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Decision 83 12 011 DEC 7 1983 ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MOBILECOMM; AMERICAN MOBILE RADIO, INC.; INTRASTATE RADIO TELEPHONE, INC. OF SAN BERNARDINO; MOBILFONE, INC.; ORANGE COUNTY RADIOTELEPHONE SERVICE, INC.; RADIO DISPATCH CORPORATION, California corporations, and of R. L. MOHR, an individual d/b/a RADIOCALL CORPORATION, for a Certificate of Public Convenience and Necessity to Expand Their Facilities on 470-512 MH_Z in the Greater Los Angeles Area.	Application 83-10-10 (Filed October 4, 1983)

O P I N I O N

Mobilecomm of Los Angeles, Inc. (Mobilecomm), American Mobile Radio, Inc. (AMR), Intrastate Radio Telephone, Inc. of San Bernardino (IRT), Mobilfone, Inc. (Mobilfone), Orange County Radio Telephone Service, Inc. (Orange County), Radio Dispatch Corporation (Radio Dispatch), California corporations, and R. L. Mohr, an individual dba Radiocall Corporation (Radiocall), seek a certificate of public convenience and necessity (CPC&N) to expand their facilities in the 470-512 megahertz (MH_Z) band in the greater Los Angeles area. AMR, Mobilecomm, IRT, Mobilfone, Orange County, Radio Dispatch, Radiocall, and ICS Communications (ICS) (Participating Carriers) are radiotelephone utilities (RTUs) licensed by the Federal Communications Commission (FCC) and certificated by this Commission to provide two-way domestic public land mobile radio service in and around Los Angeles.

The Participating Carriers have formed Common Carrier Communications, Inc. (CCC), a California corporation, and each owns an equal number of shares in CCC. The board of directors of CCC will consist of one director named by each Participating Carrier and it will decide all matters within its discretion by a majority vote. It will meet on no less than a quarterly basis upon written notice to all Participating Carriers.

Under the provisions of FCC Docket No. 21039, a Technical Compatibility Agreement has been entered into by all the parties under which CCC was authorized to construct the facilities for the account of the Participating Carriers. Such facilities are to be owned and controlled by the Participating Carriers and operated under their individual state and federal authorization.

Special rules adopted by the FCC for 470-512 MHz frequency band mandate cooperative shared usage of the facilities among all carriers desiring and capable of participating in the rendering of such service.

As of May 1, 1983 an agreement was made among CCC, AMR, ICS, Mobilcomm, IRT, Mobilfone, Orange County, Radio Dispatch, Radiocall, and Radio Relay to effect the mandated cooperative shared usage of the facilities. The total construction and start-up costs thus far expended are stated to be $594,575 with no more than $50,000 in additional costs being anticipated. Each Participating Carrier is deemed to have an equal though undivided interest in these facilities which are co-licensed to the Participating Carriers. These facilities are to be maintained and repaired by CCC at the expense of the Participating Carriers. According to the agreement, CCC is authorized to act

as the exclusive agent of the Participating Carriers for purposes of marketing two-way mobile radiotelephone services in the 470-512 MHz band to the public in the certificated areas of the Participating Carriers.

The means whereby such marketing is accomplished will be at the discretion of CCC, except that (a) the terms and conditions under which services are supplied to the ultimate public will in no event be inconsistent with the tariffs of the Participating Carriers and (b) CCC will enter into no wholesale arrangements except on a majority vote by the board of directors.

The Participating Carriers recognize that the service to be provided by them will in fact be from a single system and will be rendered throughout the combined service areas of all. They further acknowledge that the service area of ICS entirely overlaps the reliable service area of the facilities. Because the individual certificated service area of the Participating Carriers, excluding ICS, does not encompass the entire reliable service area of the jointly owned facilities as delineated by the 39 decibel (dB) above one microvolt per meter contour from the two base station facilities (Call Letters WXR 958) located at 8999 Cedro Drive, Beverly Hills, and on Sierra Peak, in Orange County (Exhibit C to the application), each of the Participating Parties, excluding ICS, seeks authority under Public Utilities Code Section 1001 to market the services in the 470-512 MHz band throughout the reliable service area of the jointly owned facilities.

ICS' currently effective tariff Schedule No. L-6 describes fully the services to be furnished by the Participating Parties. Accordingly, the Participating Carriers authorize CCC initially to market the services described above on terms which conform with ICS' currently effective tariffs.

Further, under the terms of the agreement, CCC will act solely as an agent for the Participating Carriers for construction, maintenance, marketing, and collection purposes. Accordingly, CCC's customer list will be available for the inspection and copying by the Participating Carriers, each of which agrees not to reveal any of the contents. Invoices to the public will clearly state CCC's agency status and will identify by name the Participating Carriers as the providers of the relevant service. CCC will use its best efforts to collect on such invoices, and, on no less than a quarterly basis, will distribute equally to the Participating Carriers all receipts after deducting for costs incurred, and after paying any outstanding advances from the Participating Carriers.

