

fc/jn

Decision No. 91187 JAN 8 - 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ROSEVILLE TELEPHONE COMPANY For a)
Certificate of Public Convenience)
and Necessity to Construct and)
Operate a Dial Mobile Radio)
Telephone System.)

Application No. 58820
(Filed April 23, 1979)

Cooper, White & Cooper, by John M. Ross,
Attorney at Law, for Roseville Telephone
Company, applicant.
F. E. Emerson, for Belmont Spectrum Research,
interested party.
Willard A. Dodge, Jr., for the Commission
staff.

O P I N I O N

By its application filed April 23, 1979, Roseville Telephone Company (Roseville) seeks a certificate of public convenience and necessity under Public Utilities Code Section 1001 for the construction, operation, and maintenance of a dial mobile radiotelephone system.

Present Operations

Roseville is a telephone public utility providing local and toll service to over 63,000 stations in an 83-square mile area within Placer and Sacramento Counties, California. It does not now offer mobile radiotelephone service.

Proposed Operations

Roseville proposes to operate and maintain with its own personnel a common carrier dial mobile radiotelephone system on a 24-hour basis, seven days per week. Roseville alleges that

based upon the predicted 39 dBu contour of the proposed radiotelephone signal it will be able to serve reliably all of its wire line exchange area.

A 200-foot transmitter-receiver antenna is proposed to be constructed on a site approximately four miles west of Roseville's principal place of business in Roseville at the coordinates 38°45'5" north latitude and 121°21'23" west longitude. The system is to be operated on a single frequency in the 450 MHz band.

Protests

Protests to the application were filed by Airsignal of California, Inc. (Airsignal), Delta Valley Radiotelephone Company (Delta Valley), and Electropage, Inc. (Electropage).

Airsignal, a radiotelephone utility (RTU), alleges that it and others are already serving the area. Airsignal states that its system has the capacity to accommodate more than the 35 customers Roseville anticipates serving at the end of one year of operation. Airsignal also states that it provides paging in addition to two-way mobile service. Airsignal states that a grant of the application would result in unnecessary duplication of facilities and a potential of losing customers to its economic detriment. Further, Airsignal states that certification would include the right to institute one-way paging operations (Decision No. 78105 in Case No. 8983 dated December 22, 1970, Loperena v Fresno Mobile Radio). Airsignal requested a hearing and for Roseville to amend its application to include the information required by Rule 18(o), including a contour comparing service areas and engineering data. Subsequently, Roseville's counsel stated that Airsignal's counsel authorized him to state that Airsignal's protest has been withdrawn.

Delta Valley states that it provides two-way radio-telephone and one-way paging service in the area. Delta Valley also states that the proposed service would extend beyond Roseville's exchange area. Further, Delta Valley claims that an applicant for a certificate must demonstrate a clear and convincing need, not satisfied by the existing carriers, and that Roseville has not met those criteria (Decision No. 63147 in Application No. 43704 dated January 23, 1962, W. K. Harper).

Electropage states that it is an RTU and provides one-way paging service in the area. Electropage claims that Roseville has not complied with our Rules 17.1 and 18(6)(2). Electropage questions whether Roseville's costs are understated and whether Roseville will be subsidizing its proposed service through its other operations and resources. Further, Electropage states that Roseville must meet the Harper decision criteria. Electropage states it is directly interested because certification to provide two-way service would automatically authorize one-way service (Loperena decision).

Roseville replied, alleging that:

1. Granting the certificate would increase competition to the public's benefit if Airsignal and Delta Valley offer service in the area.

2. Delta Valley does not offer dial service, but users must go through an operator; Roseville's users would not require operator assistance.

3. Users of Delta Valley's and Airsignal's service can only make calls to stations in the Roseville exchange area as toll calls; Roseville's users would make such calls as local calls.

4. Delta Valley and Airsignal do not offer mobile unit repair service in Roseville's area; but Roseville would offer such service.

5. Airsignal's signal within the Roseville exchange is weak and any service would be unreliable.

6. Electropage does not offer two-way service in the area and Roseville cannot undertake one-way paging in competition with Electropage without further authorization.

