

Decision 90 06 062 JUN 20 1990

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PAGING NETWORK OF LOS ANGELES, INC.,)
 (U-2083-C), a Delaware corporation,)
 for a Certificate to Construct)
 additional Radio-telephone Utility)
 Facilities serving areas in and)
 around Santa Maria, Avalon, Arroyo)
 Grande and Orcutt, California, as)
 may be required by Section 1001,)
 et seq. of the California Public)
 Utilities Code.)

Application 89-07-015
(Filed July 6, 1989)

O P I N I O N

Paging Network of Los Angeles, Inc. (applicant) requests a certificate of public convenience and necessity (CPC&N) to construct and operate additional one-way paging transmission facilities, pursuant to Public Utilities (PU) Code § 1001 et seq. Applicant proposes to expand its service territory in and around Santa Maria, Orcutt, Avalon, and Arroyo Grande, California. A map and engineering statements of the proposed service area are attached to the application as Exhibits A and B, respectively.

Copies of the application have been served on cities and counties within the proposed service territory and on other entities with which the proposed service is likely to compete. Notice of this application appeared in the Commission's Daily Calendar of July 13, 1989. No protests to this application have been received; therefore, a public hearing is not necessary.

At the time of filing the application, applicant had not yet received its requisite Federal Communications Commission (FCC) permits to construct the base station facilities at issue. Applicant requested a waiver of the Commission's Rules of Practice and Procedures (Rule) 18(o)(1) which requires an applicant to file for its CPC&N no later than 30 days after FCC permits have been

issued. Applicant stated it expected FCC approval shortly after its application was filed.

In response to an inquiry from the assigned Administrative Law Judge (ALJ), applicant forwarded the FCC permit for only one of its proposed locations, Santa Maria, on August 10, 1989. No action could be taken on the application until the other FCC permits were received. On May 25, 1990, applicant forwarded the other three FCC permits, which had been issued by the FCC in February 1990, to the ALJ.

Without explaining the three-month delay in forwarding the FCC construction permits to the ALJ, applicant requested a Commission decision before July 3, 1990, the Santa Maria FCC permit expiration date.

Knowing that one permit had an expiration date of July 3, 1990, applicant took a risk in waiting three months to forward the remaining FCC permits to us. While we will waive Rule 18(o)(1) and issue a CPC&N for all four locations before July 3, 1990 by today's decision, we warn radiotelephone utility (RTU) applicants that such untimely remittance to this Commission of FCC permits once they are issued will not be tolerated in the future.

Applicant is a certified RTU which provides one-way paging services in southern California. Applicant's parent company is Paging Network, Inc. Total capital requirement for the four base station facilities is approximately \$120,000. At the request of the ALJ, applicant provided letters from Paging Network, Inc.'s financier, First Chicago Bank, that funds are available to finance construction proposed by Paging Network, Inc.'s subsidiary, the applicant.

Applicant currently serves subscribers throughout the greater Los Angeles/San Diego/Bakersfield area. Applicant represents there is a present ever-increasing demand for paging service in California. Applicant believes the proposed facilities will substantially improve applicant's existing service by

improving service reliability on the fringes of applicant's current service area. Thus, applicant represents that a public need and demand exists.

Applicant's engineering data submitted to the FCC and the grant of FCC permits demonstrate that the proposed facilities are technically feasible.

The proposed facilities are to be located on existing towers in existing antenna farms. Applicant represents with reasonable certainty that there is no project-wide environmental impact requiring the Commission to act as Lead Agency pursuant to Rule 17.1 of the Commission's Rules. We will make that finding but will require applicant to send all local permitting agencies a copy of this decision for their use.

Applicant intends to charge its present effective rates in the extended areas.

Findings of Fact

1. Applicant requests a CPC&N to construct and operate four additional base station facilities outside applicant's present service territory.
2. Copies of the application have been served on the cities and counties within the proposed service territory and on other entities with which the proposed service is likely to compete.
3. Notice of the application appeared on the Commission's Daily Calendar of July 13, 1989.
4. No protests to the application have been received.
5. Applicant possesses the requisite FCC permit for the four base station facilities.
6. Applicant is a certificated RTU.
7. The proposed operation is technically feasible.
8. The proposed operation is economically feasible.
9. It can be seen with reasonable certainty that there is not any possibility that the granting of this application may have a significant effect on the environment.

10. Public convenience and necessity require the granting of this application.

11. A public hearing is not necessary.

Conclusion of Law

The application should be granted.

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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is issued to Paging Network of Los Angeles, Inc. (applicant) to construct and operate four additional base stations as identified below:

- a. View Mtn., approximately 4 miles east of Arroyo Grande (Lat. 35° 06' 25", Long. 120° 30' 57").
- b. Mt. Solomon, approximately 3 miles southeast of Orcutt (Lat. 34° 50' 05", Long. 120° 22' 56").
- c. Tepusquet Peak, Santa Maria (Lat. 34° 54' 37", Long. 120° 11' 08").
- d. Catalina Airport, approximately 6 miles northwest of Avalon (Lat. 33° 24' 17", Long. 122° 24' 45").

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 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 has 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 4, an engineered service area map drawn in conformity with FCC Rule 22.504(b)(2), consistent with its proposed service area as shown on the map in Exhibit A to A.89-07-015.

5. 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.

6. The corporate identification number assigned to Paging Network of Los Angeles, Inc. is U-2083-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.

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

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.

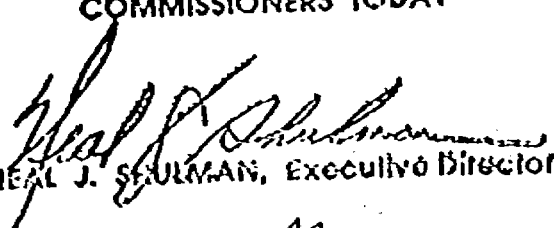
This order is effective today.

Dated JUN 20 1990, at San Francisco, California.

FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

President G. Mitchell Wilk,
being necessarily absent, did
not participate.

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


NEAL J. SCHULMAN, Executive Director

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