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SUPREME COURT OF VIRGINIA
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RICHMOND, VIRGINIA

IN THE

Supreme Court of Virginia

AT RICHMOND

RECORD NO. 811345

RCC OF VIRGINIA, INC.
Appellant

v.

ROANOKE AND BOTETOURT TELEPHONE COMPANY, ET AL.
Appellees

JOINT APPENDIX

Holmes C. Harrison, Esq.
Clark, Bradshaw, Harrison and Layman, P.C.
92 N. Liberty Street
Harrisonburg, Virginia 22801

Counsel for Appellant - RCC of Virginia, Inc.

George E. Honts, III, Esq.
Carter, Roe, Emick and Honts, P.C.
P. O. Box 158
Fincastle, Virginia 24090

Counsel for Appellee - Roanoke and Botetourt Telephone Company

(Continuation of Counsel - Inside Cover)

LAWYERS PRINTING COMPANY 7th & Franklin Bldg. Richmond, Virginia 23219 (804) 648-3664

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P. O. BOX 159
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(703) 473-8901
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JUL 11 12 26 PM '80

July 8, 1980

State Corporation Commission
Blanton Building
Richmond, Virginia

PUC800017

RE: Roanoke & Botetourt Telephone Company, Application for Amended Certificate

Gentlemen:

Enclosed herewith please find the original and three copies of an Application for Amended Certificate granting the Roanoke & Botetourt Telephone Company additional franchise territory in which to offer its mobile radio paging service.

Please advise if any fees apply to this Application and if so, advise this office.

We would appreciate your expedient cooperation in this matter.

Sincerely yours,

George E. Honts, III

GEH:llp
Enclosures

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APPLICATION

Roanoke & Botetourt Telephone Company (R & B Telco), pursuant to the Utility Facilities Act of 1950 (Ch. 10.1, Code of Virginia) and more specifically section 56-265.4:3, thereof, hereby respectfully requests that its existing certificate authorizing it to furnish public utility telephone service in Botetourt County, Virginia be amended for the limited purpose of authorizing R & B Telco to furnish one-way mobile radio paging service in the cities of Roanoke and Salem, Virginia, and the County of Roanoke.

R & B Telco is a public utility as defined in Code sec. 56-265.1(b). It is duly authorized to furnish and is furnishing telephone service within its existing certificated area. R & B Telco has installed and is operating, pursuant to authorization from the Federal Communications Commission, a radio paging base station located on Tinker Mountain, Botetourt County, Virginia. This base station is currently providing service to approximately 140 mobile paging units, approximately 20 of which have been purchased by customers */ residing or having their principal place of business in the cities of Roanoke or Salem.

---

*/ Paging units in some cases are purchased by the customers themselves directly from manufacturers; others are furnished on a tariff basis by the base station operator.

In approximately twelve months, over 65 customers in the Roanoke-Salem area have been attracted to R & B Telco's paging service offering. Thus a public need for this service is demonstrated by fact, not anticipation.

In sum, the facts of this matter more than adequately demonstrate an existing and substantial public need for telephone company provided radio paging service in the Roanoke-Salem area. That service can be provided and that need satisfied by grant of the limited authorization herein sought by R & B Telco, authorization neither possessed nor sought by C & P.

R & B Telco proposes to offer radio paging service in Roanoke-Salem at its existing tariff rate of $24.00 per month. The additional customers in Roanoke-Salem will require no additional investment in the base station and no additional personnel. To the extent that customers purchase their own paging units (R & B Telco estimates that 15% of customers will own their own units), R & B Telco will incur an additional per customer cost of $327.60. At present R & B Telco's investment in its paging service is $76,221.72 as of January 1,1980; monthly operating expenses are $786.33; and monthly operating revenues are $3,015.00. Thus the paging operation is clearly economically feasible, and additional customers will enhance that feasibility.

R & B Telco further alleges: (i) the applicant is duly licensed by the Federal Communications Commission to provide mobile telephone service or radio paging service in its own certificated territory; (ii) the applicant's mobile telephone or radio paging service as licensed was designed to serve customers within the applicant's existing certificated area, but the reliable service area of the applicant's system

incidentally extends into a contiguous area certificated to another telephone company; (iii) the applicant's proposed service does not, by reason of harmful electrical interference or other practical reason, interfere or conflict with any like service; and (iv) it is in the public interest to grant the request.

The premises considered, R & B Telco respectfully submits that the public interest will be served by grant of the limited amendment to its certificate herein requested. Under the circumstances, prompt and favorable consideration of this application and grant of the authorization sought is respectfully requested.