7. Neither Airsignal nor Delta Valley has complied with Decision No. 88513 by filing with the Commission maps showing the promulgation and contour of their respective signals. Therefore, Roseville is unable to supply Rule 18(o) data, even if applicable.

8. It will, if possible, voluntarily limit the single channel presently authorized by the Federal Communications Commission (FCC) to 35 users to avoid channel congestion. Roseville proposes to seek an additional channel as demand increases.

9. The projected operating revenues will exceed the operating expenses according to a cost study prepared in accordance with prescribed Form GEL00. Further, the costs of mobile units have not been included because the customer will have the option of providing the unit or making a commitment to pay Roseville the compensatory rates included in the application.

10. There is no possibility that the proposed service may have a significant effect on the environment. The County of Placer issued a Negative Declaration with respect to the proposed antenna and associated construction and granted a conditional use permit. Roseville submitted its reply to the County of Placer's Environmental Impact Assessment Questionnaire.

The objections raised by the aforementioned protests were also responded to in Roseville's testimony which is discussed under the hearing section of our opinion.

Originally, Roseville proposed such service in an advice letter filed in October 1978. The above RTUs protested the advice letter and stated that a certificate was required. Roseville withdrew the advice letter and subsequently filed the instant application.

Hearing

After notice and publication, public hearing was held before Administrative Law Judge (ALJ) J. J. Doran in Roseville on August 21, 1979. The matter was submitted upon the receipt of transcript on August 29, 1979.

Roseville presented a public witness, a businessman. He stated that he was unable to obtain any assurance of obtaining good coverage for the Roseville area from Airsignal. Further, the witness stated he was unable to obtain literature from Delta Valley about its service and was told there was a three-month waiting period.

In total, Roseville presented nine public witnesses to support its application by showing a need and a desire to take the proposed service. The witnesses are business customers generally from real estate, construction, or service enterprises.

Roseville's operations manager testified that Roseville had received the construction permit and radio license for its proposed mobile radiotelephone service from the FCC.

The witness stated that the two-way dial mobile radiotelephone service will be offered from their Citrus Heights exchange and provide complete coverage to Roseville's wire line serving area. Roseville presented an affidavit of a consulting engineer verifying the accuracy of the signal contour and the supporting engineering data. The consultant concluded the amount of power for the service is reasonably necessary to provide a reliable signal to Roseville's entire exchange area. The manufacturer of the equipment is to be Motorola. Customers will be able to either lease from Roseville or purchase the mobile units. Roseville will provide local maintenance of its mobile units.

Roseville's supervising wire chief testified that the County of Placer has granted a Conditional Use Permit and a Negative Declaration stating that the project will not have a significant adverse impact upon the environment for the proposed construction. Further, a notice of proposed construction or alteration has been filed with the Federal Aviation Administration.

The wire chief testified that the antenna site selected is a rural site in a flat, very sparsely populated area on company-owned land. Further, there are other towers in the area. The primary direction of the signal (500 watts of effective radiated power) will be in an easterly direction because the tower is located on the western side of the service area and the eastern side has some hills and valleys in it. The witness also stated that the signal will go outside the exchange area to cover the area of business interest of some present wire line customers who do business outside the wire line area. The equipment and construction estimated cost is \$70,000 excluding the mobile units.

Roseville's marketing manager testified to the proposed rates, revenues, and expenses from the dial mobile radiotelephone service. The expenses were developed using the standard GE100 form. The estimates were developed using an operating optimum of 35 customers for one channel. The air time billing rates are the same as those included in Decision No. 88232, Pacific Telephone and Telegraph Company.

The witness testified that the Commission staff (staff) informed him that neither Airsignal nor Delta Valley had filed a proper map of their service area with the Commission. Subsequently, the witness said Roseville has not been able to locate any customer of either company in Roseville's directory.

The marketing manager supplemented the testimony of the wire chief about extending the signal contour beyond the exchange area to meet the service needs of the area. He testified that 22.5 percent of their business customers subscribe to foreign exchange service from the Sacramento area (Pacific Telephone and Telegraph Company).

