

Decision 83 04 005 'APR 6 1983'

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of AMERICAN MOBILE RADIO, INC.,  
a California corporation, For a  
Certificate of Public Convenience  
and Necessity to Add New  
Facilities and Serve Additional  
Territory.

Application 82-12-38  
(Filed December 14, 1982)

O P I N I O N

Applicant, American Mobile Radio, Inc., a California corporation, requests authority to construct and operate radiotelephone facilities in order to extend its two-way mobile radiotelephone utility (RTU) service from the Los Angeles Basin into the San Fernando Valley (Valley) through the placing of a transmitter-receiver base station at 15600 Midwood Drive, Granada Hills (elevation 1,310 feet; location 34 16' 58" N, 118 28' 20" W), to be linked by radio to applicant's control station at 1051 East Wardlow Road, Long Beach.

The application shows that copies of the application were served on Industrial Communications Systems, Inc. (ICS), Anaheim; Mobilfone, Inc. (Mobilfone), Los Angeles; The Pacific Telephone and Telegraph Company, San Francisco; Intrastate Radio Telephone, Inc. of Los Angeles (Intrastate), Burbank; and the Cities of San Fernando, Burbank, and Los Angeles. The application was protested by ICS, but the protest was withdrawn when applicant agreed to restrict its solicitation as set out in Ordering Paragraph 2 to this decision.

Applicant states that it has over 20 years experience in the radiotelephone industry, including manual two-way mobile and one-way paging services and that it is licensed to operate Domestic

Public Land Mobile Radio Service stations KMA 249, KMD 344, and KVS 979 in southern California providing RTU service to approximately 4,600 subscribers. Applicant has transmission sites in Signal Hill and Palos Verdes and operates manual two-way mobile telephone service and, on a secondary basis, paging services on 152.09 MHz and 454.225 MHz. Applicant also operates paging services only on 35.58 MHz and 152.24 MHz. A third transmission site in the Fullerton area for 35.58 MHz is presently under construction.

A map showing applicant's present service area, computed in accordance with Rule 22.504 of the Rules and Regulations of the Federal Communications Commission (FCC), is attached to the application as Exhibit B. Applicant's present service area in the Los Angeles Basin extends from Hollywood on the north to Santa Ana on the south.

Applicant's balance sheet attached to the application shows a net worth of \$421,238 as of June 30, 1982.

Applicant states that the proposed new facilities and services are essential if applicant's current VHF two-way mobile telephone subscribers and the public are to continue receiving satisfactory service because of the need for extended area RTU service. As suburban Los Angeles has grown, the density of population in the Valley and travel between the Valley and the Los Angeles-Long Beach area have greatly expanded. Thus, the Valley has become commercially integrated with the Los Angeles-Long Beach area and many subscribers to RTU services require service in the Valley as an essential component of the extended area coverage they need and demand.

In the past, customers of applicant who traveled to the Valley were able to continue to use their VHF two-way mobile telephone equipment due to intercarrier agreements with Intrastate

and Mobilfone. In late 1981 Mobilfone converted channels 1 and 3 to exclusively automatic two-way service. This removed the capability of applicant's subscribers to use those two frequencies for transient service through their VHF manual equipment. Recently, applicant's customers have been unable to receive satisfactory transient manual two-way mobile telephone service on Intrastate's channels 9 and 11 due to the congestion on those channels. As a result of the above events, applicant has found it impossible to ensure satisfactory service in the Valley to its present VHF two-way mobile telephone customers and the public.

Applicant contends that by granting this application, the Commission will permit applicant to remain competitive with other common carriers and to continue its high grade of service to its present customers and the public by providing them with the essential ability to use existing equipment over the area previously available. The need for this natural extension of applicant's service area assertedly has been created by the changing commercial and population distribution in the greater Los Angeles area and the present unavailability of compatible service in the Valley.

Applicant points out that the essence of its application springs from a desire to provide a service heretofore available, not to enter a new geographic area in order to expand its subscriber base. It notes that its signal from the new base station is directed primarily to the south into applicant's presently certificated area and that it has agreed to restrict its solicitation of new business in the new service area.

Applicant represents that the FCC granted it a construction permit for the extension proposed in this application on February 10, 1982 and it has obtained permission to use the Granada Hills site for its transmitter-receiver.

Applicant states that it maintains a technical staff that is fully qualified to service and maintain RTU facilities and has a technical staff on call 24-hours a day in the event emergency maintenance or repair is required. It claims it is equipped with all necessary equipment to test, operate, and maintain the proposed system.

The construction cost of the proposed system is estimated to be \$14,800 which applicant expects to finance from internally generated funds. Annual operating costs of site rental and utilities are estimated to be \$1,380. Applicant states it expects only a modest revenue increase, on the order of \$500 per month, from the addition of the proposed facilities.

