

AUG 24 1988

ORIGINAL

Decision 88-08-044 August 24, 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
County Voice for a certificate of)
public convenience to operate a)
radio telephone utility system in)
Orange County.)
(U-2104-C))

Application 88-03-011
(Filed March 4, 1988)

OPINION

County Voice (applicant), a California corporation, requests a certificate of public convenience and necessity (CPC&N) to construct and operate a public utility one-way radio telephone utility (RTU) within Orange County, pursuant to Public Utilities (PU) Code Section 1001, et. seq. A map of the proposed service area and an engineering statement are attached to the application as Exhibit B and C, respectively.

Copies of the application have been served on cities and county within the proposed service area and on other entities with which applicant's proposed service is likely to compete, as listed on the service list attached to the application.

Notice of the application appeared on the Commission's Daily Calendar of March 10, 1988. No protests to the application have been received; therefore, a public hearing is not necessary.

Applicant is a new corporation formed, in 1985, to provide private paging services and common carrier paging services. Its president, operating officer and sole shareholder, Russ Harris, has considerable paging system experience which he obtained while president of ICS Communications.

Applicant obtained a Federal Communications Commission (FCC) permit to construct its proposed facility on November 1, 1986 which required applicant to complete construction by

November 7, 1987. By letter of May 23, 1988, applicant clarified that the proposed facility was constructed on November 3, 1987. Applicant did not seek Commission authorization to construct and operate its proposed facility because Harris had entered into a covenant not to compete with his former employer, until January 4, 1988. Applicant has been providing private carrier paging services since the facility was constructed, pursuant to FCC authority.

According to applicant, none of the paging companies currently providing paging service to Orange County promote tone and voice paging services. Based on discussions with the local business community applicant represents that a public need and demand exist for its proposed tone and voice service.

The proposed services include voice message paging, tone only and numeric display. Applicant's system design utilizes conventional industry standard equipment which employ the latest technological advancements and is capable of supporting all conventional analog and digital signaling formats. Applicant will utilize Motorola "PURC" paging base stations and will use wireline facilities to control its paging system. Fill-in stations will be constructed to enhance system performance on an as needed basis.

The application states that the proposed facility will be installed by Motorola Factory Service and other subcontractors under the direction of Applicant. Maintenance will be provided by subcontractors and employees of applicant.

Harris is committed to providing the total capital requirement of approximately \$48,000 as capital contributions for the construction and operation of the proposed facility. Harris has sufficient net worth to provide the necessary funds to construct and operate the proposed facilities, approximately \$8,000,000 as of December 31, 1987.

Applicant estimates that the proposed operation will result in 625 one-way paging units in the first year of operation and 1,875 one-way paging units by the end of the fifth year of

operation. Applicant expects a \$52,000 projected cash flow in the first year of operation to increase to \$302,000 by the end of the fifth year of operation.

The base station facility is installed in an existing building and antenna added to an existing tower. Accordingly, 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 J. Tariffs setting forth the detailed rates, practices, and classifications will 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 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-4750 dated May 25, 1988, the fee level for fiscal year 1988-89 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 applicant's tariff rules for the imposition of this surcharge.

Findings of Fact

1. Applicant requests a CPC&N to construct and operate a public utility one-way RTU within Orange County.
2. Copies of the application have been served on cities and county 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 March 10, 1988.
4. No protests to the application have been received.
5. Applicant's president, operating officer and sole shareholder, obtained considerable paging system experience while president of ICS Communications.

6. Applicant obtained a FCC permit to construct its proposed facility.

7. The proposed facility was constructed on November 3, 1987.

8. Applicant has provided private carrier paging service since the facility was constructed.

9. The proposed operation is technically feasible.

10. The proposed operation is economically feasible.

11. It can be seen with certainty that the proposed operation will not have a significant effect on the environment.

12. Applicant is subject to the user fee system, as set forth in PU Code Section 401 et seq.

13. Public need and demand require the granting of this application.

Conclusions of Law

1. The application should be granted.

2. The user fee for the 1988-89 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 County Voice (applicant) to construct and operate a public utility one-way radiotelephone system with a base station facility located at Signal Peak, 2.5 miles east of Newport City (Lat. 33° 36' 22" N, Long. 117° 48' 40" W) and a service area as shown in Exhibit B to Application (A.) 88-03-011.

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 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 J to A.88-03-011.

4. Applicant shall file as part of its 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(b)(2), consistent with its proposed service area as shown on the map in Exhibit B to A.88-03-011.

5. Applicant 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. 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 according to the instructions included in the form.

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

9. The corporate identification number assigned to County Voice is U-2104-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.

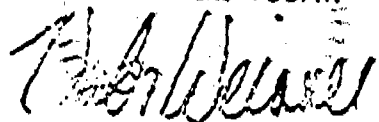
10. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.

This order is effective today.

Dated AUG 24 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
C. 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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