The witness reported on the results of a business customer opinion survey made in October 1977. They received 100

responses out of 900 mailings. Of the responses 47 were either moderately or very interested in the service. The witness concluded that serving 35 users during the first year of operation is a conservative estimate. They would look at an application to the FCC for another channel at that time.

The staff reviewed the monthly rates for mobile service and the mobile units and concurred that the rates are reasonable. Further, the staff reviewed and concurred with the GE100 cost allocations.

Petition to Reopen

Electropage filed a petition on August 29, 1979 to set aside submission and reopen the proceeding for the taking of additional evidence. Electropage made no appearance in Roseville, but intended to appear later in San Francisco. Electropage states it would have presented testimony to show that there is no need for additional one-way service in the area, the proposed two-way system is incompatible with shared one-way operations, Roseville has never offered one-way service, and such service is not necessary.

Electropage further states that under the Loperena decision, without the above testimony, Roseville could furnish one-way paging without making a showing required of a certificate applicant under Public Utilities Code Section 1001 and the Harper decision. Electropage concludes that any certificate should be limited to two-way facilities only, and not serve as authority for future one-way service, which must require a separate application under Section 1001.

Roseville filed a memorandum in opposition to the petition to set aside submission and open the proceeding. Roseville states that there has been a duly noticed public hearing and those who chose not to be present have waived any right to be heard.

Our notice of public hearing in the matter of Application No. 58820 dated July 10, 1979 set the hearing for August 21, 1979 at 10:00 a.m. in Roseville, at which time and place Roseville and all interested parties could appear and be heard. Our daily calendar noticed the hearing on August 21 and also showed in parentheses the dates of August 23 and 24 in San Francisco. Further, the calendar notes: "Dates in parentheses following the word 'Also' are subject to change or cancellation without notice." The hearing was held on August 21, and the matter submitted. Therefore, the San Francisco hearings were not needed and were properly canceled.

However, more importantly the authority sought is only for a two-way dial mobile radiotelephone system. Roseville cannot undertake one-way paging in competition with Electropage without filing an application requesting further authorization. Since the petition to reopen is to present evidence on one-way service, which is not material to the instant application, there is no need to reopen the proceeding.

For the above-mentioned reasons, Electropage's petition to reopen the proceedings is denied.

Findings of Fact

1. Roseville proposes to construct, operate, and maintain a two-way dial mobile radiotelephone system.
2. Adequate and good quality service will be available to Roseville's customers. The signal contour will enable Roseville to service its exchange area and extend into the northern Sacramento area to meet the service needs of its customers.
3. Roseville has the resources and ability to construct, operate, and maintain the proposed system.
4. The proposed system is technically and economically feasible. It will not be a burden upon Roseville's other public utility services.
5. The proposed rates and charges are just and reasonable.

6. There is a public need for the service.
7. It can be seen with reasonable certainty that there is no possibility that the proposed service may have a significant effect on the environment.
8. No RTU offers dial service in the area.
9. No RTU offers mobile unit repair service in the Roseville area.
10. Any users of an RTU could only make calls to stations in the Roseville exchange area as toll calls.
11. The service capability of the RTUs in the area is questionable.
12. Neither Roseville nor the staff could locate proper service area contour maps of RTUs serving the area.
13. Roseville could not locate any two-way radiotelephone customers of RTUs in its directory.
14. Competition would be increased to the public's benefit by the proposed service.
15. Public convenience and necessity require the public utility radiotelephone services proposed by Roseville.
16. Roseville cannot undertake one-way paging in competition with RTUs without filing an application requesting further authorization of the Commission.

The Commission concludes that the application herein should be granted as provided in the order which follows.

The certificate hereinafter granted is subject to the provision of law that:

The Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate, or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

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O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Roseville Telephone Company (Roseville) to construct, operate, and maintain a two-way dial mobile radiotelephone system to serve within the 39 dBu contour of the radiotelephone signal from the proposed antenna to be located at Baseline and Crowder Road within the Roseville exchange area.

