

ORIGINAL

Decision 82 11 056 NOV 17 1982

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Volcano Telephone Company for)
a Certificate of Public)
Convenience and Necessity to)
Construct and Operate a Dial)
Mobile Radio Telephone System.)

Application 82-08-59
(Filed August 31, 1982)

O P I N I O N

Applicant Volcano Telephone Company, a certificated wireline telephone corporation, requests a certificate to construct and operate a dial mobile radiotelephone system with its transmitter-receiver antenna (base station) located at Mount Zion approximately two miles southeast of applicant's principal place of business at 20,000 East Highway 88, Pine Grove, Amador County. A copy of the application was served on Airsignal of California, Inc., Atlas Radiotelephone, The Pacific Telephone and Telegraph Company, and Dinkelspiel, Donovan, Reder, Attorneys at Law. No protests to the application have been received.

Applicant states that it has been providing wireline telephone service continuously for more than 75 years. Currently, it provides local and toll wireline telephone service to more than 7,500 stations. Applicant's wireline telephone service area (WL TSA) encompasses a territory of approximately 400 square miles in Amador, Calaveras, El Dorado, and Alpine Counties. Its WL TSA is an irregularly shaped region bracketing California Highway 88 and extends from the vicinity of Caples Lake in Alpine County southwest to a point approximately six miles west of Pine Grove.

Applicant proposes to lease space for its base station on the radio relay facilities of the California Division of Forestry located on Mount Zion. The coordinates of these facilities are 38 degrees 23 minutes 22 seconds north latitude and 120 degrees 39 minutes 40 seconds west longitude. The system will transmit on 454.500 MHz and receive on 459.500 MHz. Applicant estimates the cost to install the system to be \$67,500, broken down as follows:

Pulsar Terminal Equipment (Telephone wireline interface)	\$36,500
IMTS RF Equipment (mobile units)	26,000
Installation	<u>5,000</u>
	\$67,500

Service will be rendered seven days a week, 24 hours a day. Applicant's own personnel will service and maintain the radiotelephone equipment.

Attached to the application is a provisional scale of customer charges. There will be a basic service charge of \$18 per month, which entitles the customer to a listing in applicant's classified directory and 25 minutes free air time a month. A monthly charge of from \$74 to \$92, depending on the unit, will be made for use of the mobile radio furnished by applicant. Air time billing charges will be divided into on-peak charges (8:00 a.m. to 8:00 p.m. Monday through Friday) and off-peak charges (8:00 p.m. to 8:00 a.m.). Foreign area mobiles (roamers) will be charged a higher air billing time charge than home area mobiles.

The 39 dB signal strength contour of the proposed radiotelephone signal as shown on the map required to be filed under Rule 22.504 of the Federal Communications Commission (Exhibit 1)

covers the southwest portion of the WLTSAs as well as a considerable area outside the WLTSAs. Two-thirds of the area embraced within the 39 dB contour lies outside of the WLTSAs. At several points the 39 dB contour is 15 miles outside of the closest point on the WLTSAs boundary.

Applicant estimates its expense of operation and revenue from operations to be as follows:

Estimated Expense of Operation
and Revenue

Estimated Annual Revenue Requirements

Terminal Equipment, RF Equipment & Tower

Maintenance	\$ 2,900.00
Depreciation of Nonrecoverables	3,900.00
Administration	4,100.00
Return (10.5%)	8,600.00
Taxes	2,000.00
Income Tax Loss	1,900.00

Total - Equipment & Tower \$24,400.00

Estimated Annual Revenue

Basic Service Revenue (30 x \$18.00 x 12)	\$ 6,480.00
Air-Time Billing Revenue	18,000.00

Total \$24,480.00

Financial statements for the year 1981 on file with the Commission show applicant had telephone operating income for that year of \$524,690 and, as of December 31, 1981, it had accumulated unappropriated retained earnings of \$1,377,990.

In support of its application applicant states as follows:

- "(a) Such service is not presently offered within Applicant's exchange area. A transmitter-receiver is currently operated outside Applicant's exchange area by Pacific Telephone and

Telegraph Company but can be utilized within Applicant's exchange area only at toll rates billed separately from the user's wire line telephone charges and without locally available maintenance or service. The nearest P. T. & T. exchange is Stockton, 60 miles to the west.

- "(b) The population and demand for communications services within Applicant's exchange area is growing rapidly. The number of wire line telephones furnished and served by Applicant within that area has more than tripled since 1965. Comparable growth is reliably predicted for the future.
- "(c) During November 1979 Applicant surveyed its wire line telephone customers by submitting to each the form of questionnaire attached as Exhibit E to the application. Of the 100 respondents, 30 answered affirmatively that they would be 'very interested' or 'moderately interested' in receiving the service in question at a monthly cost of \$85.00 per month, a rate comparable to those proposed herein as set forth in Exhibit B.
- "(d) In addition, since October 1979 Applicant has received 10 telephone requests that the proposed service be commenced.
- "(e) Based upon the facts set forth above, Applicant estimates that the proposed system will be operation [sic] at proposed maximum capacity with 35 customers at the conclusion of its second year of operation. Expansion of use thereafter will depend upon the number of additional channels, if any, authorized by the Federal Communications Commission for use in the proposed system."

