

Decision 90 05 007 MAY 04 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Shasta Cascade Services, Inc.)
(U-2118-C), a California corporation,)
for a certificate of public)
convenience and necessity to)
construct and operate radiotelephone)
utility facilities in the Mount)
Shasta area pursuant to Section 1001,)
et seq., of the California Public)
Utilities Code.)

ORIGINAL

Application 89-12-036
(Filed December 21, 1989)

O P I N I O N

Shasta Cascade Services, Inc. (applicant), a California corporation, requests a certificate of public convenience and necessity to construct and operate one-way paging facilities at: Park Mountain, near Weed, California; Soda Creek Ridge, near Dunsmuir, California; and, Mount Shasta, California. Applicant attached engineering statements and a map of the proposed service area to the application as Attachments 2 and 4, respectively.

Copies of the application 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 December 28, 1989. No protests were received within the 30-day protest period. However, on February 26, 1990, applicant's competitor, Mt. Shasta Radiotelephone Utility, Inc. (Mt. Shasta RTU), filed a motion for leave to file a protest. The motion alleges that new facts indicating applicant is operating without authority have emerged since the deadline for a protest. Attached to the motion is a protest which alleges that several

Mt. Shasta RTU customers have cancelled service to receive service from applicant. Mt. Shasta RTU provides copy of applicant's advertisement of currently available paging service. Mt. Shasta RTU requests an immediate cease and desist order against applicant, a retraction of its paging advertising and a hearing on the issue of applicant's fitness. Applicant responds that it began indirect private carrier paging service in February 1990 under Federal Communications Commission (FCC) authority. It attaches a copy of its FCC license to operate this service. Applicant requests a cease and desist order against Mt. Shasta RTU. Applicant alleges that employees of protestant are informing the public that applicant is operating unlawfully.

We grant Mt. Shasta RTU's motion to file a late protest because the facts are alleged to occur after the protest period ended and are sufficiently verified. However, we deny the request for an immediate cease and desist order, retraction of applicant's paging advertising and a hearing, on applicant's fitness because applicant has sufficiently demonstrated, without a hearing, that it is operating under proper FCC authority.

We deny applicant's request for an immediate cease and desist order against Mt. Shasta RTU since applicant's pleading alone does not offer proof that its alleged facts are true. In order to establish these facts, a response from Mt. Shasta RTU and perhaps a hearing would be needed. This delay would make it impossible to grant applicant's request for operating authority expeditiously. Applicant may file a complaint should it wish to pursue this matter.

The Application

Applicant proposes to offer 24-hour one way paging service with tone and voice, alpha-numeric with and without vibrator and tone and visual alert capabilities.

Applicant requests permission to construct and operate base station facilities at three locations in Siskiyou County:

1. Park Mountain, near the City of Weed, CA
Latitude: 41° 26' 49" N.
Longitude: 122° 32' 27" W.
Base Frequency: 158.1000 MHz
Providing one-way paging communications.
2. Soda Creek Ridge, near the City of Dunsmuir, CA
Latitude: 41° 13' 32" N.
Longitude: 122° 14' 30" W.
Base Frequency: 158.1000 MHz
Providing one-way paging communications.
3. Mount Shasta, CA
Latitude: 41° 18' 56" N.
Longitude: 122° 18' 48" W.
Base Frequency: 72.5000 MHz
Providing one-way paging communications.

Applicant attached to its application copies of the required FCC construction permits for the proposed sites as Attachment 3.

The engineering statement containing the technical aspects of the proposed facilities were prepared by Douglas B. DeLawder, Vice-President of Moffet, Larson & Johnson, Inc., a consulting telecommunications engineer firm. De Lawder represents that his qualifications are recognized by the FCC. Therefore, we find that the technical feasibility has been adequately reviewed and is reasonable.

The new base station(s) will 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 the application may have a significant adverse effect upon the environment.

Applicant proposes to construct the base stations and maintain the system with applicant's own personnel. Applicant represents that it has or will retain adequate personnel for the proposed operation. Since applicant currently operates an electronic sales and repair business and an answering service, the

majority of the equipment and personnel required for the proposed operation are already on site.

Applicant alleges that numerous potential subscribers have requested the proposed service. Applicant attaches numerous letters indicating dissatisfaction with the existing service and an intent to use applicant's service. Therefore, granting the application is in the public interest.

