

ORIGINAL

Decision 93423 AUG 18 1981

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GENERAL TELEPHONE)
COMPANY OF CALIFORNIA for certi-)
ficate of public convenience and)
necessity under Section 1001 of)
the Public Utilities Code of the)
State of California for authority)
to offer mobile telephone service)
beyond the boundaries of its)
Pomona, Redlands and San Bernar-)
dino exchanges.)

Application 60251
(Filed February 9, 1981)

O P I N I O N

Applicant, General Telephone Company of California, by this application and its amendment, seeks a certificate of public convenience and necessity, under Public Utilities Code Section 1001, for its Pomona, Redlands, and San Bernardino two-way mobile telephone services to the extent that the signal strength contours for these services, computed in accordance with the rules of the Federal Communications Commission (FCC), more than incidentally extend into areas beyond the boundaries of applicant's wireline telephone exchanges.

Protest to applicant's application and motion to dismiss was received from Industrial Communications Systems, Inc. (ICS) but was withdrawn upon stipulation of the parties that such withdrawal shall be without prejudice to any contentions advanced by ICS in any future proceedings involving applicant and ICS of anti-competitive consideration, including noncompensatory rate of return

on applicant's two-way mobile telephone service and agreements not to compete. Applicant does not concede, agree, or admit that there is any merit or validity to any such contention by ICS in making this stipulation.

According to information contained in the application, applicant presently provides telephone and other communication services in portions of 20 counties in the State of California. Among the communication services furnished by applicant is two-way mobile telephone service now being offered, among other places, in portions of Los Angeles, San Bernardino, and Riverside Counties.

All of the facilities necessary to provide the services for which authority is being sought have already been constructed and are presently being used by applicant to provide mobile telephone services to its customers under tariffs that were previously filed with and approved by this Commission. However, the lawfulness of applicant's two-way mobile telephone service in the Pomona/Ontario and Redlands/San Bernardino areas came into question in Industrial Communications Systems, Inc. v Public Utilities Commission (1978) 22 C 3d 572. This case involved the lawfulness of this Commission's Decision (D.) 86402 (1978) 80 Cal PUC 503 which held that applicant's one-way radiotelephone service in the same area as its two-way mobile telephone service did not require certification. In addition to finding that the one-way radiotelephone service was unlawful without certification, the court also held that since there was no evidence that applicant had certification for its two-way mobile telephone service, such offering was unlawful as well.

In D.91732 dated May 6, 1980 we granted applicant's Application 58526 for a certificate of public convenience and necessity to offer personal one-way signaling service beyond the boundaries of its Pomona/Ontario and Redlands/San Bernardino telephone exchanges, and we also ordered applicant to apply for a certificate of public convenience and necessity for its two-way mobile telephone system in that same area within 90 days. This application followed.

Applicant is presently offering common carrier, two-way mobile telephone service in the Pomona, Redlands, and San Bernardino areas from base stations located within the respective telephone exchange boundaries. The radio frequencies used are those assigned by the FCC to wireline telephone companies for use in providing two-way mobile telephone service.

The Pomona system, Station KQZ779, operates on a transmit/receive frequency pair of 454.575/459.575 megahertz (MHz) (QO channel) and is arranged for automatic dial, improved operation with mobile units. The system employs one transmitter/receiver base station, with an effective radiated power of 495 watts located at 280 South Locust Street, Pomona. The control point is located at the same address. Subscribers to this service receive dial tone for local calling via applicant's Pomona central office. Local dial service calling, to and from mobile units on this system, is available to and from the Pomona, Ontario, and Covina exchanges.

The Redlands system, Station KMM698, operates on a transmit/receive frequency pair of 454.625/459.625 MHz (QY channel). The system employs one transmitter and is arranged for manual operator operation with mobile units. The system employs one

transmitter/receiver base station, with an effective radiated power of 218 watts, located at the Sunset Drive Reservoir, Redlands, California. The control point is located in applicant's Redlands central office and the mobile operator is located at applicant's toll facility in Ontario, California. Subscribers to this service are provided local and toll calling via the mobile service operators. Local calling, to and from mobile units served by this system, is available to and from the Redlands, Highland, and Colton exchanges.