Discussion

This case presents the question of whether applicant requires a certificate to institute the proposed operation in view of the provisions of the second paragraph of Public Utilities (PU) Code § 1001, which reads in part as follows:

"This article shall not be construed to require any such corporation to secure such certificate...for an extension within or to territory already served by it, necessary in the ordinary course of its business."

The Commission has held that mobile radiotelephone service by a wireline telephone corporation within its WLTSAs did not require certification under PU Code § 1001 (Malis v General Telephone Co. (1961) 59 CPUC 110). However, in this case the 39 dB signal strength contour includes areas both inside as well as outside applicant's WLTSAs. Two-thirds of the area embraced by the contour lies outside of applicant's WLTSAs and the contour at several points is up to 15 miles outside of the closest points on the boundary line of the WLTSAs. Clearly, the area to be served outside the WLTSAs is so large and extends so far that it cannot be considered "incidentally outside" the WLTSAs but must be considered an area not now served by applicant. Hence, a certificate is required by applicant before it may institute the proposed service. Our holding is consonant with Industrial Communications Systems, Inc. et al. v Public Utilities Commission (1978) 22 Cal 3d 572, which involved a wireline telephone company's extension of its mobile radiotelephone service outside its WLTSAs. In that case at page 579 the California Supreme Court stated "new service to a large area that is more than incidentally outside the authorized service boundaries should be considered an extension by the wireline company into territory not already served by it."

Findings of Fact

1. Applicant requests a certificate to construct and operate a mobile radiotelephone system with its base station located at Mount Zion approximately two miles southeast of applicant's principal place of business at Pine Grove, Amador County.

2. Applicant is a wireline telephone company serving parts of Amador, Calaveras, El Dorado, and Alpine Counties.

3. The proposed radiotelephone system will transmit on 454.500 MHz and receive on 459.500 MHz.

4. Service will be rendered all day every day.

5. The estimated cost to install the system is \$67,500.

6. Applicant estimates its initial yearly revenue from the proposed service to be \$24,480 and its expenses to be \$23,400.

7. The 39 dB signal strength contour of the proposed system covers the southwest portion of applicant's WLTSAs as well as a considerable area outside the WLTSAs.

8. Two-thirds of the area embraced within the 39 dB contour is outside applicant's WLTSAs, at some places 15 miles outside.

9. The service proposed by applicant is a new service into a territory not already served by applicant.

10. Applicant has received numerous requests that it institute radiotelephone service.

11. Applicant conducted a survey among its wireline telephone users which resulted in 100 responses, 30 of which indicated they would be very interested or moderately interested in subscribing to the proposed service at a rate comparable to that at which applicant will initially offer its service.

12. Applicant has accumulated unappropriated retained earnings as of December 31, 1981 of approximately \$1,377,999.

13. Public convenience requires the issuance of the requested certificate.

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

15. A hearing is not necessary.

Conclusions of Law

1. Applicant requires a certificate before it may institute the proposed service.

2. 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 granted to Volcano Telephone Company (applicant) for the construction and operation of a public utility radiotelephone system with a base station and service area as follows:

Base station location: Mount Zion near Pine Grove, Amador County.

Service Area: As set out in Exhibit A to Application 82-08-59.

2. Applicant is authorized to file, after the effective date of this order, tariffs applicable to the service authorized containing rates, rules, and charges otherwise applicable to its radiotelephone services. This filing shall comply with General Order 96-A. The tariffs shall become effective on not less than ten days' notice.

3. Applicant shall file, after the effective date of this order, as part of its individual tariff, an engineered service area map drawn in conformity with the provisions of the Federal Communications Commission Rule 22.504, commonly known as the "Carey Report".

4. Applicant shall notify this Commission, in writing, of the date service is first rendered the public under the rates, rules, and charges authorized within five days after.

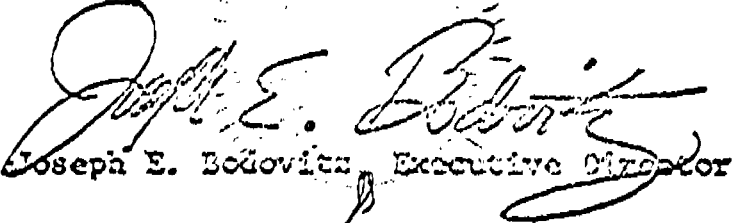
5. The certificate granted and the authority to render service under the rates, rules, and charges authorized will expire if not exercised within 24 months after the effective date of this order.

This order becomes effective 30 days from today.

Dated NOV 17 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. CRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

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


Joseph E. Bodovitz, Executive Director

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