

MAR 31 1992

Decision 92-03-078 March 31, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking instituted on the
Commission's own motion into the
regulation of radiotelephone
utilities.

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ORIGINAL
R.88-02-015
(Filed February 10, 1988)

O P I N I O N

On January 10, 1992, the Commission approved a proposed revision of its Rules of Practice and Procedure, Rule 18(o)(1). (Decision (D.) 92-01-016.) This rule was revised to allow applicants for radiotelephone operating authority to file an application at the Commission after the public notice period required by the Federal Communications Commission (FCC) has expired. Prior to this revision, an applicant was required to wait until the federal licensing procedure was finished before requesting state authority to operate a radiotelephone utility.

In D.92-01-016, we ordered that the proposed revision be forwarded to the Office of Administrative Law (OAL) and notice of the revision published according to Government Code requirements. These procedures have been followed. OAL published notice of this revision on January 28, 1992. No comments were received during the 45-day notice period. Therefore, we may now adopt the revised Rule 18(o)(1) contained in Appendix E of D.92-01-016. We desire that this revision be effective immediately to reduce the time it takes to obtain authority to operate radiotelephone facilities in this state.

This proceeding remains open for further comments as discussed in D.92-01-016.

Findings of Fact

1. D.92-01-016 found reasonable the proposed revision to Rule 18(o)(1) allowing an applicant to file an application

for state certification to operate a radiotelephone utility at the completion of the FCC public notice period, rather than wait until an FCC license is issued.

2. The proposed Rule 18(o)(1) has been forwarded to the OAL for publication according to Government Code requirements.

3. During the 45-day OAL notice period, no comments were received.

Conclusion of Law

1. Revised Rule 18(o)(1) should be adopted.

2. Revised Rule 18(o)(1) should be effective immediately in order to reduce the time to acquire authority to operate radiotelephone facilities.

O R D E R

IT IS ORDERED that:

1. Rule 18(o)(1) is revised as contained in Appendix A.

2. A copy of this opinion shall be mailed to the Office of Administrative Law, all Commission-certified radiotelephone utilities, and known interested parties.

This order is effective today.

Dated March 31, 1992, at San Francisco, California.

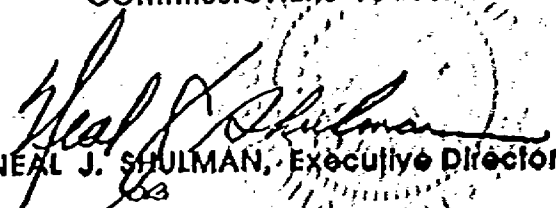
DANIEL Wm. FESSLER
President

JOHN B. OHANIAN

PATRICIA M. ECKERT

NORMAN D. SHUMWAY
Commissioners

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


NEAL J. SHULMAN, Executive Director

APPENDIX A
Page 1

REVISED RULE 18(o)

(o) In the case of an application to furnish one-way paging or two-way mobile radiotelephone service (other than cellular mobile radiotelephone service), the following requirements apply in addition to those enumerated in Rules 1 through 8, 15 through 17.1, and (a), (b), (d), first sentence of (f), (g), (h), and (i) above:

(1) ~~When the applicant obtains the relevant construction permit from the Federal Communications Commission (FCC) it shall, no later than 30 days after the grant of the relevant construction permit(s), submit its application,~~ When an applicant files for the relevant construction permit from the Federal Communications Commission (FCC) and the FCC public notice period has expired, it may at any time thereafter submit its application to this Commission. ~~and a legible copy of its FCC permit(s), to this Commission.~~ The proposed new service area, or the effect of changed facilities on the utility(s) existing service area, if any, will be shown on a fully legible engineering service area contour map, of suitable scale, prepared in accordance with the applicable criteria set forth in 47 CFR 22. The use of aeronautical charts for this purpose is unacceptable.

(2) Each application shall address the following matters in a substantial manner and with particularity, consistent with the scope of the authorization sought:

- (A) Demonstration that the proposed service is responsive to public need and demand.
- (B) Technical feasibility of the proposed system and the technical competence of the applicant.
- (C) Description of the proposed service including terms, conditions, area of coverage, quality, and features of service, and differences from any service presently provided in the proposed service area.

APPENDIX A
Page 2

- (D) Financial responsibility of the applicant.
- (E) Economic feasibility of the proposed service in the market to be served.
- (F) Present operations of the applicant and affiliated companies.

(3) Should an existing utility protest such application, the burden shall rest with the protestant to show that the application should not be granted by affirmatively establishing that granting the application will so damage existing service or the particular marketplace as to deprive the public of adequate service. The protest shall conform to Rules 8.1 through 8.8 of the Commission's Rules of Practice and Procedure. A service map of protestant's claimed service area shall be filed with the protest. Protests of a general or nonspecific nature will not be sufficient to warrant consideration by the Commission.

(4) Should an existing utility propose to provide service in an area contiguous to its authorized service area and not presently receiving radiotelephone service by any utility, an application for a certificate need not be made, but the engineering data required in (1) above shall be provided to the Commission staff.

(5) Should an existing utility propose an extension of service area which it believes to be minor in nature, but to which (4) above is inapplicable, it shall submit the relevant engineering data to the Commissions staff, with a written request for determination of the necessity for a certificate application. Reply will be by letter from an authorized representative of the Commission's Communications Division. In general, an extension will be considered minor if it does not overlap the radio service area of another utility by more than 10% of either utility's radio service area and also does not provide substantial coverage of additional major communities.

APPENDIX A
Page 3

(6) Actions as described in (4) or (5) above, or actions such as construction of fill-in transmitting facilities which do not affect service area boundaries, shall be described in tariff revisions which shall be promptly filed by the utility.

(END OF APPENDIX A)