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ORIGINAL

Decision No. 92311 OCT 8 1980

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of MOBILFONE, INC., a California)
corporation, for a certificate to) Application No. 59021
construct additional radiotelephone) (Filed July 25, 1979)
utility facilities as may be re-)
quired by §§1001, et seq., of the)
California Public Utilities Code.)
_____)

Martin J. Rosen and Ross Anderson, Attorneys
at Law, for applicant.
Phillips B. Patton, Attorney at Law, for
Valley Mobile Communications, Inc. and
Kidd Communications, Inc., protestants.

PHASE I OPINION

Mobilfone, Inc. (Mobilfone), a California corporation, seeks a certificate of public convenience and necessity authorizing it to construct and operate additional radiotelephone utility (RTU) facilities furnishing one-way paging and two-way mobile telephone service in an area encompassing portions of Los Angeles, Ventura, Orange, San Bernardino, Riverside, and Kern Counties, California.

The initial protests of Industrial Communications Systems, Inc., Chalfont Communications, and General Telephone Company of California have been withdrawn. A pending protest of Valley Mobile Communications, Inc. (Valley) to the construction and operation of the Mount Hauser facilities will be addressed in a separate order. A later protest by Kidd Communications, Inc. (Kidd) was withdrawn after Mobilfone agreed to modify its Mount Hauser equipment to avoid possible interference with Kidd's transmitter.

Mobilfone proposes to add or expand six base station transmitters at Box Springs Mountain, Newport Beach, Mount Hauser, Heaps Peak, Oat Mountain, and Johnstone Peak, California. These new or expanded facilities would be added to Mobilfone's multiple-site, one-way Domestic Public Land Mobile Radio Service (DPLMRS) stations KMB 308 and KSV 978 and two-way DPLMRS station KMA 253, which presently serve the greater Los Angeles metropolitan area. Operation of these facilities would improve Mobilfone's signal penetration within its existing service area and would permit Mobilfone to extend service to areas not presently reached by its signal. The proposed service area contours, calculated in accordance with the "Carey" standard and signal frequencies, are shown in Appendix C attached to the application. The cost of the proposed construction, excluding the Mount Hauser facilities, is estimated to be approximately \$145,500.^{1/} Mobilfone has made tentative financing arrangements to cover these construction costs. Annual fixed and operating costs of the facilities are estimated at approximately \$82,950. During the first year of operation, Mobilfone anticipates having approximately 10,000 pagers in service and an estimated 600 two-way units on line. Mobilfone does not propose any changes in its tariff rates attributable to the proposed extension of its service area.

For the year ended December 31, 1978, Mobilfone's gross and net revenues were \$1,712,618 and \$40,585, respectively. Mobilfone anticipates no problems in securing any financing needed to construct these facilities. Mobilfone would have to file an application with the Commission for any long-term financing for constructing these facilities. Mobilfone believes

^{1/} Inclusion of the Mount Hauser facilities would increase the cost to \$170,500.

that sufficient additional revenues would be generated from its expanded operations, including growth within its existing service area to operate and maintain the proposed facilities and to service any debt required to be incurred. However, Mobilfone anticipated a drop in 1979 revenues due to the loss of a large customer and an increase in expenses needed to carry out the proposed expanded service. We note that Mobilfone's filed 1979 Annual Report shows gross revenues of \$1,680,462 and a net loss of \$49,330.

The proposed project is feasible from a technical and engineering standpoint. (See Appendix E attached to the application.) The proposed operations will be similar to Mobilfone's existing operations. Mobilfone employs qualified staff needed to provide RTU and paging services to the public. It would hire and train any additional employees needed to serve the expanded area.

Mobilfone's proposal would make available wider area service to its subscribers on all of its existing channels. Mobilfone believes this expansion is needed for it to adequately compete with other RTU's and wire line carriers offering service to the public and to improve the quality of its service within its existing service area contours.

Mobilfone commissioned an independent market survey which discloses that less than one-half of its existing subscribers will utilize the service in the new areas proposed to be served at existing rates. Over half of the existing subscribers surveyed indicated that they would benefit from improvement in service within existing service contours due to the proposed construction. Their willingness to pay additional amounts for the expanded service was not ascertained. In addition, there are potential subscribers for the expanded service. The expanded service need survey was focused on serving areas remote from the facility opposed by Valley.

Mobilfone has secured Federal Communications Commission (FCC) authorization for use of the frequencies, signal strengths, and transmission sites for which certification is authorized herein. Mobilfone modified its proposals before the FCC and before this Commission to eliminate Kidd's objections in both forums. Valley did not protest Mobilfone's FCC application.

