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Decision 90 03 076 MAR 28 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
PAGEPROMPT USA for a Certificate of )	
Public Convenience and Necessity to )	
provide radiotelephone utility )	Application 89-12-006
paging services in various )	(Filed December 1, 1989)
California locations. )	
_____ )	

O P I N I O N

Pageprompt USA, (applicant), a California corporation, requests a certificate of public convenience and necessity (CPCN) to operate one-way radiotelephone utility (RTU) facilities over a frequency of 931.5625 megahertz throughout California, pursuant to Public Utilities (PU) Code § 1001 et seq. Maps of the proposed service territory are attached to the application as Exhibit D.

Copies of the application have been served on the counties within applicant's proposed service territory and on other entities with which applicant's service is likely to compete, as listed in Exhibit H attached to the application. Applicant requests that the Commission waive Rule 18(b) to the extent that it requires the application to be served on all cities within which service will be rendered under the certificate. Applicant alleges that compliance with the requirement would involve serving hundreds of cities at substantial cost, and would serve no useful purpose for the following reasons.

- a. The 20 California counties involved are served.
- b. The application will be published in the Commission calendar.
- c. No construction of facilities is involved.
- d. Applicant will furnish a copy of the application to any party requesting one.

We find applicant's reasons for not serving the many cities to be valid.

However, we will require applicant to send a copy of this decision to all concerned local permitting agencies within 10 days of the effective date of this order.

While applicant proposes to use 22 sites, it will perform no actual construction. Actual construction will be performed by another party, International Paging Corporation (IPC), (U-2106-C), with which applicant has a contract, attached as Exhibit C to the application. IPC, by separate Application (A.) 89-10-024, has requested Commission authority to construct one-way radiotelephone facilities at 18 sites. In addition, IPC has six existing sites. Applicant's contract with IPC involves 22 of IPC's 24 sites.

Because of the contract with IPC, applicant is not responsible for the capital costs necessary for construction of the sites, and environmental considerations related to the construction of the necessary facilities are relevant only to the IPC application.

No protests to the application have been received; therefore, a public hearing is not necessary.

Applicant represents that its proposed service will serve California residents who need service not only within their own metropolitan area but also when traveling between and within other metropolitan areas. The proposed service is made possible by the Federal Communications Commission (FCC) licensing a single frequency throughout large geographical areas.

Applicant estimates that 5,000 customers will subscribe to its service after the first year of operations, increasing to 25,000 customers after 5 years of operations. Therefore, applicant believes that a public need and demand exists for its proposed service.

Applicant estimates operating expenses at a constant \$10,000 per month from 1990 through 1994, which are estimated to be

less than the corresponding level of sales revenues. Applicant expects the operation to be economic based on the estimated customer levels.

The rates to be charged for applicant's services are attached to the application as Exhibit G.

Applicant's balance sheet dated September 30, 1989 shows a net worth of only approximately \$12,000. However, applicant's sole shareholder Alfred Gasparians has a net worth of over \$500,000 and is committed to personally supporting the operation if necessary. In addition, applicant has signed an agreement with Pages Plus, an agent who will rent paging facilities that are estimated to generate \$12,000 per month in revenues to applicant.

Findings of Fact

1. Applicant requests a CPCN to operate RTU facilities.
2. Copies of the application were served on the counties within applicant's proposed service territory and on other entities with which applicant's proposed service is likely to compete.
3. Applicant requests a waiver of Rule 18(b) of the Commission's Rules of Practice and Procedure to exempt it from the requirement that it serve copies of the application on cities within the proposed service territory.
4. The applicant proposes to serve 20 counties throughout California.
5. Applicant has a contract with IPC which permits applicant to use 22 IPC sites. No new construction activities are to be authorized by this application.
6. Notice of the application appeared in the Commission's Daily Calendar of December 8, 1989.
7. No protests to the application have been received.
8. Public convenience and necessity require the granting of this application.
9. The proposed operation is technically feasible.
10. The proposed operation is economically feasible.

11. It can be seen with certainty that there is no possibility that the grant of this application may have a significant effect on the environment.

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

Conclusions of Law

1. The notice to cities' requirement of Rule 18(b) should be waived.

2. The application should be granted.

3. The user fee for the 1989-90 fiscal year should be 0.10 percent.

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 CPCN is granted to Pageprompt USA (applicant) to operate a public utility one-way radiotelephone system with base stations, and service area as follows:

Base Station location: 3452 East Foothill  
Boulevard, Suite 100, Pasadena. (Lat. 34' 09'  
12" N, Long. 118° 04' 32" W.)

Service area: As shown in Exhibit D to  
A.89-12-006.

2. The CPCN granted in Ordering Paragraph 1 for the base station locations indicated, shall be conditioned upon applicant demonstrating to the Commission Advisory and Compliance Division (CACD) Director in writing that applicant possesses the requisite FCC permit.

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 and in compliance with General Order (GO) 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 proposed for service in Exhibit G to A.89-12-006.

5. 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 the provisions of FCC Rule 22.504, commonly known as the "Carey Report," and consistent with Exhibit D to A.89-12-006.

6. Applicant shall notify CACD's Director in writing of the date service is first rendered to the public as authorized herein, within 5 days after service begins.

7. Applicant shall keep its books and records in accordance with the Uniform System of Accounts for Radiotelephone Utilities prescribed by this Commission.

8. Applicant shall file an annual report, in compliance with GO 104-A, on a calendar year basis using CPUC Annual Report Form L and prepared according to the instructions included in that form.

9. The corporate identification number assigned to applicant is U-2116-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. Applicant is subject to the user fee as a percentage of gross intrastate revenue under PU Code § 401, et seq.

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.

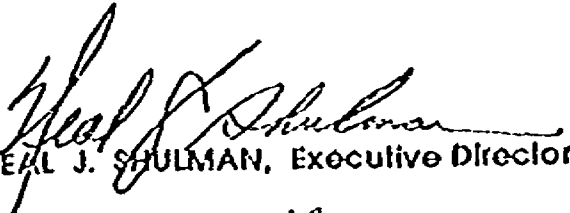
12. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from today.

This order is effective today.

Dated MAR 28 1990, at San Francisco, California.

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

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

  
NEAL J. SHULMAN, Executive Director

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