

ALJ/AVG/vdl

Decision 90 06 024 JUN 06 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 KWIK-PAGE COMMUNICATIONS, INC. for a
 certificate of public convenience and
 necessity to provide radiotelephone
 utility paging services in various
 California locations.

ORIGINAL

Application 90-05-025
 (Filed May 14, 1990)

O P I N I O NSummary of Decision

This decision grants a certificate of public convenience and necessity (CPC&N) to Kwik-Page Communications, Inc. (Kwik-Page) for authority to provide radiotelephone utility paging services in various locations in California.

Background

The Federal Communications Commission (FCC) authorized Kwik-Page, a California corporation, pursuant to the provisions of 47 CFR 22.000 et seq., to construct and operate 20 one-way paging transmission facilities on 931.6625 megahertz in various locations in southern California. The FCC issued the construction permits for the facilities between March 22, 1989 and April 6, 1989.

On December 27, 1989, Kwik-Page filed Application (A.) 89-12-041 for a CPC&N to construct and operate the one-way paging transmission facilities authorized by the FCC.

On May 4, 1990, the Commission issued Decision (D.) 90-05-011 which dismissed A.89-12-041 for failure to comply with the Commission's Rules of Practice and Procedure. In dismissing A.89-12-041, the Commission noted that:

"While we dismiss Kwik-Page's application, we note that Kwik-Page has served copies of this application on cities and counties within the proposed service area and other entities with which Kwik-Page's proposed service area is likely to compete. We also note that the

notice of this application has appeared on the Commission's Daily Calendar of January 2, 1990. Therefore, should Kwik-Page reapply within 60 days of the date of this order, for a CPC&N to construct and operate one-way paging facilities for the same locations, we will waive the 30-day protest period provided by Rule 8.3 of the Commission's Rules of Practice and Procedure." (D.90-05-011, p. 5.)

As provided by D.90-05-011, on May 14, 1990, Kwik-Page filed A.90-05-025 requesting a CPC&N to construct and operate one-way paging facilities for the same locations, which are as follows:

Proposed Transmitting Sites

Santiago Peak
12 miles SSE of Corona, CA
Latitude 33-42-40 N
Longitude 117-31-54 W

San Pedro Hill
Rolling Hills, CA
Latitude 33-44-46 N
Longitude 118-20-07 W

Oat Mountain
4.5 miles N of Chatsworth, CA
Latitude 34-19-32 N
Longitude 118-35-01 W

Houser Mountain
7 miles W of Palmdale, CA
Latitude 34-32-50 N
Longitude 118-12-43 W

San Miguel Mt.
13 miles E of San Diego, CA
Latitude 32-41-47 N
Longitude 116-56-06 W

Mount Vaca
6 miles NW of Vacaville
Latitude 38-24-32 N
Longitude 122-06-34 W

Mt. Lukins
4 miles N of La Canada, CA
Latitude 34-16-20 N
Longitude 118-14-21 W

Mt. Woodson
5 miles SW of Romona, CA
Latitude 33-00-54 N
Longitude 116-58-11 W

Santa Ynez Peak
10 miles WNW of Goleta, CA
Latitude 34-31-36 N
Longitude 119-58-39 W

Keller Peak
4 miles W of Running Springs, CA
Latitude 34-11-47 N
Longitude 117-02-55 W

Mt. Adelaide
14 miles E of Bakersfield, CA
Latitude 35-26-20 N
Longitude 118-44-23 W

South Mountain
2 miles S of Santa Paula
Latitude 34-19-32 N
Longitude 119-02-18 W

Kwik-Page proposes to place transmitting equipment at each of the existing communication sites listed above.

Service Area Map and engineering statements pertaining to the proposed facilities are attached to the application as Appendices B and D, respectively. The primary areas of service are in the Counties of Los Angeles, Riverside, San Bernardino, Ventura, Santa Barbara, San Diego, and Kern.

Between March 22, 1989 and April 6, 1989, the FCC issued Kwik-Page construction permits to construct the above-described facilities. These permits were for one-year duration and have expired. However, Kwik-Page asserts that it will request the FCC to extend the permits and that it will forward the reissued permits to the Commission.

According to Kwik-Page's estimate, the annual cost of providing the proposed service will be \$179,700 in the first year of operation and will rise to roughly \$266,000 during the fifth year of operation. During that same timeframe, revenues will rise from \$248,000 to nearly \$816,000. Thus, it is anticipated that service will become profitable by the end of the first year. Kwik-Page estimates that the total cost of initial construction to be \$26,000.

All of Kwik-Page's outstanding stock is owned by one individual, Thomas Luczak, who is currently in a managerial position in the paging industry. The financial statement, Exhibit F to the application, shows Luczak's net worth of \$2.5 million which is sufficient to provide the necessary fundings.

