

Decision 89 05 018

MAY 10 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Mailed

In the Matter of the Application of)
 VINCENT COMMUNICATIONS, INC.,)
 a California corporation, for a)
 certificate to construct and operate)
 radio-telephone utility facilities)
 in Fresno, Madera and Tulare)
 counties as required by Section 1001,)
 et. seq., of the California Public)
 Utilities Code.)

MAY 11 1989

Application 88-05-036
 (Filed May 17, 1988)

OPINION

Vincent Communications, Inc. (applicant), a California corporation, requests a certificate of public convenience and necessity to construct and operate two-way radio telephone service in Fresno, Madera, and Tulare Counties. Although it will operate in all three counties, applicant proposes to construct its base stations only in Fresno County. Applicant attached a map of the proposed service area and engineering statements to the application as Exhibits B and C (Revised), respectively.

Applicant requests a partial waiver of the Commission's Rules of Practice and Procedure, Rule 7, as permitted by Rule 87, to include the requisite engineering data (Exhibit C) only in the original of the application. Applicant attached terrain, contour and summary data sheets for each requested site to copies of the application. Applicant represented that complete copies of Exhibit C would be mailed to parties upon request or at the direction of the Commission.

Copies of the application, absent Exhibit C as noted above, were served on required city and county governmental agencies within the proposed service area and on potential competitors listed on the service list attached to the application.

Notice of this application appeared on the Commission's Daily Calendar of May 23, 1988. No protests were received within the 30-day protest period.

On July 25, 1988, the Commission Advisory and Compliance Division made a written request for additional financial and construction cost information from applicant. On September 13, 1988, applicant replied that a site change had occurred and applicant requested a delay in filing the necessary amendment to the application containing the additional information until Federal Communications Commission (FCC) authority for the new site could be obtained.

On December 13, 1988, applicant filed an amendment to its application. Copies of applicant's amendment to the application, in partial compliance with Rule 7 as noted above, were served upon the same parties as the original application. Notice of the Amendment to the Application appeared in the Commission's Daily Calendar of December 19, 1988. No protests were received within the 30-day protest period.

Applicant's president has been the sole proprietor of a business selling and servicing communications equipment for the past six years. Applicant's president has held an FCC 2nd Class License for many years. His technical experience includes 20 years of supervising the maintenance of communications systems.

Applicant requests permission to construct base station facilities at three locations:

1. 2220 Tulare St.
Fresno, CA
Latitude: 36° 44' 07" N.
Longitude: 119° 47' 10" W.
Base Frequency: 152.780 MHz
Providing two-way radio communications.

2. Owens Mountain, Millerton Lake
Fresno County, CA
Latitude: 36° 55' 49" N.
Longitude: 119° 38' 16" W.
Base Frequency: 454.500 MHz
Providing two-way radio communications.
3. Bald Mountain, one-half mile south of
Meadow Lake, Fresno County, CA
Latitude: 37° 04' 17" N.
Longitude: 119° 25' 52" W.
Base Frequency: 152.570 MHz
Providing two-way communications service.

Applicant has obtained FCC construction permits for the Fresno city and Bald Mountain sites. FCC approval of the third site, Owens Mountain, was still pending at the time the application was filed. Copies of the FCC permits for two sites and the application for the third site were attached to the amended application as Exhibit D (Revised). Applicant represented that the expiration date for the two approved sites had been extended to June 28, 1989. Upon request by the assigned Administrative Law Judge, applicant provided FCC Form 463 verifying that the Fresno city and Bald Mountain permits have been extended to July 1, 1989 and June 28, 1989, respectively.

The proposed system design utilizes conventional industry standard equipment using the latest technological advancements. Therefore, technical feasibility is not in question.

The new base stations are to be located in existing buildings and antennas added to existing towers. Therefore, it can be seen with certainty that there is no possibility that the granting of such an application may have a significant adverse effect upon the environment. For this reason no environmental impact statement is required.

Applicant proposes to construct the base stations and maintain the system with applicant's own personnel. Applicant represents that it employs several qualified technicians and installers to maintain the system. Applicant represents that it

has leased suitable space for its terminal and central business operations.

Applicant alleges that the public has requested this service and that the requested service will give customers a selection of quality service within the proposed service area. Applicant alleges that the population density and demographics of the three-county area to be served will support a new, two-way mobile communications system.

The revised construction cost for the three base station facilities is estimated to be \$6,890. (Exhibit E - Revised.) The original estimate was reduced because much of the equipment had been obtained at the time the application was amended. These funds and operating capital for the system are to be provided by one shareholder. Applicant attached to the amended application its financial statement showing total assets of \$296,975, the financial statement of its shareholders, and a letter evidencing a line of credit for \$22,000 from Wells Fargo Bank. (Exhibit F - Revised.) Applicant also included a financing commitment letter from its majority shareholder. (Exhibit G.)

