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Decision 92-05-010 May 8, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
HAROLD HARRIS dba HARRIS)	
COMMUNICATIONS for a Certificate)	
of Public Convenience and Necessity)	Application 92-02-046
to Construct and Operate Radio-)	(Filed February 27, 1992)
telephone Utility Facilities.)	
Pursuant to Section 1001 of the)	
Public Utilities Code.)	

O P I N I O N

Harold Harris dba Harris Communications (applicant) requests approval to construct and operate radiotelephone utility facilities within California, in accordance with authorizations received by applicant from the Federal Communications Commission (FCC).

Applicant is a sole proprietorship operating in Visalia, California. Applicant has not heretofore conducted radiotelephone utility operations. He has, however, had almost 30 years' experience in the ownership, management, and operation of various communications businesses not regulated by this Commission, including shared two-way systems, specialized mobile radio systems, and private carrier operations, all licensed under various sections of Part 90 of the FCC rules. The only difference between many of these past activities and the proposed operation for which the certificate is sought is that because the facilities operated heretofore have all been licensed under Part 90 of the FCC rules, such activities were determined to be outside the Commission's jurisdiction.

In addition to the operation of his own radio systems, applicant also operates a cellular agency business. Prior to the formation of Harris Communications in 1977, applicant was employed

for more than 17 years by Motorola in various capacities, including international paging manager. He is trained as an engineer.

Applicant requests authorization to construct and operate five one-way radio-paging transmitters to be located at Bald Mountain near Meadow Lakes, Bear Mountain in Fresno County, Mount Eshom, Mount McKittrick, and Rocky Ridge near Porterville. These facilities will all operate on 454.600 megahertz in a simulcast mode, in order to provide radio-paging services throughout portions of the Central Valley. Services offered will include fully automated direct dial tone only, digital display, alphanumeric display, and voice paging. Applicant will control the various mountaintop transmitters by a combination of wireline and radio links from its office in Visalia. Engineering data for the proposed sites, a map showing the facilities' proposed service area, and copies of the FCC construction permits for the proposed facilities are attached to the application.

Applicant asserts that the growth in demand for radio-paging services is a matter of which the Commission has taken administrative notice. See, e.g., Rulemaking (R.) 88-02-015. Applicant's proposed system will enhance the competitive environment for paging in various parts of the Central Valley, and should offer subscribers a superior level of customer service and attention because of the personal involvement of its sole proprietor in its daily operations. It is, therefore, in applicant's opinion, clearly in the public interest.

Applicant proposes the following rates for its basic services:

- | | |
|-----------------------------|-------------------------|
| 1. Digital display and tone | \$10 per unit per month |
| 2. Voice paging | \$12 per unit per month |
| 3. Alphanumeric display | \$10 per unit per month |
| 4. Additional addresses | \$ 5 each per month |

The rates will be subject to multiple unit discounts and excess utilization surcharges consistent with industry practice, which will be established at the time applicant's tariffs are filed.

Applicant requests a waiver of the requirement of Rule 18(o) that radiotelephone utility certificate applications be filed within 30 days following issuance of the FCC construction permit. Because the decision in R.88-02-015 was known to be imminent at the time applicant's construction permit was received, applicant believed in good faith that it was preferable to await that decision in order to insure that the application, when filed, would be in compliance with any new or revised requirements which might result therefrom, rather than filing a timely but potentially noncompliant document and risk having to burden the Commission with subsequent amendments.

Applicant alleges that all of applicant's intended locations are already in use by other radio station operators, and all construction proposed by this application will be entirely within the confines of already existing radio equipment buildings and towers. Applicant requests a finding that it can be seen with certainty that there is no possibility that the granting of this application may have a significant adverse impact upon the environment.

Copies of applicant's most recently available balance sheet and income statement are attached to the application. A projection of the costs associated with the proposed construction shows that the total cost of acquiring and installing the proposed facilities will be approximately \$147,685. The acquisition of the subject facilities is being financed by a combination of approximately \$60,000 of applicant's existing cash reserves, and financing of \$90,000 over a five-year term by Heller Financial, Inc. Additional open-ended financing is available on an as-needed basis for radio-paging receivers.

Inasmuch as the cash downpayment on the equipment has already been made, the applicant's present capital surplus of \$151,406, is net of the \$60,000 downpayment, and thus the full amount of such surplus remains available as operating capital.

Applicant expects to serve approximately 1,000 users by the end of the first year of the proposed system's operation, and approximately 5,000 users by the end of the fifth year.

Applicant has many years' experience as a radio engineer. He has constructed and maintained numerous radio communication stations both in conjunction with his own unregulated business activities and during the course of his prior employment. In addition, he has other qualified technical personnel on his staff. The system specifically proposed herein was designed by a recognized communications engineer who has designed a multitude of similar systems previously certificated by this Commission, and who has often appeared as an expert in Commission proceedings.

Findings of Fact

1. Applicant served notice of its application and notice of the application appeared in the Commission's Daily Calendar of March 6, 1992. There are no protests. A public hearing is not necessary.

2. There is public demand in applicant's service area for the additional facilities which applicant proposes to construct.

3. The facilities applied for have been authorized for construction by the FCC.

4. Applicant has the technical expertise to construct and operate the new facilities.

5. Applicant has the financial resources to construct and operate the new facilities.

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

Conclusion of Law

The Commission concludes that the application should be granted.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Harold Harris for the construction and operation of a public utility one-way paging and two-way mobile telephone service radiotelephone system with base stations and service area as follows:

- a. Base station locations: As shown in Exhibit 5A to Application (A.) 92-02-046.
- b. Service area: As shown in Exhibit 5B to A.92-02-046.

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 (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 rates and charges set forth in the application.

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 Federal Communications Commission Rule 22.504, commonly known as the "Carey Report," and consistent with Exhibit 5C to A.92-02-046.

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

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

7. 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.

8. The identification number assigned to applicant is U-2130-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.

9. Within 60 days of the effective date of this order, applicant shall comply with Public Utilities (PU) Code § 708, Employee Identification Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance.

10. Applicant shall pay the user fee provided in PU Code §§ 431-435, which is 0.1% of gross intrastate revenue for the 1991-92 fiscal year.

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.

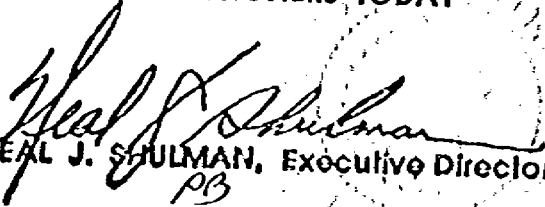
12. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from today.

This order is effective today.

Dated May 8, 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
PB