The proposed base stations are to be located on existing towers and existing facilities. To the extent that local use permits are required for addition to these existing facilities, Kwik-Page asserts that it will follow local procedures and satisfy local requirements. Therefore, it can be seen with certainty that there is no possibility the proposed construction may have a significant effect on the environment.

The proposed tariffs are shown in Exhibit G to the application. According to Exhibit G, charges for display units are between \$6 and \$11 per month, tone units are priced between \$3 and \$8 per month, while alpha-numeric units would cost between \$17.50 and \$22.50 per month. The price varies, in part, as a function of how many units are ordered.

Kwik-Page represents that the FCC has determined that a need for radiotelephone service has been established throughout the nation and that the service should be made available to the public in accordance with the market structure established by the FCC. According to Kwik-Page, prior Commission decisions support the conclusion that there is a need for these services. Based on these representations, Kwik-Page asserts that there is a large market of potential users whose presently unmet needs can be met by it.

Findings of Fact

1. On December 27, 1989, Kwik-Page filed A.89-12-041 for a CPC&N to construct and operate one-way paging facilities in various locations in southern California.

2. On May 4, 1990, the Commission issued D.90-05-011 which dismissed A.89-12-041 for failure to comply with the Commission's Rules of Practice and Procedure.

3. D.90-05-011 allowed Kwik-Page to reapply for a CPC&N to construct and operate one-way paging facilities for the same locations and waived the 30-day protest period provided by Rule 8.3 of the Commission's Rules of Practice and Procedure.

4. On May 14, 1990, Kwik-Page filed A.90-05-025 requesting a CPC&N to construct and operate one-way paging facilities for the same locations.

5. 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.

6. Notice of the application appeared on the Commission's Daily Calendar of May 17, 1990.

7. No protests to the application have been filed.

8. Between March 22, 1989 and April 6, 1990, Kwik-Page received the requisite FCC permits to construct the proposed facilities. The permits have expired.

9. Kwik-Page expects to receive extensions for the permits from the FCC.

10. All of Kwik-Page's outstanding stocks are owned by one individual, Thomas Luczak.

11. Thomas Luczak has a net worth over \$2.5 million.

12. The proposed operation is economically feasible.

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

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

15. A public hearing is not necessary.

Conclusion of Law

The CPC&N requested in the application should be granted to the extent provided in the following order.

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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity (CPC&N) is granted to Kwik-Page Communications, Inc. (Kwik-Page) to construct and operate one-way paging facilities for the following base station sites:

Santiago Peak
12 miles SSE of Corona, CA
Latitude 33-42-40 N
Longitude 117-31-54 W

San Pedro Hill
Rolling Hills, CA
Latitude 33-44-46 N
Longitude 118-20-07 W

Oat Mountain
4.5 miles N of Chatsworth, CA
Latitude 34-19-32 N
Longitude 118-35-01 W

Houser Mountain
7 miles W of Palmdale, CA
Latitude 34-32-50 N
Longitude 118-12-43 W

San Miguel Mt.
13 miles E of San Diego, CA
Latitude 32-41-47 N
Longitude 116-56-06 W

Mount Vaca
6 miles NW of Vacaville
Latitude 38-24-32 N
Longitude 122-06-34 W

Mt. Lukins
4 miles N of La Canada, CA
Latitude 34-16-20 N
Longitude 118-14-21 W

Mt. Woodson
5 miles SW of Romona, CA
Latitude 33-00-54 N
Longitude 116-58-11 W

Santa Ynez Peak
10 miles WNW of Goleta, CA
Latitude 34-31-36 N
Longitude 119-58-39 W

Keller Peak
4 miles W of Running Springs, CA
Latitude 34-11-47 N
Longitude 117-02-55 W

Mt. Adelaide
14 miles E of Bakersfield, CA
Latitude 35-26-20 N
Longitude 118-44-23 W

South Mountain
2 miles S of Santa Paula
Latitude 34-19-32 N
Longitude 119-02-18 W

2. The CPC&N granted in Ordering Paragraph 1 shall be conditioned upon Kwik-Page demonstrating to the Director of Commission Advisory and Compliance Division that it possesses the requisite Federal Communications Commission (FCC) permits which are valid.

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

4. Kwik-Page 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.

5. Kwik-Page 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 FCC Rule 22.504(b)(2) consistent with its service territory as shown on the maps in Exhibit B this application.

6. Kwik-Page 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 Kwik-Page is U-2120-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.

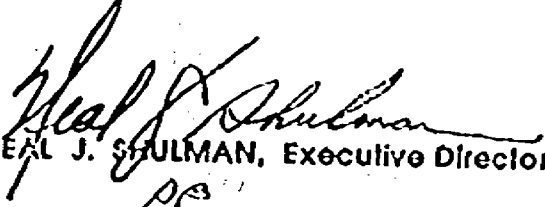
8. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.

This order is effective today.

Dated JUN 06 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. SHULMAN, Executive Director