The San Bernardino system, Station KVA304, operates on a transmit/receive frequency pair of 152.810/158.070 MHz (JR channel) and is arranged for automatic dial, improved operation with mobile units. The system employs one transmitter/receiver base station with a maximum effective radiated power, primarily directed north and south, of 148 watts located at Devore, California. The control point is located at applicant's Muscoy central office in Muscoy, California.

All of the transmitters described above are within the boundaries of applicant's wireline telephone exchanges as is much of the geographic area encompassed by the signal strength contours for the base stations.

Mobile telephone service is a service which provides the customer with access to the telephone network via a radiotelephone unit normally installed in a vehicle.

The application states that customers using the service in Pomona and San Bernardino are able to access dial tone and dial direct. Calls placed to these units are dialed as though they were regular landline telephones. This system is a full two-way dial operation designed to provide mobile subscribers with a telephone service which is as close as possible to wireline service.

The Redlands system uses a mobile telephone operator to place and receive calls.

All calls placed over the mobile channels are billed for airtime plus applicable toll charges. This is in addition to the standard monthly rate and any equipment lease charges.

Applicant points out that it is only seeking certification for its Pomona, Redlands, and San Bernardino mobile telephone services to the extent that the services may be offered to and received by customers in the geographic area encompassed by the signal strength contours which are beyond the boundaries of applicant's wireline telephone exchanges. Certification is not required in order to continue offering service to customers within those exchange boundaries.

Applicant alleges that the public convenience and necessity will be served by allowing it to continue to offer service everywhere within the signal strength contours as indicated in Exhibit B of its application.

Applicant states it currently serves 109 mobile telephone subscribers in the area encompassed by this application with a substantial waiting list of customers who have expressed an interest in receiving the service. A request was made to the FCC on August 25, 1980 to increase the authorized usage of the Pomona

system from 72 to 120 subscriber units and that of the San Bernardino system from 50 to 120 subscriber units. The FCC granted this request in September 1980. Applicant also indicates that it has developed a plan to expand and upgrade the existing mobile telephone service, including conversion of the Redlands system to automatic dial operation to satisfy customer demand.

Findings of Fact

1. Applicant has been offering two-way mobile telephone service in the Pomona/Ontario and Redlands/San Bernardino areas for many years under tariffs that were filed with and approved by this Commission.

2. Until very recently applicant reasonably believed it did not need a certificate of public convenience and necessity to offer two-way mobile telephone service in those areas beyond the boundaries of its wireline exchanges shown in Exhibit B of its application, based on this Commission's ruling in Loperena v Fresno Mobile Radio, Inc. (1970) 71 CPUC 645.

3. Applicant has the experience, operating personnel, equipment, and the financial ability to conduct the operation contemplated by this application.

4. The public has need for the two-way mobile telephone offering of applicant in the areas contemplated within this application.

5. There is no opposition to the granting of the authority sought by applicant in its application.

6. Applicant will furnish the proposed service under its existing rates, charges, and tariffs as filed and previously approved by this Commission.

7. Since the construction required to provide the service for which this application has been filed has already been completed and was minimal in nature, there is no possibility that the activity had or will have in the future any significant adverse effect on the environment.

8. Public convenience and necessity require that applicant offer two-way mobile telephone service in the Pomona/Ontario and Redlands/San Bernardino areas to the extent that the signal strength contours for such services, computed in accordance with the rules of the FCC, more than incidentally extend into areas beyond the boundaries of applicant's wireline telephone exchanges as shown in Exhibit B of its application.

Conclusions of Law

1. Public convenience and necessity require that the requested authority should be issued. A public hearing is not necessary.

2. This order should be effective on the date signed because public convenience requires prompt approval and continuation of applicant's existing two-way mobile telephone service in the areas contemplated by this application.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to applicant, General Telephone Company of California, authorizing it to offer two-way mobile telephone service beyond the boundaries of its Pomona, Redlands, and San Bernardino wireline telephone exchanges as indicated by Exhibit B of its application.

2. Applicant shall file with this Commission copies of all annual reports made to the Federal Communications Commission.

This order is effective today.

Dated AUG 18 1981, at San Francisco, California.

John E. Byrne
President
Richard D. [unclear]
Thomas W. [unclear]
Robert [unclear]
Prescott C. [unclear]
Commissioners