

Decision 93197 JUN 16 1981**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Citizens Utilities
Company of California for Certificate
of Public Convenience and Necessity
Under Section 1001 of the Public
Utilities Code of the State of
California for Authority to Offer
Two-Way Mobile Telephone and Tone-
Only One-Way Personal Signaling
Service Within the Signal Strength
Contours of its Alturas IMTS
Transmitters.

Application 60076
(Filed November 14, 1980)

O P I N I O N

By this application, Citizens Utilities Company of California (Citizens), a California corporation, seeks a certificate of public convenience and necessity for its existing two-way mobile telephone and proposed tone-only and one-way personal signaling service from its Alturas IMTS transmitters. The certificate is sought for the areas beyond its Alturas, Adin, and Cedarville wireline exchanges that are covered by the signal strength contours for these services, computed in accordance with the rules of the Federal Communications Commission (FCC).

One-way radio paging permits a customer to be contacted by someone at a stationary telephone. A seven-digit code number is dialed into the paging terminal which transmits a radio signal to a portable receiver that emits a tone. Two-way mobile service also uses radio transmission and permits two-way voice communication.

Citizens provides telephone and other communication services in portions of nine counties of the State. In addition to

its two-way mobile telephone service in the Alturas, Adin, and Cedarville exchange areas, it also furnishes such service in its Burney exchange area and both two-way mobile telephone service and tone-only one-way personal signaling service in its Susanville and Elk Grove exchange areas.

Citizens' present common carrier two-way mobile telephone service in the Alturas, Adin, and Cedarville exchange areas is provided from base stations operating on a radio frequency of 152.75 MHz. Because of mountains in the area, there are two base transmitters. One is located at Cedarville. Its field strength contour computed at 37.0 dBu lies approximately 19 miles north, 13 miles east, 16 miles south, and six miles west. The other is located at South Fork Mountain, approximately 25 miles south of Alturas. Its field strength contour likewise computed at 37.0 dBu lies at approximately 32.5 miles in all directions. The control point and message center for this service is located at Citizens' Alturas Exchange in Alturas. A diagram of the system is attached to the application as Exhibit C.

The application states that the reason Citizens is seeking the sought certificate is because of the holding by the California Supreme Court in Industrial Communications Systems, Inc. v Public Utilities Commission (1978) 22 C 3d 572. In that decision the court held that a wireline telephone utility must obtain a certificate of public convenience and necessity under Public Utilities (PU) Code § 1001 for mobile radiotelephone service to the extent that the signal strength contours for the service more than incidentally extend beyond the utility's wireline exchange boundaries. Here the signal strength contours of the two base station transmitters more than incidentally extend beyond the boundaries of the three exchanges.

The application further states as follows:

1. Citizens has not served subscribers for two-way mobile telephone service outside its Alturas, Adin, and Cedarville wireline exchange areas.

2. Except for the sought certificate, Citizens has all necessary permits, licenses, and authorizations to provide the proposed service. A copy of its radio license is attached to the application as Exhibit D.
3. All of the facilities necessary to provide two-way mobile telephone service have already been constructed and are now being used. Citizens has acquired new IMTS switching equipment that will enable it to add tone-only personal signaling service from its two IMTS transmitters. Since the additional facilities required for the proposed service are minimal, there is no possibility the activity will have any significant adverse effect on the environment.
4. Citizens has been offering its two-way mobile telephone service under tariffs filed with and approved by the Commission, copies of which are attached to the application as Exhibit B-2. The same tariffs will apply to the sought extended areas. Its proposed rates for personal signaling service are attached to the application as Exhibit B-1.
5. As evidenced by the financial data attached to the application as Exhibit A, Citizens has the financial ability to provide the proposed service.
6. Citizens now serves 28 two-way mobile telephone customers in the three exchange areas. It has 12 requests for the proposed personal signaling service and anticipates 30 subscribers for this service within six months after commencement of service. It does not expect that the total number of customers will exceed 45 and does not forecast any significant increase in the next 5 years.

7. Public convenience and necessity require the proposed services.

The application was listed on the Commission's Daily Calendar of November 17, 1980. Copies were served in accordance with the Rules of Practice and Procedure. No protest has been received.

Discussion

Citizens has the experience, ability, and financial resources to provide the two-way and signal-only services in issue, and there is a public need for the services. The application will be granted.

