposed system will be provided by Cook, applicant's sole shareholder, Exhibit G to the application. Cook's financial statement shows that Cook's net worth of approximately \$13,000,000 at June 1, 1987 is sufficient to provide the necessary funds for the construction and initial operation of the proposed facilities.

It is anticipated that the proposed service will result in an average of 350 paging units in the first year of operation, resulting in a net operating loss of \$67,000. By the fifth year of operation applicant projects an average of 2,200 paging units, resulting in a net operating profit of \$110,000, before income taxes.

The proposed base station facilities are to be installed in existing buildings and antennas are to be added to existing towers on building tops. Therefore, it can be seen with certainty that there is not any possibility that the proposed construction may have a significant effect on the environment.

Applicant's rates to be charged for the proposed service are attached to the application as Exhibit I. Tariffs setting forth the detailed rates, practices, and classifications are to be filed with the Commission upon exercise of the CPC&N.

Applicant should be subject to the fee system, as set forth in PU Code § 401, et seq., which is used to fund the cost of regulating common carriers and businesses related thereto and public utilities. By Resolution M-4746, we set the fee level for fiscal year 1987-88 for telephone corporations at 0.10 of 1¢ (0.0010) of revenue subject to the fee. Appropriate tariff rules should be incorporated in applicant's tariff rules for the imposition of this surcharge.

Findings of Fact

1. Applicant, a California corporation, requests a CPC&N to construct and operate RTU facilities to provide one-way RTU service.
2. Tom L. Cook requests authority to control applicant.
3. Notice of the application appeared in the Commission's Daily Calendar of October 20, 1987.
3. No protests to the application were received.
4. Applicant possesses the requisite FCC permits for three of the nine base station facilities.
5. FCC permits for six proposed base station facilities are in the name of Kerman Telephone Co.
6. An application for the transfer of the six permits in the name of Kerman Telephone Co. to applicant is pending before the FCC.
7. Applicant and Kerman Telephone Co. have filed a separate application (A.87-11-017) with the Commission for authority to transfer certain RTU assets to applicant.
8. Applicant is a new corporation which has not performed any operations.
9. The proposed facility is technically feasible.

10. The proposed facility is economically feasible.

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

12. It can be seen with certainty that there is no possibility that the granting of this application may have a significant effect on the environment.

13. A public hearing is not necessary.

Conclusions of Law

1. Waiver of Rule 7 of the Commission's Rules of Practice and Procedure should be granted.

2. Applicant should be subject to the fee system, as set forth in PU Code § 401, et seq., which is used to fund the cost of regulating common carriers and businesses related thereto and public utilities.

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

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. Tom L. Cook is authorized to control Cook Telecom, Inc. of Fresno in accordance with the terms set forth in A.87-10-015.

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3. The certificate authorized in Ordering Paragraph 2 applicable to base station facilities identified as items e through i shall be conditioned upon applicant demonstrating to the Commission's Advisory and Compliance Division Director in writing that it has obtained the requisite authority it seeks in A.87-11-017, to purchase and acquire certain radiotelephone assets from Kerman Telephone Co., and that the FCC permits have been transferred from Kerman Telephone Co. to applicant.

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

5. 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 as proposed for service in Exhibit I to A.87-10-015.

6. Applicant shall file after the effective date of this order and in compliance with Ordering Paragraph 4, as part of its individual tariff, service area maps drawn in conformity with the provisions of the Federal Communications Commission Rule 22.504, commonly known as the "Carey Report," and Rule 22.504(b) (2) consistent with its proposed service area as shown on the maps in Exhibit B to A.87-10-015.

7. Applicant shall notify the Commission's Advisory and Compliance Division Director in writing of the date service is first rendered to the public as authorized herein, within 5 days after service begins.

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

9. 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 according to the instructions included in that Form.

10. The corporate identification number assigned Cook Telecom, Inc. of Fresno is U-2099-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.

11. Applicant is subject to the user fee as a percentage of gross intrastate revenue under PU Code § 401, et seq.

12. Rule 7 of the Commission's Rules of Practice and Procedure which requires copies of the application to conform to the original application is waived for this application only.

13. 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.

This order becomes effective 30 days from today.

Dated April 27, 1988, at San Francisco, California.

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

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



Victor Weisser, Executive Director

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The proposed system design utilizes conventional industry standard equipment employing the latest technological advancements. The paging base stations will be high-stability Motorola Paging models which operate in a simulcast mode to improve spectrum efficiency and coverage.

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