Respectfully submitted,
Ira D. Layman
Ira D. Layman
President

State of Virginia, County of Botetourt, to-wit:

I, Loretta L. Parr, a Notary Public for the aforesaid county, do certify that Ira D. Layman, whose name is signed to the writing above bearing date on the 8th day of July, 1980, has acknowledged the same before me, in my county aforesaid.

Given under my hand this 8th day of July, 1980.

My commission expires Sept. 21, 1981.

Loretta L. Parr
Notary Public

Of Counsel
Carter, Roe, Emick & Honts, P.C.
Fincastle, Virginia 24090

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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 19, 1980

APPLICATION OF

ROANOKE AND BOTETOURT TELEPHONE COMPANY

CASE NO. PUC800017

For a Certificate of Public Convenience and Necessity authorizing the certificate holder to provide One-way Mobile Radio Paging Service in the Cities of Roanoke and Salem, Virginia, and the County of Roanoke

On July 16, 1980, Roanoke and Botetourt Telephone Company ("Applicant" or "Company") filed an application pursuant to the Utility and Franchises Act of 1950 (ch. 10.1 of Title 56 of the Code of Virginia) and more specifically §56-265.4:3, thereof, requesting that a Certificate of Public Convenience and Necessity be granted for the purpose of authorizing the Company to provide One-way Mobile Radio Paging Service in the Cities of Roanoke and Salem, Virginia, and the County of Roanoke.

AND THE COMMISSION, upon consideration of the application filed by the Company, is of the opinion that an investigation should be undertaken to determine whether the requested certificate of public convenience and necessity should be granted, that notification hereof should be given to the public and other interested parties of such proposed service, and that an opportunity be given for comments and objections thereto; accordingly,

IT IS ORDERED:

(1) That the appropriate members of the Commission's Division of Communications shall undertake an investigation to determine whether the Company's proposed one-way mobile radio paging service, if granted by the Commission, will comply with the requirements of §56-265.4:3 of the Code of Virginia;

(2) That on or before October 2, 1980, the Company shall file, in support of its application, sworn testimony and exhibits demonstrating:

(a) That the Company is licensed by the Federal Communications Commission (FCC) to provide telephone service or radio paging service in its own certificated territory; such filing shall include a copy of the Company's FCC license authorizing the telephone service or radio paging service in the Company's existing certificated territory;

(b) That the Company's mobile telephone or radio paging service, as licensed, was designed to serve customers within the Company's existing certificated area, but the reliable service of the Company's system extends into the proposed service area, a contiguous area certificated to another telephone company; such filing shall include a copy of the Company's FCC Dbu contour map(s) showing the area of coverage of its existing radio paging base located on Tinker Mountain, Botetourt County, Virginia;

(c) That the Company's proposed service, by reason of harmful electrical interference or other practical reason, will not interfer or conflict with any like service; and

(d) That it is in the public interest to grant the request of the Company.

(3) That the Company shall forthwith upon receipt of this Order cause the following notice to be published each week for two (2) consecutive weeks in a newspaper, or newspapers, of general circulation in the service area proposed in the application;

NOTICE TO THE PUBLIC OF APPLICATION OF ROANOKE AND BOTETOURT TELEPHONE COMPANY FOR AUTHORIZATION TO PROVIDE RADIO COMMON CARRIER SERVICE

Notice is hereby given that Roanoke and Botetourt Telephone Company has filed with the Virginia State Corporation Commission an application requesting that it be issued a certificate of public convenience and necessity which would authorize it to furnish one-way mobile radio paging service in the Cities of Roanoke and Salem, Virginia, and the County of Roanoke.

The application and other supporting data are on file with, and may be seen, at the State Corporation Commission's Document Control Center, Blanton Building, Richmond, Virginia. Information pertaining to the application of Roanoke and Botetourt Telephone Company may also be obtained by writing George E. Honts, III, Esquire, Carter, Roe, Emick & Honts, P.O. Box 158, Fincastle, Virginia 24090.

Any person, radio common carrier, or telephone company who desires to comment on the proposed service are encouraged to submit written comments to the Commission. Any person, radio

common carrier, or telephone company who objects to the issuance of the certificate authorizing the proposed service, and wishes to be heard with respect thereto, shall notify the Commission on or before October 2, 1980. Thereafter, the Commission will schedule a public hearing with respect thereto as soon as possible to hear the objections of interested parties. Written comments and objections in this proceeding shall be addressed to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23216.

