

ORIGINAL

Decision 83 12 058 DEC 20 1983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Sheldon Lipton, dba Valley Voice)
 Paging, for a certificate of public)
 convenience and necessity pursuant)
 to Public Utilities Code Section)
 1001 to construct a new radio-)
 telephone utility system in and)
 around the San Fernando Valley,)
 Los Angeles County, California.)

Application 82-06-31
 (Filed June 11, 1982;
 amended October 13, 1983)

O P I N I O N

Applicant Sheldon Lipton, an individual, dba Valley Voice Paging, requests a certificate of public convenience and necessity to construct and operate radio communication facilities for the purpose of providing one-way radio paging service on frequency 35.62 megahertz (MHz) with a base station located each in Van Nuys, Burbank, Granada Hills, Woodland Hills, and Los Angeles. The application shows that copies of the application were served on ten entities with which the proposed service is likely to compete. The application, as originally filed, was protested by Mobilecomm, Inc. (formerly known as Intrastate Radio Telephone, Inc. of Los Angeles) and ICS Communications. The protests were withdrawn after the application was amended. No other protests to the application have been received. The amended application shows that applicant possesses the requisite FCC construction permits.

Applicant's proposed service area is generally bounded by Simi Valley on the west, North Oaks on the north, El Monte on the east, and Palos Verdes on the south. The Van Nuys base station, located at the control point, will be interconnected with the other base stations by radio allowing all radio transmitters to operate simultaneously. The control center will be equipped with recording devices to store messages to subscribers if they are offered for transmission at times when the transmitters are busy. Such messages will be stored for subsequent automatic transmission. Until the system is serving in excess of 1,000 subscriber units applicant anticipates that transmissions will be essentially simultaneous with the reception of the message from the land line telephone network automatically interconnecting at the control center. The paging service will consist of tone and voice.

Applicant presently plans to have its base station and control equipment installed and maintained by RTS Communications, Inc., of Burbank, which is experienced in radiotelephone sales and service. It can provide 24-hour technical monitoring and repair service at all locations. Applicant plans to open offices and agencies at various convenient locations within the service area to provide paging receiver exchange service when the number of subscribers justifies such facilities.

Applicant proposes to offer pagers to subscribers at a rental rate of \$10 per month. His basic monthly rate for service will be \$14.50 (includes up to 30 calls per month) and 25¢ per call in excess of 30 calls. He will offer discounts for multiple services.

The proposed construction of antennas is restricted to installations on short masts in built-up areas where no adverse visual or air navigation effects will be produced. Local authority for construction, where needed, has been assured.

Applicant's projected capital requirements to commence service amount to \$530,000, including \$200,000 working capital to carry the business along in the first year of operation. During the first year of operation applicant expects to have net sales of \$66,000, expenses of \$263,500, and a net loss from operations of \$197,500. However, for the fifth year of operation the expected net sales are \$450,000, expenses \$386,300, and net income from operations \$63,500.

Applicant is a California practicing attorney holding an assortment of business partnership interests and stocks and bonds. He estimates his net worth to be approximately \$1 million and maintains he has the necessary intellectual, technical, and financial resources to successfully initiate and conduct the proposed service.

Applicant employed the services of a professional telecommunications consultant to determine the level of need for a new tone and voice paging service in the San Fernando Valley. Of the 168 individuals surveyed by the consultant, 35 individuals gave positive responses. Those 35 individuals would potentially use between 91 and 100 paging units in their businesses which include pest control, sales, electronics, printing, real estate, construction, swimming pool/spa sales, auto service, carpet sales/service, veterinary services, and food service. The results of the 35 individual survey (Exhibit N) revealed the following:

"94% (33 of 35) of the respondents listed the San Fernando Valley as their primary place of business.

"100% (35 of 35) of the respondents listed the San Fernando Valley as their primary travel area outside of home or office.

"31% (11 of 35) of the respondents have attempted to obtain tone and voice service in the past, yet only 1 or 3% was successful.

"14% (5 of 35) of the respondents currently have tone only paging service, yet all were willing to subscribe to a tone and voice service.

"100% (35 of 35) of the respondents were not subscribers to any current tone and voice paging service."

The consultant concluded as follows:

"There is a broad demographic need for the applicant's proposed paging service based on the variety of the respondents.