Applicant enclosed proposed rates and a five-year projected income analysis for the proposed system, correlated with the proposed charges and estimated number of units. The estimated units of equipment are used in lieu of the number of customers. (Exhibits H and I.) These rates are comparable with the rates of other similar services and are, therefore, reasonable.

In a letter dated January 23, 1989, applicant requested interim authority to operate the two FCC licensed sites, pending FCC licensing of the third site. However, on April 18, 1989, applicant provided evidence that the FCC license has been received for the third site and requested that authority be effective on the date approved by the Commission due to an impending June expiration date.

Findings of Fact

1. Applicant requests a certificate to construct and operate RTU facilities in and around Fresno County for the purpose of providing a two-way communications system using radio frequencies 152.570, 152.780, and 454.500 MHz.

2. Notice of this application appeared in the Commission's Daily Calendar of May 23, 1988. Notice of the Amendment to the Application appeared in the same calendar on December 19, 1989.

3. No protests to this application were received.

4. Applicant possesses the requisite FCC construction permits for the Fresno and Bald Mountain sites and requests interim authority to construct and operate these sites.

5. Applicant's construction permit for the Owens Mountain site is still pending at the FCC.

6. Applicant has supervised the maintenance of communications systems for 20 years and has an FCC 2nd Class License.

7. The proposed operation is economically feasible.

8. The proposed base station antennae will be located on existing towers in existing antenna farms.

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

10. The proposed operation is technically feasible.

11. Public convenience and necessity require the granting of authority to construct and operate the two FCC licensed facilities and conditional authority to construct and operate the third site pending confirmation to this Commission of FCC licensing.

12. Rule 7 requires copies of the application to conform to the original. Applicant requests a waiver of this rule to allow that the engineering data only be attached to the application and terrain, contour and summary data sheets for each site be attached to copies of the application.

13. A public hearing is not necessary.

Conclusions of Law

1. Authority to construct and operate the three FCC licensed sites should be granted.

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.

3. A waiver of Rule 7 should be authorized.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Vincent Communications, Inc. (applicant), a California corporation, for the construction and operation of a public utility two-way radiotelephone system with base station locations as follows:

a. Base station locations:

- (1) 2220 Tulare Street,
Fresno, CA
(Lat. 36° 44' 07" N.,
Long. 119° 47' 10" W.)
- (2) Bald Mountain, 1/2 mile south of
Meadow Lake, Fresno County, CA
(Lat. 37° 04' 17" N.,
Long. 119° 25' 52" W.)
- (3) Owens Mountain, Millerton Lake,
Fresno County, CA
(Lat. 36° 55' 49" N.,
Long. 119° 38' 16" W.)

b. Service areas: As shown in Exhibit B
(Revised) to Amendment to Application,
A.88-05-036.

2. Authority to construct and operate a public utility two-way radiotelephone system with a base location as follows is conditioned upon FCC approval being obtained and the forwarding of a copy of that license to the Commission Advisory and Compliance Division Director within 30 days of its receipt

3. Vincent Communications, Inc. is granted a waiver of Rule 7 of the Commission's Rules of Practice and Procedure for purposes of this proceeding only.

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 the same as for similar services that applicant provides under its existing tariffs on file with the Commission.

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 consistent with Exhibit B to A.88-06-026.

7. 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.

8. Applicant is subject to the surcharge to fund Telecommunications Devices for the Deaf set by the Commission pursuant to Public Utilities (PU) Code § 2881.

9. Applicant is subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435.

10. The corporate identification number assigned to Vincent Communications, Inc. is U-2110-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. 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.

12. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from today.

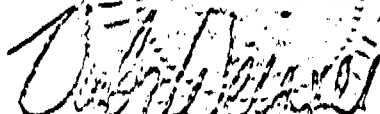
13. Within 60 days of the effective date of this order, applicant shall comply with PU Code § 708, Employee Identification Cards, and notify, in writing, the Chief of the Telecommunications Branch of the Commission Advisory and Compliance Division of compliance. ✓

This order is effective today.

Dated May 10, 1989, at San Francisco, California.

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

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


Victor Weisner, Executive Director

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11. 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.

12. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from today.

13. Within 60 days of the effective date of this order, applicant shall comply with PU Code § 708, Employee Identification Cards, and notify, in writing, the Chief of the (Telecommunications) (Energy) Branch of the Commission Advisory and Compliance Division of compliance.

This order is effective today.

Dated MAY 10 1989, at San Francisco, California.

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