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Decision No. 89465 OCT 3 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)  
of GEORGE L. OAKLEY for a certi-)  
ficate of public convenience )  
and necessity to provide one-way )  
paging and two-way mobile tele- )  
phone service in San Diego )  
County and vicinity, California.)

Application No. 57976  
(Filed April 6, 1978;  
amended May 8, 1978  
and July 19, 1978)

(Appearances are listed in Appendix A.)

O P I N I O N

This is an application by George L. Oakley requesting a certificate of public convenience and necessity to construct and operate a radiotelephone utility (RTU) system to furnish one-way paging and two-way mobile radiotelephone service in San Diego County. The Pacific Telephone and Telegraph Company (PT&T) and Imperial Communications Corporation (Imperial) opposed the applicant's request. PT&T and Imperial provide RTU service in San Diego County.

Five days of public hearings were held from July 24, 1978 through July 28, 1978 before Administrative Law Judge Orville Wright at San Diego, California. Imperial and PT&T appeared and participated as protestants.

At public hearings on August 29, 1978 counsel for the applicant and Imperial requested that hearings be continued because they were in settlement discussions. This request was granted. At public hearings on August 30, 1978 the applicant and Imperial presented a Sales and Distribution Agreement (the Agreement) (Item A), and a Stipulation and Request for Dismissal With Prejudice (the Stipulation) (Item B) signed by the applicant and Imperial.

The Agreement provides, in part, that the applicant shall act as an agent of Imperial for the purpose of selling and distributing to the public mobile radiotelephone and paging communication services provided by Imperial. The Stipulation provides, in part, that Application No. 57976 may be dismissed with prejudice, subject to this Commission's approval of the Agreement. No party objected to the requested disposition. The matter was taken under submission on August 30, 1978.

Findings

1. The applicant and Imperial request approval of the Agreement dated August 30, 1978 (Item A).
2. The Agreement provides, in part, that the applicant will be Imperial's nonexclusive sales and distribution agent to sell Imperial's radiotelephone service to customers within Imperial's certificated service area. Radio communication service will be provided to customers through facilities of Imperial under duly filed California Public Utilities Commission tariffs.
3. The Agreement is subject to approval by this Commission and shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may direct in the exercise of its jurisdiction.
4. The applicant and Imperial stipulate that Application No. 57976 may be dismissed with prejudice, subject to approval of the Agreement.

Conclusions

1. The Agreement should be approved.
2. Application No. 57976 should be dismissed with prejudice.

O R D E R

IT IS ORDERED that:

1. The Sales and Distribution Agreement between Imperial Communications Corporation, a radiotelephone utility under the jurisdiction of this Commission, and the applicant is approved. Said Agreement is Item A in the record in this matter.

2. Application No. 57976 is dismissed with prejudice.

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

Dated at San Francisco, California, this 3rd day of OCTOBER, 1978.

*I abstain;*  
*Richard D. Gwathmey*

*Robert Bateman*  
\_\_\_\_\_  
President  
*William J. Quinn*  
\_\_\_\_\_  
*Vernon J. Sturgeon*  
\_\_\_\_\_  
*Clair T. DeSnick*  
\_\_\_\_\_  
Commissioners

APPENDIX A

LIST OF APPEARANCES

Applicant: Carl Hilliard, Attorney at Law, and Albie Angle.

Protestants: Philips B. Patton and David M. Wilson, Attorneys at Law, for Imperial Communications Corporation; and Stanley J. Moore and Roger P. Downes, Attorneys at Law, for The Pacific Telephone and Telegraph Company.

Interested Parties: Warren A. Palmer, Attorney at Law, by Michael F. Willoughby, Attorney at Law, for Industrial Communications; Phillips Wyman, for Salinas Valley Radio Telephone Company; and Tom L. Cook, for Intrastate Radio Telephone, Inc.

Commission Staff: Steven Weissman, Attorney at Law, and Gerald Busch.