"Only 1 respondent was ever successful in obtaining any type of voice paging service in the past.

"100% of all subscribers to a tone only paging service indicated a preference for tone and voice service.

"Number of pagers based on averages (91 divided by 35, and 100 divided by 35) each respondent showed a need for at least 2 or more tone and voice pagers.

"There is a primary need for the applicant's proposed service in the San Fernando Valley, with a small secondary need beyond."

The applicant asserts that existing RTUs in the proposed serving area are accepting requests for tone and voice service only in the category of "held orders", i.e., there is insufficient system capacity at this time to serve additional customers.

Finding of Facts

1. Applicant requests a certificate to construct and operate a public utility one-way paging radiotelephone system with base stations located in and around the San Fernando Valley as more particularly described in the application.

2. Applicant has the requisite FCC construction permit for the operation.

3. The service to be offered is tone and voice radio paging.

4. The proposed system will be in automatic interconnection with the public land line switched telephone network.

5. All transmitters in the system will be interconnected and will operate simultaneously.

6. Applicant plans to have his base station and control equipment installed and maintained by RTS Communications, Inc., which is experienced in radiotelephone sales and service and will provide 24-hour monitoring and repair service at all locations.

7. The survey conducted by a professional telecommunications consultant revealed a primary need for applicant's proposed service in the San Fernando Valley, with a small secondary need beyond.

8. Applicant expects his start up capital needs for the proposed service will be approximately \$530,000.

9. While applicant expects a loss during its first year of operation he anticipates that operation will be profitable by the end of the fifth year.

10. Applicant is financially fit to conduct the proposed operation.

11. The proposed operation is technically feasible.

12. Public convenience and necessity require the issuance of the proposed certificate.

13. A grant of the proposed certificate will not so damage existing service or the particular market place as to deprive the public of adequate service.

14. A public hearing is not necessary.

15. 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 Sheldon Lipton (applicant) for the construction and operation of a public utility radiotelephone system with base stations and service area as follows:

Base station locations:

1. 14332 Victory Boulevard, Van Nuys.
2. 333 Glen Oaks Boulevard, Burbank.
3. 15600 Midwood Drive, Granada Hills.
4. 21031 Ventura Boulevard, Woodland Hills.
5. Lookout Mountain - 2137 Crescent Drive, Los Angeles.

Service area: As shown on Exhibit A of A.82-06-31.

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 Ordering Paragraph 3, tariffs

applicable to the service authorized containing rates, rules, and charges otherwise applicable to his radiotelephone services. This filing shall comply with General Order 96-A. The tariffs shall become effective on not less than 10 days' notice.

4. Applicant shall file, after the effective date of this order and compliance with Ordering Paragraph 3, as part of his 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", reflecting the composite service area contours shown on Exhibit A to the application.

5. Applicant shall maintain accounts in conformity with this Commission's Uniform System of Accounts for Radiotelephone Utilities.

6. Applicant shall prepare and submit annual reports to this Commission, pursuant to General Order 104-A, in the manner prescribed in § 1, California Public Utilities (PU) Annual Report Form L, or as may subsequently be ordered by the Commission.

7. 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.

8. The certificate granted and the authority to render service under the rates, rules, and charges authorized will expire if not exercised within 12 months after the effective date of this order.

This order becomes effective 30 days from today.

Dated DEC 20 1983, at San Francisco, California.

LEONARD M. GRINES, JR.
President

VICTOR CALVO

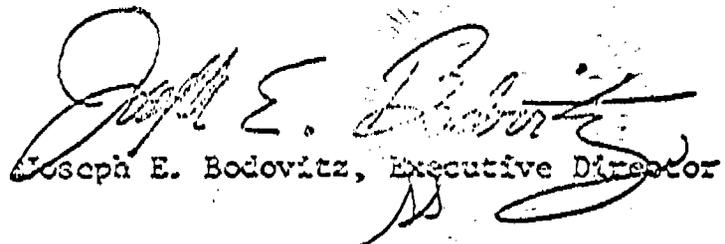
FRISCILLA C. GREW

DONALD VIAL

WILLIAM T. BAGLEY

Commissioners

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


Joseph E. Bodovitz, Executive Director