ROANOKE AND BOTETOURT TELEPHONE COMPANY

(4) That the Company shall, upon receipt of this order, notify every radio common carrier and telephone company providing or authorized to provide public utility service in the proposed service area, of the Company's application for a certificate of public convenience and necessity authorizing it to provide one-way mobile radio paging service in the Cities of Roanoke and Salem, Virginia, and the County of Roanoke. Such notice shall be given by mailing forthwith a copy of the foregoing notice specified in paragraph (3) of this Order by registered mail, return receipt requested;

(5) That a copy of this order shall be served by the Company on the Mayor, Chairman of the Board of Supervisors, or like officer and on the town attorney, city attorney, commonwealth's attorney or county attorney of every town and political subdivision in which the Company proposes to operate, either (i) by delivery in person, or, (ii) by registered mail, return receipt requested to the customary

place of business or to the residence, of the person to be served;

(6) That the Company shall file with the Commission proof of compliance with ordering paragraphs (3), (4), and (5) above, on or before October 2, 1980; and

(7) That attested copies of this order shall be sent to George E. Honts, III, Esquire, Carter, Roe, Emick & Honts, P.O. Box 158, Fincastle, Virginia 24090; Roanoke and Botetourt Telephone Company, Daleville, Virginia 24083; and attested copies shall be sent to the Commission's Divisions of Communications and Accounting and Finance.

A True Copy

Teste: William F. Young

Clerk of State Corporation Commission.

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SEP 30 11 35 AM '80

IN TOUCH, Division of
RCC of Virginia, Inc.
84 West Water Street
P.O. Box 1086
Harrisonburg, Va. 22801
(703) 434-3472 or 434-3631

Wherever you are, keep *IN TOUCH*.

IN TOUCH™

PAGER SERVICE/MOBILE PHONES

September 29, 1980

Clerk
State Corporation Commission
C/O Document Control Center
P O Box 2118
Richmond, Va. 23216

Re: Application of
Roanoke & Botetourt
Telephone Co.
Case No. PUC 800017

Dear Sir:

RCC of Virginia, Inc. a radio common carrier serving the area sought to be served in the above application objects to the issuance of the requested certificate in that the same would not be in the public interest and wishes to be heard with respect thereto.

RCC of Virginia, Inc.

By: _____

DOCUMENT CONTROL CENTER

OCT 2

BEFORE THE

STATE CORPORATION COMMISSION

OF VIRGINIA

APPLICATION of ROANOKE AND BOTETOURT TELEPHONE COMPANY For A Certificate Of Public Convenience And Necessity Authorizing The Certificate Holder To Provide One-Way Mobile Radio Paging Service In The Cities Of Roanoke And Salem, Virginia, And The County Of Roanoke	)	CASE NO. PUC800017

NOTICE OF PROTEST

Pursuant to Commission Rule 5:16(a) and the Commission's Order of August 19, 1980, The Chesapeake and Potomac Telephone Company of Virginia ("C&P") files this Notice of Protest to the Application filed by Roanoke and Botetourt Telephone Company ("C&B"). In support of this Notice of Protest C&P states:

(1) C&P is a Virginia corporation with its principal place of business at 703 East Grace Street, Richmond, Virginia 23219 and furnishes telecommunications services in the Commonwealth of Virginia. The intrastate telecommunications services provided by C&P are subject to the regulatory authority of this Commission.

(2) C&P presently furnishes one-way mobile radio paging service within its certificated territory in the Cities of Roanoke and Salem, Virginia and the County of Roanoke.

(3) In its Application, R&B seeks permission to provide one-way mobile paging service in C&P's certificated territory.

(4) C&P has a vital interest in protecting the viability of its own service and in assuring that R&B's proposed service meets all the conditions established in §56-265.4:3 of the Code of Virginia.

(5) C&P requests that it be served a copy of R&B's Application and all supporting testimony and evidence.

(6) C&P requests that the Commission hold a hearing with respect to R&B's application and that it require R&B to prove that R&B's proposed service meets the requirements of §56-265.4:3.

(7) C&P requests that it be afforded the opportunity to cross-examine R&B's witnesses and otherwise fully participate in the case, such participation to include the presentation of any opposing evidence which C&P may wish to file after it has had an opportunity to review R&B's Application and supporting evidence.

Respectfully submitted,

THE CHESAPEAKE AND POTOMAC
TELEPHONE COMPANY OF VIRGINIA

By_____
Vice President

Warner F. Brundage, Jr.
Attorney for
The Chesapeake and Potomac
Telephone Company of Virginia
703 East Grace Street
Richmond, Virginia 23219

CERTIFICATE OF SERVICE

I hereby certify that I have this 2nd day of October, 1980, mailed a copy of the foregoing Notice of Protest from The Chesapeake and Potomac Telephone Company of Virginia to: George E. Honts, III, Esquire, Carter, Roe, Emick & Honts, P. O. Box 158, Fincastle, Virginia 24090, and Roanoke and Botetourt Telephone Company, Daleville, Virginia 24083.