2. Roseville is authorized to file after the effective date of this order tariffs containing the rates and charges attached to this order as Appendix A. Such filing shall comply with General Order No. 96-A. The tariffs shall become effective on not less than ten days' notice.

3. Roseville shall file, after the effective date of this order, a tariff containing an engineered service area map drawn in conformity with the provisions of FCC Rule 21.504.

4. Roseville shall notify this Commission in writing of the date service is first rendered to the public under the tariffs herein authorized within ten days thereafter.

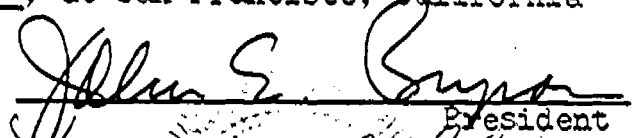
5. The certificate herein granted shall terminate if not exercised within two years after the effective date of this order.

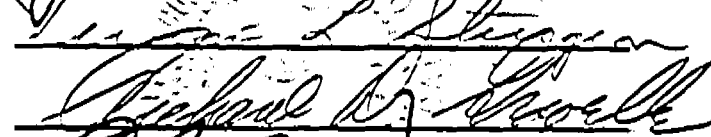
6. Roseville is directed not to offer one-way paging service without obtaining further authorization from this Commission.

7. The petition of Electropage, Inc. to set aside submission and reopen the proceeding for the taking of additional evidence is denied.

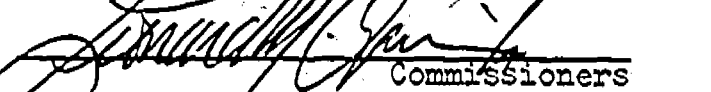
The effective date of this order shall be thirty days after the date hereof.

Dated JAN 8 - 1980, at San Francisco, California


President






Commissioners

APPENDIX A
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DIAL MOBILE RADIOTELEPHONE SERVICE

<u>Rates</u>	<u>Nonrecurring Charge</u>	<u>Rate Per Month</u>
1. Basic Service	\$ 20.00	\$18.00
2. Each Dial Mobile Radiotelephone furnished by the Utility:		
a. Standard Unit	\$110.00	\$80.00
b. Premium Unit	\$125.00	\$98.00
3. Air Time Billing		
a. Home Area Mobiles - dialed		<u>Rate</u>
(1) on peak	1st min	\$.25
	next 4 min, per min	.40
	over 5 min, per min	.80
(2) - off peak	1st min	.20
	next 4 min, per min	.20
	over 5 min, per min	.40
b. Foreign Area Mobiles ("Roamers") - dialed all hours		
	1st 5 min, per min	.40
	over 5 min, per min	.80
c. Operator-Handled Calls		
(1) on peak	1st min	.90
	next 4 min, per min	.40
	over 5 min, per min	.80
(2) off peak	1st min	.90
	next 4 min, per min	.20
	over 5 min, per min	.40
4. Toll Messages		
Messages from mobile units to points beyond the limits of the local calling area of the Citrus Heights wire center of the Roseville Exchange.		Applicable toll rates of the Utility or connecting Utilities.

APPENDIX A
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Conditions

1. Basic Service rates will include, without additional charge, one business alphabetical and one classified directory listing in the Roseville, Citrus Heights directory. Basic Service rates will also include 25 minutes of air time usage before Air Time Billing is applicable.
2. Nonrecurring charges will apply when such equipment is changed or moved from one mobile unit to another. However, where complete cabling suitable for the desired service is in place in the mobile unit a nonrecurring charge of \$45 per unit will apply.
3. Minutes of use will be charged when the customer establishes connection with the called party or upon receiving a call in his mobile unit.
4. On peak/off peak charging shall commence when the customer has utilized 25 minutes of air time per month. On peak rates will apply between the hours of 8:00 a.m. and 8:00 p.m. Off peak rates will apply between the hours of 8:00 p.m. and 8:00 a.m. and on Saturday and Sunday.