

Decision 88 10 018 OCT 14 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SOUTHLAND HOLDINGS, INC., a California
corporation, for a Certificate to
Construct Additional Radio-Telephone
Utility Facilities serving in and
around Bakersfield, Glamis, St. Helena
and Napa, California as may be required
by Section 1001, et seq. of the
California Public Utilities Code
(U-2089-C).

) Mailed

) OCT 17 1988

ORIGINAL

) Application 88-07-029
) (Filed July 19, 1988)

OPINION

Summary of Decision

This decision grants Southland Holdings, Inc. a certificate of public convenience and necessity (CPC&N) to construct and operate additional radiotelephone utility (RTU) facilities in Imperial, Kern, and Napa Counties.

Background

On July 19, 1988, Southland Holdings, Inc. (Applicant), a California corporation, filed Application (A.) 88-07-029 requesting a CPC&N to construct and operate base station facilities at Glamis (Imperial County), Bakersfield (Kern County), and Mt. St. Helena and Mt. Veeder (Napa County). Maps and engineering statement pertaining to the proposed service area are attached to the application as Exhibit B.

By a letter dated August 18, 1988, Applicant provided supplemental information and nonsubstantive corrections to the application.

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

Notice of the application appeared on the Commission's Daily Calendar of July 21, 1988. No protests to the application have been received; therefore, a public hearing is not necessary.

Applicant is a certificated RTU authorized to provide one-way paging service in Los Angeles, Orange, Riverside, San Bernardino, Ventura, Santa Barbara, San Diego, San Francisco, Santa Clara, and contiguous counties.

Applicant requests a CPC&N to construct and operate a paging and one-way RTU facilities in and around areas contiguous to its service territory in northern and southern California as described in the engineering statements. Applicant proposes base station facilities at the following locations:

2315 Q Street
Bakersfield, CA
Lat. 35° 22' 49" N
Long. 119° 00' 36" W

Black Mountain
Glamis, CA
Lat. 33° 03' 11" N
Long. 114° 49' 36" W

Mt. St. Helena
6 miles N. of
Calistoga, CA
Lat. 38° 39' 22" N
Long. 122° 36' 57" W

Mr. Veeder
10 Mi. NW of
Napa, CA
Lat. 38° 22' 23" N
Long. 122° 27' 44" W

Applicant possesses the requisite Federal Communication Commission (FCC) permit for the base station at Glamis. Permits for the Bakersfield, Mt. St. Helena, and Mt. Veeder base stations are pending before the FCC and are expected to be issued in the near future. Applicant asserts that it will forward those permits to the Commission upon receipt.

Applicant has filed this application to receive the Commission's authorization to commence construction as soon as possible. Accordingly, applicant requests a waiver of Section 18(a)(1) of the Commission's Rules of Practice and Procedure to allow it to file this application without the three FCC permits. In addition, applicant requests that the effective date of the decision granting the application be made the date the decision is signed in order to allow the applicant to commence construction and

operation of its new transmitter by October 1, 1988. Applicant's FCC permit for the base station at Glamis requires the operations to commence by October 22, 1988.

Applicant claims that in Decisions (D.) 86-02-014, 86-12-021, and 86-12-054, applicant's predecessor in interest established that the greater metropolitan areas of Los Angeles, San Diego, San Francisco, and San Jose have a public need and demand for further paging service. In addition, applicant maintains that the FCC by granting numerous 900 megahertz (MHz) applications, has established that there is an ever-increasing demand for paging service in California.

Applicant projects the total equipment costs for four of the base stations, including transmitters, antennas, transmission line, and related equipment to be approximately \$90,000. By a letter dated August 17, 1988, applicant's sister company, Southland Communications, Inc. has agreed to supply the funds to finance the proposed construction and operations. The financial statement, Exhibit D to the application, shows that Southland Communications, Inc.'s net worth of over \$2 million as of April 30, 1988 is more than sufficient to provide all the necessary funding.

