

ORIGINAL

Decision No. 90365 JUN 5 1979

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
ELECTROPAGE, INC., a California )  
Corporation, for a Certificate to )  
Construct Additional Radiotele- )  
phone Utility Facilities and for )  
Authority to Exercise Rights Not )  
Yet Secured Pursuant to Rule 20 )  
of the Rules of Practice and )  
Procedure. )

Application No. 57037  
(Filed January 27, 1977;  
amended November 7, 1978)

Farrand, Malti, Spillane & Cooper by  
Wayne B. Cooper, Attorney at Law,  
for Electropage, Inc., applicant.  
Warren A. Palmer, Attorney at Law,  
for James E. Walley, dba Auto-Phone  
Company, protestant.

O P I N I O N

Summary of Proceedings

On January 27, 1977, Electropage, Inc. (Electropage), a radiotelephone utility (RTU) operating a one-way paging service in and around Sacramento, filed this application seeking a certificate of public convenience and necessity to construct additional transmitting facilities at Wolf Mountain, Nevada County, for the purpose of substantially expanding its service area northward and from Roseville, primarily to include the city of Auburn and environs. The new transmitter would be simulcast with Electropage's existing facilities by remote control and would be fully automatic dial accessed.

In February, 1977, James E. Walley, dba Auto-Phone Company (Auto-Phone), and Airsignal of California, Inc. (Airsignal), filed protests to the application of Electropage. Auto-Phone and Airsignal are RTUs which provide one-way paging service in all or portions of the area Electropage proposes to serve. Further proceedings on the application were suspended during the moratorium imposed upon contested RTU matters during the pendency of Case No. 10210. Following termination of such moratorium by Decisions Nos. 88513 and 89045, the application was restored to the Commission's Daily Calendar, and hearings were scheduled for November 6, 7, and 8, 1978 at Grass Valley and Marysville. Hearing was held at Grass Valley on November 6 and 7, 1978 before Administrative Law Judge Gillanders. Electropage and Auto-Phone appeared at the hearings; there was no appearance by Airsignal.

Following testimony by Electropage's general manager and several public witnesses, a conference was held between the parties and their counsel at the suggestion of ALJ Gillanders with a view toward resolving their differences, eliminating the need for further hearings and leading toward improvement of paging service to the public. As a result of such conferences, the parties reached a mutually agreeable solution pursuant to an informal written stipulation, and the application was amended on November 7, 1978 to reflect such solution whereby Electropage's service area would be expanded northward to include the Auburn-South Placer areas, subject to conditions agreed upon by the parties. The proceeding was submitted in accordance with such solution and agreement and the amended application. The hearing scheduled for Marysville was cancelled.

Shortly thereafter, the parties ascertained that it was impractical to design the interference contour (26 dbu) for

Electropage's expanded paging service area as had been initially agreed upon. The parties, on March 21, 1978, reached agreement upon a satisfactory modification thereof.

Findings

1. Electropage is an RTU providing one-way paging service on frequencies 43.22 and 43.58 MHz from transmitters located in Sacramento and Fair Oaks serving an authorized area from south of Sacramento to north of Roseville, and from Davis in the west to Folsom in the east.

2. Auto-Phone is an RTU providing mobile and paging service to the cities of Chico, Oroville, Paradise, Marysville, Grass Valley, Nevada City, and Auburn, and other cities and adjacent areas within its authorized service area.

3. Due to mountains and hilly terrain, the present one-way paging service provided by Auto-Phone in the Grass Valley-Nevada City area suffers from numerous shadow areas, which require some customers to use external antennae and which affect reliability of paging service in other portions of the Grass Valley-Nevada City area.

4. At the present time, there is not a substantial demand for paging service in the Grass Valley-Nevada City area.

5. Currently, Auto-Phone does not provide reliable paging service in the Auburn-South Placer area, but plans to improve such service within its certificated service area.

6. Except for the deficiencies caused by shadow areas, Auto-Phone's customers are generally satisfied with its service in the Grass Valley-Nevada City area.

7. Auto-Phone has applied to the Federal Communications Commission (FCC) for construction permits for additional paging facilities to be installed at substantial cost at its base stations

located near Grass Valley, Forbestown, and Chico, which should substantially improve its paging service through its certificated service area.

8. There is a substantial demand for automatic dial access paging service in the Auburn-South Placer area.

9. Electropage has applied to the FCC for a construction permit for paging facilities to be installed at Wolf Mountain, Nevada County, to provide paging service to an expanded service area which includes the Auburn-South Placer area.