As we have consistently held, there is no limitation on the manner or mode by which a wireline telephone utility may provide service. (See Malis v General Telephone Co. (1961) 59 CPUC 110.) This includes services with radio connections. The decision in Industrial Communications (supra) restricted the area for two-way service by a wireline company without additional certification from the Commission to the boundaries of the wireline exchange plus incidental extensions only. Signaling service concentric with existing lawful two-way service requires no further certification because it is an extension necessary in the ordinary course of business and uses the same equipment and personnel, resulting in lower costs and more efficient choice of service. (See Loperena v Fresno Mobile Radio, Inc. (1970) 71 CPUC 645.) While the decision in Industrial Communications (supra) would apply to tone-only service by a wireline company in an area not served with two-way service, it was not concerned with the extension of tone-only service into an area lawfully served with two-way service and did not overrule Loperena. Because of the additional necessary construction, an extension of two-way service into an area lawfully served with signal-only service does require a certificate. (See Decision (D.) 91732 dated May 6, 1980 in Application 58526, as amended by D.92571 dated January 6, 1981.)

Based on Loperena (supra), if Citizens were granted a certificate for two-way service, certification for subsequently commenced signal-only service would not be necessary. However, Citizens does not now have certificated authority for either service and is requesting certification for both concurrently. The authority will be granted as requested.

Since Citizens has the facilities for providing the proposed services, is already providing two-way service, and has received requests for the tone-only service, the order which follows will be made effective on the date it is signed and tariffs may be filed five days after on one day's notice.

Findings of Fact

1. Citizens is a public utility telephone corporation offering telephone and other communications services in portions of nine counties of California.

2. Citizens has been providing two-way mobile telephone service in its Alturas, Adin, and Cedarville exchange areas. It also provides such service in its Burney exchange area and both this and tone-only personal signaling services in its Susanville and Elk Grove exchanges.

3. Citizens requests a certificate of public convenience and necessity to offer two-way mobile telephone and tone-only personal signaling services within the service area contours, computed in accordance with FCC rules and shown in Exhibit C to its application, that are beyond the boundaries of its Alturas, Adin, and Cedarville exchanges.

4. The proposed service will be provided over the radio frequency 152.75 MHz, which has been assigned to Citizens by the FCC for its exclusive use in providing the services in issue.

5. All of the facilities and equipment to provide the services in question are already in place and operation. Citizens possesses all necessary licenses and authorities, except the certificate it is requesting, to provide the proposed services.

6. Citizens will apply the rates now on file with the Commission and set forth in Exhibit E-2 to the application for two-way mobile service for its Alturas, Adin, and Cedarville exchanges to the proposed two-way service, and the charges of \$15 for establishing service and \$16.50 per month for unlimited one-way personal signaling service in the proposed tariff sheet attached to its application as Exhibit B-1 for the proposed tone-only service.

7. The rates referred to in Finding 6 are justified, and are just and reasonable.

8. Citizens has the experience, ability, and financial resources to provide the proposed two-way and signal-only services.

9. Public convenience and necessity require the proposed services.

10. Approval of this application will not have a significant effect on the environment since no construction is necessary to provide the proposed services.

Conclusions of Law

1. Citizens is entitled to provide two-way mobile telephone service and one-way personal signaling service within its Alturas, Adin, and Cedarville exchanges without obtaining further certification from this Commission under PU Code § 1001.

2. The sought authority to provide the services referred to in Conclusion 1 within the area covered by the signal strength contours of its IMTS transmitters, computed in accordance with FCC rules, not within the boundaries of its Alturas, Adin, and Cedarville exchanges should be granted.

3. Since public convenience and necessity require prompt commencement of the proposed services, this order should be made effective on the date it is signed, and tariffs for these services should be allowed to be filed five days after, on one day's notice.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Citizens Utilities Company of California, a California corporation, authorizing it to offer and provide two-way mobile telephone and one-way personal signaling services beyond the boundaries of its Alturas, Adin, and Cedarville wireline exchanges as set forth in Exhibit C to this application.

2. The tariffs for the described services set forth in Exhibits B-1 and B-2 to the application may be made effective five days after the date of this order on one day's notice to the Commission.

This order is effective today.

Dated JUN '68 1987, at San Francisco, California.

John E. Bayne President
Richard D. Powell
James W. Jones
William C. Jones
Prudence C. Jones Commissioners