The proposed base stations are to be located on existing towers in existing antenna farms. No other access facilities in towers are to be constructed. Therefore, it can be seen with certainty that there is no possibility that the proposed construction may have significant effect on the environment.

The proposed tariffs for applicant's extended service area are the same rates and charges for similar services that applicant presently has on file with the Commission.

Applicant intends to offer state-of-the-art paging services as they are developed at 900 MHz. The service offerings will be fully automatic and interconnected and will include tone-only, numeric display and tone-and-voice service.

Applicant's proposed facilities will be operated under the direct supervision and control of its President Ziad Bayaa. Applicant's technical competence is evidenced by its existing operations in the areas to which these base stations will be an addition. The proposed extension of service is within applicant's ability.

Findings of Fact

1. Applicant, a California corporation, requests a CPC&N to construct and operate additional facilities to provide RTU services in and around Bakersfield, Glamis, Mt. St. Helena, and Mt. Veeder area.

2. Copies of the application were served on cities and counties within which the proposed service areas are located and on other entities with which the proposed service is likely to compete.

3. Notice of the application appeared on the Commission's Daily Calendar of July 21, 1988.

4. No protests to the application have been received.

5. Applicant possesses the requisite FCC permit for the base station in the Glamis area which requires the operations to commence by October 22, 1988.

6. Requisite FCC permits for the other three base station facilities are pending before the FCC.

7. Applicant is a certified RTU.

8. The proposed operation is technically feasible.

9. Southland Communications, Inc. has agreed to finance applicant's proposed construction and operations.

10. Southland Communications, Inc. had a net worth of over \$2 million as of April 30, 1988.

11. The proposed operation is economically feasible.

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

13. The proposed tariffs for applicant's proposed extended service in and around Bakersfield, Glamis, Mt. St. Helena, and Mt. Veeder contain the same rates and charges presently on file with Commission.

14. Public convenience and necessity require granting the request for a certificate.

Conclusions of Law

1. The CPC&N requested in 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 Southland Holdings, Inc. for the construction and operation of a public utility paging and, one-way radiotelephone system with base stations and service areas as follows:

Base Station locations:

- a. 2315 Q Street, 931.1125 MHz, in and around Bakersfield.
(Lat. 35° 22' 49" N, Long. 119° 00' 36" W)
- b. Glamis, 931.1125 MHz
(Lat. 33° 03' 11" N, Long. 114° 49' 36" W)
- c. Mt. St. Helena, 931.1125 MHz, 6 miles North of Calistoga.
(Lat. 38° 39' 22" N, Long. 122° 36' 57" W)

- d. Mt. Veeder, 931.1125 MHz, 10 miles
Northwest of Napa, CA
(Lat. 38° 22' 23" N, Long. 122° 27' 44" W)

2. The CPC&N granted in Ordering Paragraph 1 for base stations locations identified as Items a, c, and d shall be conditioned upon applicant demonstrating within 30 days of the effective date of this order to the Commission Advisory and Compliance Division 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 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, service area maps drawn in conformity with Federal Communications Commission Rule 22.504(b)(2) consistent with its service territory as shown on the maps in Exhibit B to A.88-07-029.

6. 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. ✓

7. The corporate identification number assigned to Southland Holdings, Inc. is U-2089-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.

8. 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 OCT 14 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.

Robert W. Wilson
Robert W. Wilson, Executive Director

- d. Mt. Veeder, 931.1125 MHz, 10 miles
Northwest of Napa, CA
(Lat. 38° 22' 23" N, Long. 122° 27' 44" W)

2. The CPC&N granted in Ordering Paragraph 1 for base stations locations identified as Items a, c, and d shall be conditioned upon Applicant demonstrating within 30 days of the effective date of this order 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 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 9 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, service area maps drawn in conformity with Federal Communications Commission Rule 22.504(b)(2) consistent with its service territory as shown on the maps in Exhibit B to A.88-07-029.

6. Applicant shall notify the Commission's Evaluation 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.

7. The corporate identification number assigned to Southland Holdings, Inc. is U-2089-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.