If at any time the revenues of CCC should be insufficient to cover the maintenance, repair, marketing, and other operating expenses of CCC, the board of directors may call upon each of the Participating Carriers to reimburse CCC to the extent of the shortfall.

Radio Relay Corporation-California (Radio Relay), by Application 83-08-73 filed August 31, 1983, seeks a CPC&N authorizing it to acquire an 8% ownership in and become a Participating Carrier for the provision of two-way radiotelephone service on the above 470-512 MH_z facilities. In the decision authorizing the CPC&N, we found that:

"6. It can be seen with certainty that there is no possibility that granting the requested authority will have an adverse effect on the environment."

* * *

"8. There is a public need in the Los Angeles area for the 24 mobile radio channels in the 470-512 MHz band.

"9. The system is technically feasible." (Mimeo. pg. 8.)

These findings are equally applicable to this application.

No protests to this application have been received.

Findings of Fact

1. AMR, Mobilcomm, IRT, Mobilfone, Orange County, Radio Dispatch, Radiocall, and ICS are RTUs licensed by the FCC and certificated by this Commission to provide two-way domestic public land mobile radio service in and around Los Angeles.

2. The Participating Carriers have been co-licensed by the FCC to construct radio transmission facilities on certain frequencies allocated to them in the 470-512 MHz band.

3. Special rules adopted by the FCC for the above frequency band mandate cooperative shared usage of the facilities among all carriers desiring and capable of participating in the rendering of such service.

4. As of May 1, 1983 an agreement was made among CCC, AMR, ICS, Mobilcomm, IRT, Mobilfone, Orange County, Radio Dispatch, Radiocall, and Radio Relay providing:

a. CCC was authorized to complete the facilities required to provide two-way mobile phone service on the 24 channels in the 470-512 MHz band.

b. The facilities so constructed are to be owned and controlled by the Participating Carriers and operated under their individual state and federal authorization.

c. CCC is the exclusive agent of the Participating Carriers for the purposes of marketing on terms which conform with ICS' currently effective tariffs for two-way mobile radiotelephone services in the 470-512 MHz band to the public in the certificated service areas of the Participating Carriers.

5. The reliable service area of the Participating Carriers' jointly owned facilities lies within the 39 dB above one microvolt per meter contour from the two base station facilities (Call Letters WXR 958) located at 8999 Cedro Drive, Beverly Hills, and on Sierra Peak, in Orange County, as set forth in Exhibit C to the application.

6. It can be seen with certainty that there is no possibility that granting the requested authority will have an adverse effect on the environment.

7. Public convenience and necessity will be served by certificating the Participating Carriers to provide two-way mobile telephone service in the 470-512 MHz band throughout the service area described in Finding 5.

8. There is a public need in the Los Angeles area for the 24 mobile radio channels in the 470-512 MHz band.

9. The system is technically feasible.

10. Service should be provided for two-way mobile telephone service on the 470-512 MHz band in accordance with the provisions of a tariff schedule similar to ICS' tariff Schedule No. L-6.

11. A public hearing is not necessary.

Conclusion of Law

Mobilcomm, AMR, IRT, Mobilfone, Orange County, Radio Dispatch, and Radiocall should be authorized to provide two-way mobile radiotelephone service in the Los Angeles area on the 24 channels authorized by the FCC in the 470-512 MHz frequency band.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Mobilecomm of Los Angeles, Inc., American Mobile Radio, Inc., Intrastate Radio Telephone, Inc. of San Bernardino, Mobilfone, Inc., Orange County Radiotelephone Service, Inc., Radio Dispatch Corporation, and R. L. Mohr, dba Radiocall Corporation, to provide two-way mobile radiotelephone services on trunked 470-512 MHz facilities constructed by Common Carrier Communications, Inc. on their behalf.

2. After the effective date of the order, applicants are authorized to file tariff schedules, including provisions for providing two-way mobile radiotelephone service on the 24 channels authorized by the Federal Communications Commission in the 470-512 MHz band, establishing a tariff for such service similar to ICS Communications' tariff Schedule No. L-6, and

delineating their service areas for this service as set forth in Exhibit C to the application. These filings shall comply with General Order Series 96. The effective date of thse tariff schedules shall be the date of filing. The tariff schedules shall apply to service rendered on and after their effective date.

This order becomes effective 30 days from today.
Dated DEC 7 1983, at San Francisco, California.

LEONARD M. GRIMES. JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

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

Joseph E. Bodovitz, Executive Director