

ORIGINAL

Decision No. 86846

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of
EDWARD KONJOYAN for authorization
to acquire negative control by
stock purchase of RADIO DISPATCH
CORP., a public utility organized
and doing business in California.

Application No. 56689
(Filed August 13, 1976)

O P I N I O N

This is an application for authorization to acquire 50 percent, and thus negative control, of the issued and outstanding stock of Radio Dispatch Corp. (RDC), a radiotelephone utility operating under our jurisdiction. This stock is presently owned by Carl B. Hilliard, Jr. (seller). The other half of RDC'S stock is owned by Richard A. Howard, who will retain his ownership and has agreed with applicant to assume responsibility for the technical matters while applicant undertakes the management and control of RDC'S business and financial affairs. Applicant has represented as follows:

- (1) He will act as chief executive officer of RDC and shall be responsible for the filing of the necessary reports with this Commission (PUC).
- (2) He has substantial business experience and operates a number of telephone answering services throughout the Los Angeles metropolitan area.

- (3) He operates Pomona Business & Medical Exchange, Inc., which has acted as RDC'S dispatching agent since April 1968 and as a result, has become intimately familiar with RDC'S business and requirements of the PUC.
- (4) He has assets in excess of \$1 million and no liabilities. (Exhibit A of application.)
- (5) He has entered into an agreement dated May 7, 1976 (Exhibit C of application) with seller. It provides, among other things, a purchase price of \$60,000 for the subject stock.
- (6) Either party to Exhibit C may terminate the agreement if the requested sale is not authorized by the PUC and the Federal Communications Commission (FCC) on or before November 7, 1977.

Seller's affidavit (Exhibit B attached to the application) represents as follows:

- (1) RDC'S stock is equally divided between seller and R. A. Howard.
- (2) Seller and Howard have had a dispute and disagreement over the management and control of RDC since July 1974 which resulted in Case No. 9876 before the PUC and Case No. 220031 in the Orange County Superior Court.
- (3) Case No. 9909 filed by Industrial Communications Systems, Inc. (ICC) seeking revocation of RDC'S certification was dismissed by Decision No. 85312.

ICC protests this application on the following grounds:

- (1) It is a certificated radiotelephone utility competing for many years with RDC.
- (2) RDC and ICC have competing applications on file with the FCC for Channel 25. The issue of trafficking in prohibited frequencies has been raised there. Until this issue is determined there, the processing of this application would be premature and untimely.
- (3) All the terms and conditions of the agreement between seller and applicant were not set forth in the application. (This was true; however, Exhibit C filed October 18, 1976 is a true and accurate copy of the entire agreement.)
- (4) The application is premature and untimely because the agreement is conditioned upon approval of the FCC.
- (5) Hearings should be held relative to applicant's plans for operation of message centers beyond the authorized service area of RDC.
- (6) The affidavit of seller incorporates a PUC staff report filed in Case No. 9876. ICC wants an opportunity to cross-examine the preparer of this report.

In the sale of common stock, the purchaser obtains only those rights which the seller possesses in the stock ownership. Because of this, the protest is meaningless in toto as the transfer of stock ownership affects only the rights of the shareholders among themselves and does not in any manner affect the rights of RDC, the corporate entity. Equity ownership in RDC does not affect the question of trafficking in prohibited frequencies, competition with ICC, or operations beyond its authorized service areas as RDC'S operating rights and privileges are neither expanded

nor contracted by a change in equity ownership. Protest 4 above merely begs the question as no change in ownership will occur unless approval of both the FCC and PUC is obtained. Protest 6 is also inappropriate because the subject staff report has no bearing on this or any transfer of equity in RDC as any such transfer is independent of the relationship between RDC and ICC. Thus, the staff report is irrelevant to the issue here and would be inadmissible at a hearing regarding this transfer.

Applicant's financial capacity, business acumen, and experience are uncontradicted. The proposed transfer will apparently end an unfortunate impasse between the existing shareholders, and cannot help but benefit RDC as an entity. For these reasons, we find that the proposed transfer of 50 percent of the issued and outstanding common stock of RDC, which stock is now owned by Hilliard, would not be adverse to the public interest and we conclude that it should be authorized in accordance with the terms and conditions contained in Exhibit C. For the reasons stated above regarding the protest of ICC, a public hearing is unnecessary.

O R D E R

IT IS ORDERED that:

1. Edward Konjoyan is authorized to purchase from Carl B. Hilliard, Jr. fifty percent of the issued and outstanding stock of Radio Dispatch Corp., a public utility, for the sum of \$60,000 under the terms and conditions contained in Exhibit C of the application.
2. Within thirty days after completion of the above transaction, purchaser shall so notify the Commission in writing.

3. The authorization granted shall not be construed as a finding of the value of rights and properties authorized to be transferred.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 14th day of JANUARY, 1977.

Robert Bateman
President
William Sproull
Edward Ross
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.