Applicant proposes rates which are comparable with its competitors, therefore, are reasonable. The tariff includes a monthly rate and message unit charges for various categories of service.

Applicant represents that it has already purchased the necessary base station and transmitter equipment for this service at a cost of \$38,500. This cost includes three transmitters at \$8,000 each, base station equipment at \$10,000 and \$1,500 per installation of antenna and transmission line equipment. Applicant attached to its application a copy of its 1989 balance sheet which shows a negative net worth of \$235,809. (Attachment 6.) Applicant indicates that this balance includes an advance from its sole shareholder and president of \$311,000 for the purchase of equipment and operation of the proposed service. Applicant represents that these notes are due and payable only if applicant generates sufficient profit. Included in Attachments 7 and 8 are a pro forma balance sheet and pro forma income statement after the first year of operation. Applicant estimates a profit of \$61,128 the first year of operation.

Findings of Fact

1. Applicant requests a certificate to construct and operate radiotelephone facilities at Park Mountain, Soda Creek Ridge, and Mount Shasta, California in Siskiyou County for the purpose of providing a one-way paging communications system using radio frequency 72.5000 MHz for one location and 158.1000 MHz for two locations.

2. Notice of this application appeared on the Commission's Daily Calendar of December 28, 1989.

3. Mt. Shasta RTU requests that a late-filed protest be accepted. The protest alleges that applicant is operating without authority. Mt. Shasta RTU provides a copy of applicant's advertisement of paging service. Mt. Shasta RTU requests a hearing on this issue and applicant's fitness.

4. Applicant responds to the late-filed protest that it is operating under FCC authority. Applicant provides a copy of its FCC license for indirect private carrier paging service. Applicant requests that a hearing be denied and Mt. Shasta RTU be ordered to cease and desist from giving out information that applicant is operating unlawfully.

5. A hearing is not necessary to address the late protest since applicant provides documents to show proper FCC authority to operate a private carrier paging service.

6. Applicant possesses the requisite FCC construction permits for the Park Mountain, Soda Creek Ridge, and Mount Shasta sites.

7. Applicant presently operates electronic sales and repair and answering services in the Mount Shasta Area. Applicant was involved in the operation of a radiotelephone utility for more than 25 years. Therefore, applicant possesses adequate skill and experience to operate the proposed system.

8. The proposed operation is economically feasible.

9. The proposed operation is technically feasible.

10. The proposed base station antennae will be located on existing towers in existing antenna farms. Therefore, 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.

11. Numerous members of the public are dissatisfied with similar service in the proposed service territory and indicate a

desire to use applicant's proposed service. Therefore, public convenience and necessity require the granting of authority to construct and operate the three FCC-licensed facilities.

Conclusions of Law

1. The motion to file a late protest should be granted. However, the protest and request for hearing should be denied.
2. Applicant's request for an immediate cease and desist order against Mt. Shasta RTU should be denied.
3. Authority to construct and operate the three FCC-licensed sites requested in this application should be granted.

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 is granted to Shasta Cascade, Inc. (applicant) (U-2118-C), a California corporation, for the construction and operation of one-way radiotelephone facilities with base stations and service area locations as follows:

- a. Base station locations:

- (1) Park Mountain, near the City of Weed, CA.
(Lat. $41^{\circ} 26' 49''$ N.)
(Long. $122^{\circ} 32' 27''$ W.)
- (2) Soda Creek Ridge, near the City of Dunsmuir, CA.
(Lat. $41^{\circ} 13' 32''$ N.)
(Long. $122^{\circ} 14' 30''$ W.)
- (3) Mount Shasta, CA.
(Lat. $41^{\circ} 18' 56''$ N.)
(Long. $122^{\circ} 18' 48''$ W.)

b. Service areas: As shown in Attachment 4 to application, Application (A.) 89-12-036.

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

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 the provisions of FCC Rule 22.504, commonly known as the "Carey Report," and consistent with Attachment 4 to A.89-12-036.

5. Applicant shall notify the Commission Advisory and Compliance Division (Telecommunications Branch) in writing of the date service is first rendered to the public as authorized herein, within 5 days after service begins.

6. 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.

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

8. 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 its compliance.

9. The corporate identification number assigned to Shasta Cascade, Inc. is U-2118-C which shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

This order is effective today.

Dated MAY 04 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


NEAL J. STULMAN, Executive Director