10. Electropage and Auto-Phone have reached agreement reflected in the amendment to the application that it would benefit the public for Electropage to expand its service area to include the Auburn-South Placer area by means of a directional antenna installed at Wolf Mountain or other available site by means of a DB Products DB-286 single bay dual Yagi antenna or equivalent, 10 db gain, 500 Watts maximum ERP oriented N. 150° E., subject to the following conditions: (1) Electropage and Auto-Phone advise the Commission they agree on proposed engineering (including 43 dbu contour, the 270° radial of which shall not extend west of the town of Spenceville) of Electropage; (2) Electropage will not market its paging service north of the 39th parallel; (3) Electropage will not protest any expansion of Auto-Phone's facilities to improve its paging service in the Auburn-South Placer area within Auto-Phone's certificated service area; and (4) Auto-Phone withdraws its protest to the application of Electropage to this Commission and the FCC.

11. The agreement between Electropage and Auto-Phone is in the public interest.

12. Airsignal did not appear at the hearing, did not pursue

its protest, and did not present any evidence in this proceeding that it would not be in the public interest for Electropage to provide paging service in the Auburn-South Placer area.

13. The proposed paging system of Electropage is technically and economically feasible, and Electropage is technically and financially capable of constructing such system.

14. Electropage's proposed facilities at Wolf Mountain will be installed at a site already in use by radio systems.

15. Electropage's proposed rates for its expanded paging service are identical to its existing rates, and are just and reasonable.

16. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

#### Conclusions

1. One-way paging service as proposed by Electropage in the Auburn-South Placer area, pursuant to agreement with Auto-Phone and the amended application, will serve the public interest, convenience, and necessity.

2. The protest of Airsignal, having been abandoned, should be dismissed.

3. Electropage should be granted a certificate of public convenience and necessity authorizing the construction and operation of its proposed transmitter facilities within its proposed expanded service area described in the agreement and amended application, referred to in the findings, subject to the conditions in the order which follows.

4. Subject to the conditions in the order which follows, Auto-Phone should be directed to withdraw its petition to dismiss or deny Electropage's FCC application.

5. The effective date of this order should be the date of signature because public convenience requires prompt commencement of the proposed service.

O R D E R

IT IS ORDERED that:

1. The protest of Airsignal of California, Inc. herein is dismissed.

2. Electropage, Inc. (Electropage) is granted a certificate of public convenience and necessity authorizing construction and operation of additional base station facilities at Wolf Mountain, Nevada County, or alternative site, to serve the Auburn-South Placer area, subject to the conditions:

- (a) The antenna shall be a directional antenna DB Products DB-286 single bay dual Yagi antenna or equivalent 10 db gain, 500 Watts maximum ERP oriented N. 150° E., and the 270° radial of the 43 dbu contour service area shall not extend west of the approximate vicinity of Spenceville.
- (b) Electropage shall not solicit paging subscribers north of the thirty-ninth parallel.
- (c) If Electropage selects an alternative site for its proposed base station facilities, it shall file with this Commission its certificate under penalty of perjury that it can be seen with certainty that there is no possibility that such relocation may have a significant effect upon the environment, stating the basis therefor or, if that is not the fact, shall comply with Rule 17.1 of the Commission's Rules of Practice and Procedure prior to commencement of construction.

3. Electropage shall amend its Federal Communications Commission (FCC) application within sixty days following the effective date hereof to incorporate the agreed upon engineering changes

necessitated by Ordering Paragraph 1(a), and concurrently therewith, shall serve upon this Commission and Auto-Phone Company (Auto-Phone) a copy of such engineering changes for inclusion in the record hereof. Such engineering changes shall be approved in writing by Auto-Phone prior to such amendment and filing.

4. Upon approval and filing of the engineering changes by Electropage herein provided for, Auto-Phone shall withdraw its petition to dismiss or deny the FCC application of Electropage.

5. Electropage shall not protest any expansion by Auto-Phone to improve its paging service in the Auburn-South Placer area within Auto-Phone's certificated service area.

6. Following the effective date hereof, Electropage shall file revised tariff sheets, including a revised service area map, to extend its present tariff schedules, and the rates, rules, practices, and conditions therein provided, to the area certificated by this order. Such tariff sheets shall become effective immediately upon their filing, which filing shall be in accordance with General Order No. 96-A.

7. Electropage shall notify the Commission in writing upon completion of the construction herein authorized.

8. The authority herein granted shall expire if not exercised within eighteen months from the effective date hereof.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 5th day of JUNE, 1979.

John E. Boyer  
President  
William L. Stegeman  
Richard A. Kowalski  
Walter J. G. G. G.  
James M. G. G.  
Commissioners