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Decision 95-08-012 August 11, 1995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
Cagal Cellular Communications)	
Corporation (U-3021-C) to Deviate)	Application 95-04-005
from General Order 159 with Regard)	(Filed April 4, 1995)
to Certain Modifications at its)	
Sonoma Mountain Cell Site.)	

ORIGINALO P I N I O NSummary

Cagal Cellular Communications Corporation (Cagal) is granted a deviation from General Order (GO) 159 for the installation of three microwave dishes at its cell site located at the end of Stevenson Mountain Road in Glen Ellen, California.

Background

Cagal is a Delaware corporation that holds a certificate of public convenience and necessity to operate a cellular communications system in the Santa Rosa Petaluma Metropolitan Statistical Area. (Decision 88-12-088.) In August 1993, Cagal filed Advice Letter (A.L.) 73 seeking authorization of the installation of three microwave dishes that it had already installed, plus the installation of additional dishes and replacement of antennas. A.L. 73 was rejected on the grounds that Cagal had made modifications without having first obtained Commission approval, in violation of GO 159. (Resolution T-15420.) This application is for permission to deviate from the procedures of GO 159 and thereby obtain approval of the three dishes that were installed without the Commission's prior authorization. Specifically excluded from this application are the dishes that are currently unbuilt and the replacement antennas. A.L. 135 has been filed for the dishes, and the antennas are not presently needed.

Accompanying Cagal's application are letters from the Sonoma County Department of Planning and Department of Building Inspections. The letters indicate that the subject dishes are within the initial use permit granted to Cagal and that the present tower is adequate for the dishes. The application also contains Federal Communications Commission licenses for the microwave paths created by the dishes.

According to the application, both this Commission and Sonoma County have previously adopted Negative Declarations for the original site construction. Sonoma County did not issue additional use or building permits, since it considered the three microwave dishes to be within the original permits. Thus, Sonoma County made no environmental review for these dishes. Cagal asks that we issue a Categorical Exemption for the dishes or determine that it can be seen with certainty that installation of the additional dishes will not have a significant effect on the environment.

There is no question that Cagal has the financial capability to pay for the installation of the dishes, since they are already in place. Rates for the service utilizing these dishes will be in accord with Cagal's presently filed tariffs.

Public Convenience and Necessity

Cagal alleges that the dishes in question are an integral part of its system. They are interconnected with other sites and the landline telephone connection to its mobile telephone switching office. It further alleges that failure to file the appropriate advice letters pursuant to GO 159 was inadvertent.

There is no reason to believe that Cagal's failure to comply with the requirements of GO 159 was other than an inadvertent error. The present application is the appropriate method of curing that mistake. The additional dishes that have not been installed will be considered in our determination of A.L. 135.

The dishes in question were installed on an existing tower. The tower is located in a remote area of Sonoma County.

The dishes are a minor addition to the tower. Based on these circumstances it can be seen with certainty that the three dishes in question will not have a significant effect on the environment. (CEQA Guidelines, Cal. Code Regs., Tit. 14, § 15061(b)(3).)

Service of the application was made on Cagal's only alleged competitor and on the County of Sonoma. There have been no protests.

Findings of Fact

1. Cagal holds a certificate of public convenience and necessity to operate a cellular radio telephone system in the Santa Rosa area.

2. Cagal sought approval for three additional microwave dishes in A.L. 73 after it had installed those dishes to its existing tower on Sonoma Mountain Road.

3. A.L. 73 was rejected by the Commission as a violation of the procedure set out in GO 159.

4. The present application for deviation from GO 159 is the correct method of curing the error of installation prior to Commission authorization.

5. The three dishes in question are an integral part of the communications system operated by Cagal.

6. No additional county authorizations are necessary for the installation of the dishes.

7. Cagal has the financial ability to install and operate the dishes.

8. Rates charged for communications using the three dishes will be the rates currently in tariffs on file with the Commission.

9. The three dishes in question will be operated on an existing tower in a remote portion of Sonoma County.

10. This matter appears in the Commission's Daily Calendar on April 7, 1995; there have been no protests to the application.

Conclusions of Law

1. No hearings are necessary.

2. An application to deviate from GO 159 is the correct manner of overcoming a rejected advice letter based on a violation of GO 159.

3. The public convenience and necessity require the installation and operation of the dishes that are the subject of this application.

4. It can be seen with certainty that there will be no significant effect on the environment caused by the installation or operation of the three additional dishes on the existing tower.

ORDER

IT IS ORDERED that:

1. The application of Cagal Cellular Communications Corporation (applicant) to approve the installation and continued operation of the three previously nonpermitted microwave dishes on its tower at Sonoma Mountain Road is granted.

2. Applicant shall mail a copy of this order to all persons on the service list of rejected Advice Letter (A.L.) 73, all persons served with the application in this docket, and all persons on the service list of A.L. 135. Applicant shall notify the Commission in writing that it has complied with this order.

This order is effective today.

Dated August 11, 1995, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY

Wesley Franklin

Acting Executive Director