Warner F. Brundage, Jr.

Warner F. Brundage, Jr.

DEC 1 2 43 PM '80

AT RICHMOND, DECEMBER 1, 1980

APPLICATION OF

ROANOKE AND BOTETOURT TELEPHONE COMPANY

CASE NO. PUC800017

For a Certificate of Public Convenience and Necessity Authorizing the Certificate holder to Provide One-way Mobile Radio Paging Service in the Cities of Roanoke and Salem, Virginia, and the County of Roanoke.

ON July 16, 1980, Roanoke and Botetourt Telephone Company ("Applicant" or "R&B Telephone") filed an application with the State Corporation Commission pursuant to §56-265.4:3 of the Code of Virginia requesting a Certificate of Public Convenience and Necessity for the purpose of authorizing Applicant to provide One-way Mobile Radio Paging Service in the Cities of Roanoke and Salem, Virginia and the County of Roanoke.

By order dated August 19, 1980, R&B Telephone was directed to give notice of its application to the public and other interested parties, and the Commission's Division of Communications was ordered to undertake an investigation to determine whether R&B Telephone's application, if granted, would comply with §56-265.4:3 of the Code of Virginia. Said order further directed any person, radio common carrier, or telephone company who objected to Applicant's proposed service, and who wished to be heard before the Commission with respect thereto, to notify the Commission on or before October 2, 1980.

On September 30, 1980, RCC of Virginia, Inc. ("RCC") filed a letter with the Commission objecting to R&B Telephone's application, and requesting that RCC be granted the opportunity to be heard before the Commission with respect to RCC's objection. Thereafter, on October 2, 1980, Chesapeake and Potomac Telephone Company of Virginia ("C&P") filed a Notice of Protest also objecting to R&B Telephone's application, and requesting that the Commission schedule a public hearing on said application. C&P further requested that it be afforded an opportunity to cross-examine Applicant's witnesses and present any opposing evidence which C&P may wish to file after it had an opportunity to review R&B Telephone's application and supporting evidence.

NOW, THE COMMISSION, having considered the documents filed herein, is of the opinion that it will be necessary to hold a hearing to determine whether the authority requested by R&B Telephone's application should be granted, accordingly,

IT IS ORDERED:

(1) That a public hearing on the application of Roanoke and Botetourt Telephone Company for a Certificate of Public Convenience and Necessity authorizing the proposed radio paging service be held on January 9, 1981, at 10:00 a.m., in the Commission's 13th Floor Courtroom, Jefferson Building (formerly Blanton Building), Bank and Governor Streets, Richmond, Virginia;

(2) That a Hearing Examiner shall preside over the hearing on January 9, 1981 to act on behalf of the Commission as prescribed in §12.1-31 of the Code of Virginia;

(3) That on or before December 22, 1980, R&B Telephone shall file with the Commission ten (10) copies of any additional direct testimony and exhibits of the witnesses it intends to present at the public hearing in support of its application;

(4) That on or before December 31, 1980, the Commission's Staff, and all persons who intend to participate in the hearing as a protestant, shall prefile with the Commission ten (10) copies of their proposed testimony and exhibits, and simultaneously shall cause a copy thereof to be served upon R&B Telephone Company and any protestant requesting same;

(5) That R&B Telephone Company shall forthwith upon receipt of this order cause a copy of its original application, and copies of its direct testimony and exhibits previously filed with the Commission to be served on RCC of Virginia, Inc. and Chesapeake and Potomac Telephone Company; and

(6) That attested copies hereof shall be sent to George E. Honts, III, Esquire, Carter, Roe, Emick and Honts, P.O. Box 158, Fincastle, Virginia 24090; RCC of Virginia, Inc., 84 West Water Street, P.O. Box 1086, Harrisonburg, Virginia 22801; Warner F. Brundage, Jr., Esquire, in care of C&P Telephone Company, 703 East Grace Street, Richmond, Virginia 23219; and to the Commission's Divisions of Communications and Accounting and Finance.

A True Copy

Teste: William C. Young

Clerk of State Corporation Commission.

