

Decision 90 01 037 JAN 24 1990

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
MICHAEL D. SCHELIN, ESTER SCHELIN, )  
ROBERT WEINREB, & MICHAEL WEINREB, )  
d/b/a SHELCOMM, for a Certificate )  
to Construct Radio-Telephone Utility ) Application 89-09-039  
Facilities serving areas in and ) (Filed September 26, 1989)  
around Los Angeles County, )  
California as may be required by )  
Section 100, et seq. of the )  
California Public Utilities Code. )

O P I N I O N

Michael D. Schelin, Ester Schelin, Robert Weinreb, and Michael Weinreb (applicants), doing business as Shelcomm, a general partnership, requests a certificate of public convenience and necessity (CPCN) pursuant to Section 1001 of the Public Utilities Code. Applicants request authority to construct and operate radiotelephone facilities for the purpose of providing one-way paging service to the area in and around Los Angeles County using a frequency of 931.2625 megahertz. Engineering data and a map of the proposed service area are attached to the application as Exhibit B.

Copies of the application were served on the cities and counties within the proposed service area and on all other entities with which applicants' proposed service is likely to compete, as indicated by the certificate of service attached to the application. Further information provided at the request of the Administrative Law Judge was also served on all persons on the service list.

Notice of this application appeared on the Commission's Daily Calendar of October 13, 1989. No protests to the application have been received. A public hearing is not necessary.

Applicants possess the requisite Federal Communications Commission (FCC) construction permit for the proposed base station facilities on Johnson Peak, two miles north of San Dimas, California (Exhibit C).

Applicants are a general partnership under the laws of the State of California. The partners are Michael D. Schelin, Ester Schelin, Robert Weinreb, and Michael Weinreb. Mr. Schelin has controlling interest (67%), with the other three partners each controlling a minority share (11% each). The general partnership was formed April 1, 1989, for the purpose of sales and service of mobile communication equipment and formation of a radio common carrier company for paging services as well as sales, rental, and service of paging equipment. The original partnership contained five members. On August 16, 1989, the interest of one partner was transferred to the remaining four partners identified above.

Applicants assert that there is a present and ever increasing demand for radiotelephone service in California. A substantial market of potential users whose service needs are not being met can be met by Shelcomm, according to applicants. This is based on the FCC policy of open entry and the granting of applications for numerous radiotelephone frequencies. Applicants estimate that they will serve 300 customers in their first year, 900 in the third year, and 1,500 by the end of the fifth year.

Applicants have already acquired all necessary transmitters, receivers, antennas, transmission lines, terminals, duplexers, and related equipment. There are no costs of construction, according to applicants, because the partners intend to complete the construction themselves. The projected balance sheet for the beginning of the first year shows current assets (cash) of \$35,000, fixed assets (equipment and pagers) of \$75,000, and other assets (start-up costs) of \$3,000, for total assets of \$113,000. Loans payable are \$103,000, and partnership equity is \$10,000, for total liability and equity of \$113,000. Cash appears

sufficient to fund incidental construction costs, if any, with no further financing being needed in conjunction with partners' labor to finish construction.

Applicants forecast a first year net loss of \$33,228, including \$12,697 of depreciation and amortization. The cash flow net loss would be \$20,531, or well within the available projected cash assets to fund the first-year losses. Applicants project that by the third year the net income will be \$183,282, and by the fifth year the net income will be \$324,382. This demonstrates the economic feasibility of the proposed operation.

The proposed base station will be located on an existing 19 foot tower at an existing antenna farm. It will not increase the height of the existing structure. Therefore, it can be seen with certainty that there is no possibility that the proposed construction may have a significant adverse effect on the environment.

Applicants intend to offer state-of-the-art one-way paging service. Shelcomm's proposed facilities will be operated under the direct supervision and control of Mr. Schelin. Mr. Schelin holds an FCC Class 2 Equivalent License and is a graduate of Mt. San Antonio College with a degree in Electronic Communications. Mr. Schelin has an extensive electronics background, emphasizing the area of two-way radio and audio system products, derived from his employment with Baldwin Park Electronics. Mr. Schelin has been involved with Shelcomm since 1988 in maintaining audio and radio frequency communications systems for school districts, cities, utilities, and public service organizations. Control of the base station will be provided at facilities located at Baldwin Park, California. Automatic alarms will provide immediate notification of certain technical failures. A 24-hour trouble reporting number will be given to all subscribers, and response to system failures will be on a 24-hour basis.