Hearings

After notice, a prehearing conference was held on October 23, 1979 and hearings were held on March 3, 4, and 5, 1980 before Administrative Law Judge Levander. The matter was submitted on the latter date subject to receipt of a late-filed exhibit and briefs relating to Valley's objections to the Mount Hauser station. The matter was left open to a date to be set to permit negotiations to resolve Kidd's objections or to permit Kidd to make an evidentiary showing. Since Mobilfone modified its proposal and Kidd withdrew its objections, no further hearings need be held. The late-filed exhibit has been received and after extensions of time, Mobilfone's and Valley's briefs have been filed. None of the parties objected to issuance of decision on the uncontested portions of Mobilfone's request.

Discussion

The evidence establishes a public need for the construction and operation of the facilities proposed at Box Springs Mountain, Newport Beach, Heaps Peak, Oat Mountain, and Johnstone Peak, California. Mobilfone has the financial and technical resources necessary to construct and operate these facilities. It proposes no changes in its existing rates for RTU and paging services.

Valley's protest regarding the proposed Mount Hauser facility merits further analysis. The fact that such analysis is required should not delay our grant of the remaining unprotested portions of the application in order to facilitate Mobilfone's early commencement of construction. Operation of the certificate facilities would improve and expand the service Mobilfone can offer to the public. We will analyze public convenience and necessity for the proposed Mount Hauser facility in a subsequent Phase II decision.

Findings of Fact

1. Mobilfone proposes to establish six new or expanded base station transmitters at Box Springs Mountain, Newport Beach, Mount Hauser, Heaps Peak, Oat Mountain, and Johnstone Peak, California.
2. The new or expanded transmitter facilities authorized herein, which exclude the Mount Hauser facilities, would result in improved one-way paging service and two-way radiotelephone service within the confines of Mobilfone's existing service area.
3. The new or expanded transmitter facilities would result in an expansion of Mobilfone's existing service contours facilitating Mobilfone's ability to provide services to individuals not heretofore served.
4. Valley protests certification of the Mount Hauser facilities, as modified to satisfy Kidd's objections, and to the corresponding expansion of Mobilfone's service area which would result from that authorization.
5. Mobilfone has secured FCC authority to use the frequencies, signal strengths, and transmission sites certificated herein.

6. Mobilfone's proposed construction is feasible and practical from a technical and engineering standpoint.

7. Mobilfone has the ability to construct and to operate the facilities certificated herein.

8. Mobilfone estimates that after the first year of operations it will have approximately 10,000 pager subscribers and approximately 600 two-way radiotelephone subscribers.

9. Mobilfone does not propose any changes in its tariff rates attributable to the expansion of its service area.

10. The estimated cost of construction, excluding costs related to the Mount Hauser facility, is \$145,500.

11. Public convenience and necessity require the issuance of the certificate requested by Application No. 59021 at this time, except for the Mount Hauser facility.

12. A Phase II decision in this proceeding will analyze the need for granting a certificate of public convenience and necessity to construct a facility on Mount Hauser.

13. It can be seen with reasonable certainty that there is no possibility that the proposed service may have a significant effect on the environment.

Conclusions of Law

1. Application No. 59021 should be granted to the extent set forth in the order which follows.

2. The order should be made effective the date signed to permit an expeditious expansion of service and to improve service within its existing service area.

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.

INTERIM ORDER ON PHASE I

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Mobilfone, Inc. (Mobilfone) to construct, operate, and maintain a one-way radiotelephone paging system and a two-way radiotelephone system from proposed base station facilities to be constructed or expanded and located at Box Springs Mountain, Newport Beach, Heaps Peak, Oat Mountain, and Johnstone Peak, California.
2. Mobilfone is authorized to file, after the effective date of this order, tariffs applicable to the service authorized herein containing rates and charges otherwise applicable to its one-way paging and two-way radiotelephone services. Such filing shall comply with General Order No. 96-A. The tariffs shall become effective on not less than ten days' notice.
3. Mobilfone shall file, after the effective date of this order, as part of its tariff, an engineered service area map drawn in conformity with the provisions of Federal Communications Commission Rule 21.504, commonly known as the "Carey Report".
4. Mobilfone shall notify this Commission in writing of the date service is first rendered to the public under the tariffs herein authorized within thirty days thereafter.

5. The certificate herein granted shall terminate if not exercised within one year after the effective date of this order, or such further period of time as may be authorized.

The effective date of this order is the date hereof.

Dated OCT 8 1980, at San Francisco, California.

John E. Byrne
President

William L. Stegman

Richard D. Howell

Lawrence W. Bivins
Commissioners

Commissioner Claire T. Dedrick, being necessarily absent, did not participate in the disposition of this proceeding.