Applicant states that while it has intercarrier agreements with Intrastate to exchange customers on VHF channels in the Valley, as explained before, the channels available are either totally congested or incompatible with the equipment of applicant's customers. Thus, an intercarrier agreement would not remedy the public's need for the modest extension requested in this proceeding. Applicant asserts that an intercarrier agreement is inappropriate, unnecessary, and unworkable under these circumstances.

On March 2, 1983 the Commission issued an Order Instituting Investigation (OII 83-03-01) to consider possible revision to Rule 18(o) of the Rules of Practice and Procedure in furtherance of its continuing regulation of radiotelephone utilities. The Commission's decision named Applicant, a currently regulated RTU, a respondent in this generic investigation (Ordering Paragraph No. 2). However the Commission refrained from consolidating this application with OII 83-03-01, and reserved consolidated treatment for those new paging applications seeking certification for radiotelephone operations on certain newly FCC allocated paging channels (Ordering Paragraph No.2).

Hearings have not yet been scheduled in OII 83-03-01, pending receipt of respondents' written comments. In granting this application today, the Commission does not intend to prejudge any of the issues to be explored in OII 83-03-01. This application involves an extension of existing two-way mobile telephone service and the withdrawal of the ICS protest subject to agreed-upon restrictions. It is reasonable, under the circumstances, to grant the application at this time, without altering applicant's status as a respondent in the generic proceeding.

Findings of Fact

1. Applicant requests a certificate to construct and operate two-way mobile RTU facilities at Granada Hills for the purpose of extending its present Los Angeles Basin service area into the Valley.
2. Applicant has obtained a construction permit from the FCC covering the proposed service.
3. Applicant has over 20 years experience in the RTU industry, and is a named respondent in OII 83-03-01.
4. As of June 30, 1982 applicant had a net worth of \$421,238.
5. In the past, customers of applicant who traveled to the Valley were able to continue to use their VHF two-way mobile telephone equipment due to intercarrier agreements between applicant and two other RTUs serving the Valley.

6. In late 1981 one of the intercarriers converted from manual to automatic two-way service and thus removed the capability of applicant's subscribers to use those frequencies in transient service in the Valley, and the channel congestion in the other carrier's service renders that RTU's transient service unsatisfactory.

7. The proposed service is essential if applicant's current automatic two-way mobile telephone subscribers are to continue receiving satisfactory service.

8. The construction cost of the proposed system is approximately \$14,800 which applicant expects to finance from internally generated funds.

9. Revenue increases from the proposed service will be approximately \$500 per month.

10. Applicant is financially fit to institute and maintain the proposed service.

11. Public convenience and necessity require the issuance of the requested certificate.

12. A public hearing is not necessary.

13. 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 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 American Mobile Radio, Inc. (applicant) for the construction and operation of a public utility radiotelephone system with a base station and service area as follows:

Base station location: 15600 Midwood Drive,  
Granada Hills, California.

Service area: As set out in Exhibit B to  
A.82-12-38.

2. In rendering service under the certificate granted in Ordering Paragraph 1, applicant shall not market, solicit, or advertise its services within the service area extension granted by this certificate.

3. Within 30 days after this order is effective, applicant shall file a written acceptance of the certificate granted in this proceeding with the acknowledgement that it will not solicit, market, or advertise as set out in Ordering Paragraph 2.

4. Applicant is authorized to file, after the effective date of this order and in compliance with Ordering Paragraph 3, 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 10 days' notice.

5. Applicant shall file, after the effective date of this order and compliance with Ordering Paragraph 3, 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".

6. 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 service begins.

7. 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.

8. This order in no way alters applicant's status as a respondent in OII 83-03-01.

This order becomes effective 30 days from today.

Dated April 6, 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.  
President

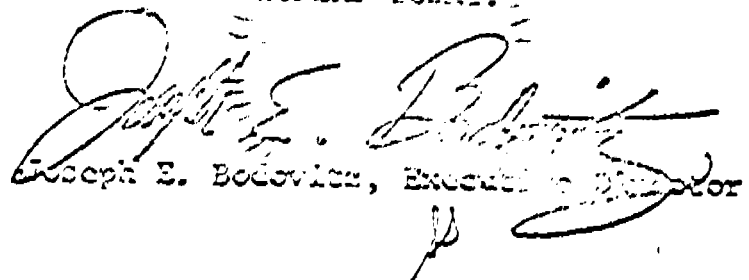
VICTOR CALVO

PRISCILLA C. GREW

DONALD VIAL

Commissioners

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

  
Joseph E. Bodovick, Executive Director