

Decision 93373 August 4, 1981

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Continental Telephone )  
 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 )  
 radio-telephone paging services )  
 beyond the boundaries of its Gilroy )  
 exchange and for ex parte relief )  
 pending a full hearing on this )  
 application. )

Application 60066  
(Filed November 10, 1980)

O P I N I O N

Continental Telephone Company of California (Continental), a California corporation, seeks a certificate of public convenience and necessity to operate a radiotelephone, automatic dial, tone-plus-voice, one-way signaling service at Gilroy to the extent that the signal strength contours for such service, computed in accordance with the rules of the Federal Communications Commission (FCC), more than incidentally extend into areas beyond the boundaries of its Gilroy wireline telephone exchange.

The application was served by Continental in accordance with the Commission's Rules of Practice and Procedure and was listed on the Commission's Daily Calendar of November 13, 1980. A protest filed by Mobile Radio System of San Jose, Inc. was withdrawn on June 26, 1981. There were no other protests.

Continental provides telephone service in parts of 28 counties of this State. In addition it provides tone-only paging service within its Blythe, Manteca, Sanger, Exeter, and Barstow exchange areas and tone-plus-voice paging service within its Ridgecrest exchange area. It also provides two-way mobile telephone service within 17 of its exchange areas, including Gilroy.

The proposed tone-plus-voice paging system terminal will operate similarly to an automatic, unattended, direct-dial telephone exchange system. Each subscriber will carry on his person a compact, lightweight pager unit. Each pager can be activated individually by dialing a telephone number assigned to such unit. The caller may transmit a one-way voice message after the pager is activated with an alert tone. The message will be limited in duration to 30 seconds. If the pager is busy, the dial-paging terminal will have the capacity of storing paging calls for subsequent transmission when the channel is clear. The paging system will have a 900 number capacity and will operate on 158.10 MHz.

The transmitting antenna for the paging service will be located at 8211 Swanston Lane, Gilroy. The field strength contour of the transmitter computed at 37.0 dBu varies with the surrounding topography and extends approximately 3.8 miles in all directions. The control point for the paging system will be located at 7578 Egleberry Street, Gilroy. A diagram of the system is attached to the application as Exhibit A.

Continental's Gilroy exchange two-way mobile telephone service operates on frequency 152.54 MHz. As stated in Exhibit C to the application, a traffic load study by Continental shows that the proposed tone-plus-voice service could not be placed on the two-way system without causing severe congestion. For this reason, Continental applied to and received authority from the FCC to construct and operate the sought service. Except for the certificate it is seeking, Continental has all necessary licenses and authorizations, and it has ordered the equipment for the service.

Continental will apply the tone-plus-voice charges published in its Tariff Schedule CPUC L-2 for its Ridgecrest exchange to the proposed Gilroy service. The current charges stated in the tariff for each tone-plus-voice pocket receiver are \$20 for installation and \$20.75 per month.

The application asserts that there is a public need for the proposed service. It points out that Gilroy is located approximately 28 miles south of San Jose and is in the process of a dramatic change from a rural area to a residential community for San Jose and other industrial areas within a 30-mile radius. There are approximately 60 industries and 437 businesses of various kinds located in the Gilroy area. According to a survey by Continental, 28 of its customers have indicated an interest in subscribing to the proposed service, and almost half stated they would use two or more paging units. Continental's forecast of the future customer demand for this service is 80 in 1981, 92 in 1982, and 106 in 1983. As evidenced by the financial data attached to the application, Continental has the financial ability to provide the proposed service.

The application states that the reason Continental is seeking the certificate in issue 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 two-way mobile radiotelephone service to the extent that the signal strength contour for the service more than incidentally extends beyond the utility's wireline exchange boundaries. Here the signal strength contour of the base station transmitter more than incidentally extends beyond the boundaries of the Gilroy wireline exchange.

As we have consistently held, there is no limitation on the manner or mode by which a wireline telephone utility may provide service, subject to the certification requirements of Industrial Communications, supra. While that decision would apply to personal signaling service by a wireline company in an area not served with two-way service, it was not concerned with the extension of personal signaling service into an area lawfully served with two-way service provided the same equipment and personnel were used for both systems. The proposed tone-plus-voice service will not be operated as a part of Continental's existing two-way system. It requires separate new construction and facilities and would, based on Industrial Communications, supra, require certification for the areas covered by the field strength contour of the transmitter that are beyond the Gilroy wireline exchange boundaries.

Continental has the experience, ability, and financial resources to provide the tone-plus-voice service in issue, and there is a public need for the service. The application will be granted.

Continental advised by letter dated June 12, 1981 that it has had an extension of its FCC license for the construction and commencement of the proposed Gilroy service to August 9, 1981, and it has ordered all necessary equipment and is in a position to complete construction and be on the air by that date. To avoid any lapse of Continental's FCC license, the order which follows will be made effective on the date it is signed and the tariff may be filed one day after on one day's notice.

Findings of Fact

1. Continental is a public utility telephone corporation offering telephone and other communication services in portions of 28 counties of California.

2. Continental has been providing two-way mobile telephone service in 17 of its exchange areas, including Gilroy. It also provides tone-only personal signaling service in its Blythe, Manteca, Sanger, Exeter, and Barstow exchange areas and tone-plus-voice personal signaling service in its Ridgecrest exchange area.

3. Continental requests a certificate of public convenience and necessity to offer tone-plus-voice personal signaling service within the service area contour, computed in accordance with FCC rules and shown in Exhibit A to its application, that are beyond the boundaries of its Gilroy exchange.

4. The proposed service will be provided over the radio frequency 158.10 MHz, which has been assigned to Continental by the FCC for its exclusive use in providing the service in issue.

5. The proposed service could not be placed on Continental's existing two-way system without causing severe congestion.

6. Continental has ordered all necessary equipment for the proposed service and is in a position to complete construction and to be on the air prior to the August 9, 1981 expiration date of its FCC license authorizing the construction and commencement of service. Except for the certificate it is requesting, it possesses all necessary licenses and authorities to provide the service in question.

7. Continental will apply the current tone-plus-voice charges published in its Tariff Schedule CPUC L-2 for its Ridgecrest exchange to the proposed Gilroy service.

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

9. Continental has the experience, ability, and financial resources to provide the proposed service.

10. Public convenience and necessity require the proposed service.

11. 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 of Law

1. Continental is entitled to provide tone-plus-voice personal signaling service within its Gilroy exchange without obtaining further certification from this Commission under PU Code § 1001.

2. The sought authority to provide the service referred to in Conclusion 1 within the area covered by the signal strength contour of its transmitter for this service, computed in accordance with FCC rules, not within the boundaries of its Gilroy exchange should be granted.

3. Since public convenience and necessity require prompt commencement of the proposed service and Continental's FCC license to construct and commence the service will expire August 9, 1981, this order should be made effective on the date it is signed, and the tariff for this service should be allowed to be filed one day 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 Continental Telephone Company of California, a California corporation, authorizing it to offer and provide radiotelephone, automatic dial, tone-plus-voice, one-way signaling service beyond the boundaries of its Gilroy wireline exchange as set forth in Exhibit A to this application.

2. The tariff for the described service may be made effective one day after the date of this order on one day's notice to the Commission.

This order is effective today.

Dated AUG 4 1981, at San Francisco, California.

*John G. Bryan*  
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President  
*Richard D. Powell*  
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*Thomas J. ...*  
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*Victor ...*  
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*Thomas C. ...*  
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Commissioners