Applicants propose to offer one-way paging services. The pagers will offer standard or special numeric or alphanumeric displays at usage sensitive rates. Applicants' proposed rates and charges are in Exhibit D.

Rule 18(o)(1) of the Commission's Rules of Practice and Procedure requires an applicant to file its application with the Commission no later than 30 days after the granting of the FCC construction permit. Applicants' FCC construction permit was granted May 8, 1989, but the application to the Commission was not filed until September 26, 1989. Applicants' aver that their application was late but that there is still sufficient time to complete construction before the expiration of the FCC permit. Applicants request a waiver of Rule 18(o)(1).

Rule 18(i) requires either a statement corresponding to that required by Section 2 of General Order No. 104-A (regarding a material financial interest of persons in the purchases of materials and equipment or construction, maintenance or service to which the utility has been or will be a party), a statement that no such matters are known to have occurred or are being proposed, or a copy of the last proxy statement for companies listed on a national securities exchange. Applicants aver that no transactions implicated by General Order 104-A are contemplated.

Applicants should be subject to the fee system, as set forth in Public Utilities 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-4752 dated May 26, 1989, the fee level for fiscal year 1989-90 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. Applicants are not subject to a rate recovery mechanism for deaf and disabled program costs since it is a one-way paging service

specifically exempted by the Public Utilities Code (PU Code § 2881(d)).

Applicants further request that the certificate be made effective on the date the Commission's decision is issued.

Findings of Fact

1. Applicants request a CPCN to construct and operate radiotelephone facilities for one-way paging services in and around Los Angeles County.

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

3. Notice of this application appeared on the Commission's Daily Calendar of October 13, 1989.

4. No protests to the application were received.

5. Applicants possess the requisite FCC construction permit.

6. Applicants are a general partnership formed April 1, 1989 under the laws of California.

7. Applicants already have acquired the necessary equipment and the partners will complete the construction themselves.

8. Applicants estimate that they will be conducting a profitable operation by the third year.

9. The proposed operation is economically feasible.

10. The proposed base station antenna will be located on an existing tower.

11. The height of the existing tower will not be increased.

12. 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.

13. The proposed operation is technically feasible.

14. The application was filed after the deadline established in Rule 18(o)(1).

15. Applicants state that no transactions implicated by General Order 104-A are contemplated.

16. Applicants are subject to the user fee system, as set forth in PU Code § 401 et seq.

17. Applicants are not subject to assessment for a share of program costs for the deaf and disabled.

18. Public convenience and necessity require the granting of the application.

19. A public hearing is not necessary.

Conclusions of Law

1. The application should be granted.

2. The user fee for the 1989-90 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 Michael D. Schelin, Ester Schelin, Robert Weinreb, and Michael Weinreb, a general partnership under California law, for the construction and operation of a public utility one-way radiotelephone system with base station and service area as follows:

Base station location: Johnson Peak, San Dimas.  
(Lat. 34° 09' 15" N; Long. 117° 48' 00" W.)

Service area: As shown in Exhibit B to Application  
(A.) 89-09-039.

2. The 30-day filing requirement in Rule 18(o)(1) is waived.

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

4. 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 five days' notice. The rates and charges shall be as proposed in Exhibit D in A.89-09-039.

5. Applicants shall file as part of their individual tariff, after the effective date of this order and consistent with Ordering Paragraph 4, engineered service area maps drawn in conformity with the provision of FCC Rule 22.504, commonly known as the "Carey Report", and consistent with Exhibit B in A.89-09-039.

6. 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 five days after service begins.

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

8. 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 with that form.

9. Applicants are subject to the user fee as a percentage of gross intrastate revenue under PU Code § 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.

11. Applicants shall send a copy of this decision to concerned local permitting agencies no later than 30 days from today.

12. The corporation identification number assigned to Shelcomm is U-2113-C which should be included in the caption of all original filings with the Commission, and in the titles of all other pleadings filed in existing cases.

The order is effective today.

Dated JAN 24 1990, 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.

*Wesley Franklin*

WESLEY FRANKLIN, Acting Executive Director

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