

JUL 11 1988

ALJ/MJG/jt

Decision' 88 07 '008 JUL 8 1988**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of RPD COMMUNICATIONS, a general)
partnership, for a certificate to)
construct radio-telephone utility)
facilities serving areas in)
Southern California as may be)
required by Section 1001, et seq.)
of the California Public Utilities)
Code.)

Application 88-04-064
(Filed April 26, 1988)

U-2103-C

OPINION

Robert and Phyllis Deates (applicants), a general partnership, doing business as RPD Communications, request a certificate of public convenience and necessity (CPC&N) to construct and operate a one-way and two-way radiotelephone utility (RTU) facility in and around Southern California, pursuant to Public Utilities (PU) Code Section 1001 et seq. A map and engineering statement of the proposed service area are attached to the application as Exhibit A.

Copies of the application have been served on cities and counties within the proposed service area and on other entities with which applicants' proposed service is likely to compete, as listed in the certificate of service attached to the application.

Notice of this application appeared in the Commission's Daily Calendar of April 28, 1988. No protests to the application have been received; therefore, a public hearing is not necessary.

Applicants possess the requisite Federal Communications Commission (FCC) permit for a base station facility located at 34 N. Haven Avenue, Alta Loma on the 454.5500 megahertz frequency. Applicants request that this application be effective on the date signed because the FCC permit expires on July 8, 1988.

Applicants are actively engaged in the ownership and management of two businesses in Montclair, Phylco Audio and Phly's Coffee Shop. Phylco Audio's primary business endeavor is to duplicate and package audio cassettes. By clarification letter of May 26, 1988, applicants represent that although they do not have RTU experience they have retained Fred Daniel, an experienced communications consultant, to aid applicants in their business plan.

Applicants represent that the FCC's grant of applications for numerous radiotelephone frequencies conclusively demonstrates that there is a present ever-increasing demand for radiotelephone service in California and throughout the United States. Based on this representation, applicants assert that there is a large market of potential users whose presently unmet service needs can be met by applicants.

State-of-the-art fully automated two-way mobile telephone service will be offered by applicants. These services include two-tone calling, DTMF inbound, and DTMF over-dial. The proposed facilities will be operated under the direction of Mr. Deates. Automated alarms will provide immediate notification of certain technical failures and a 24-hour trouble reporting number will be provided to subscribers. Response to system failures will be on a 24-hour, 7-day-per-week basis.

The projected capital requirement for the proposed operation is \$3,400. Applicants estimate that the proposed operation will result in 30 one-way paging units and 25 two-way mobile units in the first year, and increase to 54 one-way paging units and 65 two-way mobile units by the end of the fifth year. Applicants expect a \$13,800 profit in the first year of operation and a \$29,800 profit in the fifth year of operation, before depreciation and income taxes.

The funds to construct and operate the proposed facilities will be provided from internally generated cash funds

and from applicants. Applicants' \$305,527 net worth as of April 1, 1988 is sufficient to provide the necessary funds to construct and operate the proposed facilities, Exhibit D to the application.

The base station facility will be located on an existing tower in an existing antenna farm. Therefore, it can be seen with reasonable certainty that there is not any possibility that the grant of this application may have a significant effect on the environment.

The rates to be charged for the proposed services are attached to the application as Exhibit C. Tariffs setting forth the detailed rates, practices, and classifications will be filed with the Commission upon exercise of the CPC&N.

Applicants should be subject to the fee system, as set forth in PU Code Section 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, the fee level for fiscal year 1987-88 for telephone corporations was set at 0.10 of 1% (0.0010) of revenue subject to the fee. Appropriate tariff rules should be incorporated in applicants' tariff rules for the imposition of this surcharge.

Findings of Fact

1. Applicants request a CPC&N to construct and operate a one-way and two-way RTU system in and around Southern California.
2. Copies of the application were served on cities and counties within the proposed service territory and on other entities with which applicants' proposed service is likely to compete.
3. Notice of this application appeared in the Commission's Daily Calendar of April 28, 1988.
4. No protests to the application have been received.
5. Applicants possess the requisite FCC permit.
6. Public convenience and necessity require the granting of this application.

7. The proposed operation is technically feasible.
8. The proposed operation is economically feasible.
9. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
10. Applicants are subject to the fee system, as set forth in PU Code Section 401, et seq.

Conclusions of Law

1. The application should be granted.
2. The user fee for the 1987-88 fiscal year should be 0.10%.
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.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Robert and Phyllis Deates (applicants) to construct and operate a public utility one-way and two-way radiotelephone system with a base station facility located at 34 N. Haven Avenue, Alta Loma (Lat. 34° 10' 35" N, Long. 117° 34' 27" W) and a service area as shown in Exhibit A to Application (A.) 88-04-064.
2. Within 30 days after this order is effective, applicants shall file a written acceptance of the certificate granted in this proceeding.
3. Applicants are 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 their 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 C to A.88-04-064.

4. Applicants shall file as part of their individual tariff, after the effective date of this order and, consistent with Ordering Paragraph 3, an engineered service area map drawn in conformity with FCC Rule 22.504, commonly known as the "Carey Report," and consistent with Exhibit A to A.88-04-064.

5. Applicants shall notify the Commission 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.

6. Applicants shall keep their books and records in accordance with the Uniform System of Accounts for radiotelephone utilities prescribed by this Commission.

7. Applicants 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 the form.

8. The corporate identification number assigned to Robert and Phyllis Deates, doing business as RPD Communications, is U-2103-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.

9. Applicants are subject to the user fee as a percentage of gross intrastate revenue under PU Code Section 401, et seq.

10. 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 is effective today.

Dated JUN 8 1988, at San Francisco, California.

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

Commissioner Frederick R. Duda
being necessarily absent, did not
participate.

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



Victor Weissor, Executive Director