IN RE: APPLICATION OF ROANOKE AND
BOTETOURT TELEPHONE COMPANY

CASE NO. PUC800017

PROTEST

Protestant, RCC of Virginia, Inc., is a Virginia public service corporation, with its principal office at 84 West Water Street, Harrisonburg, Virginia, and in opposition to the application of Roanoke and Botetourt Telephone Company sets forth the following:

(i) RCC of Virginia, Inc., is the holder of a Certificate of Convenience and Necessity for the operation of a radio common carrier in the Roanoke and Salem area, the area which is sought to be served by Roanoke and Botetourt Telephone Company (the Applicant). The services to be offered by Applicant would be a duplication of the services presently offered in the same area by Protestant and C & P Telephone Company.

(ii) In the year 1977, Applicant initiated the operation of a one-way paging system with its antenna situate on Tinker Mountain and shortly thereafter started soliciting customers in the Roanoke and Salem area, which was outside its certificated area. Prior to the offering of such services and prior to the installation of said paging system, E. Warren Denton, Jr., President of RCC of Virginia, Inc., called Thomas A. Gibson, the General Manager of Applicant, and advised him that he had seen in the Federal Communications Commission Public Notice the fact that Applicant was applying for a paging frequency with location of antenna on Tinker Mountain, and

further advised Mr. Gibson that under Virginia law Applicant could only serve within its certificated area. Mr. Gibson acknowledged to Mr. Denton that he was aware of the prohibition against serving outside of a certificated area and that the antenna was to be beamed to serve Applicant's certificated area.

Immediately after commencement of service by Applicant, Applicant accepted as customers persons situated in the Roanoke and Salem area contrary to law.

On April 14, 1978, Protestant filed with the State Corporation Commission of Virginia a complaint which after numerous informal conferences resulted in an informal hearing on June 12, 1978, before the full Commission and the entry of an order on June 15, 1978, prohibiting Applicant from serving outside its certificated territory. A copy of the Commission's finding, dated June 15, 1978, is attached hereto as "Protestant's Exhibit 1."

On June 23, 1978, Applicant requested permission by formal application for the providing of one-way paging service in the Roanoke and Salem area. On April 3, 1979, the State Corporation Commission denied Applicant's application for service outside its certificated area. The appeal to the Virginia Supreme Court of the action of the State Corporation Commission was dismissed by the Supreme Court of Virginia on September 14, 1979.

Section 56-265.4:3 (ii) provides that "the applicant's mobile telephone or radio paging service as licensed was designed to serve customers within the applicant's existing certificated area, but the reliable service area of applicant's system incidentally extends into a contiguous area certificated to

another telephone company;...." The evidence clearly and convincingly shows from Applicant's whole course of conduct that it was Applicant's intention from the initial installation of Applicant's one-way radio paging service to serve the populated area outside of its certificated area, and that such service outside its present certificated area is not incidental to its service within its own area, but is the primary purpose of the installation; and that such system was not designed to provide reliable service to customers within Applicant's existing certificated area.

It is not in the public interest to grant the request of Applicant as the area sought to be served can better be served by Protestant and C & P Telephone Company. Protestant, RCC of Virginia, Inc., offers a full line of radio common carrier services and is better equipped technically to supply this full line of services to the public in the area sought by Applicant.

Copies of the proposed testimony and exhibits of this Protestant are attached hereto and to be filed herewith.

(iii) Wherefore, this Protestant respectfully requests that the application of Roanoke and Botetourt Telephone Company be denied.

RCC OF VIRGINIA, INC.
By Counsel

Henry C. Clark

Henry C. Clark
CLARK, BRADSHAW, HARRISON & LAYMAN, P.C.
92 North Liberty Street
Harrisonburg, Virginia 22801
Counsel

I, Henry C. Clark, Counsel for RCC of Virginia, Inc., do hereby certify that I mailed a true copy of the foregoing Protest, testimony and exhibits to: George E. Honts, III, Esquire, Carter, Roe, Emick & Honts, P. O. Box 158, Fincastle, VA 24090; Warner F. Brundage, Jr., Esquire, C & P Telephone Company, 703 E. Grace Street, Richmond, VA 23219; and G. P. Richardson, Esquire, State Corporation Commission, Office of General Counsel, P. O. Box 1197, Richmond, VA 23209, this 30th day of December, 1980.

Henry C Clark

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BEFORE THE

JAN 9 9 50 AM '81 STATE CORPORATION COMMISSION

OF VIRGINIA

APPLICATION of ROANOKE AND BOTETOURT TELEPHONE COMPANY For A Certificate Of Public Convenience And Necessity Authorizing The Certificate Holder To Provide One-Way Mobile Radio Paging Service In The Cities Of Roanoke And Salem, Virginia, And The County Of Roanoke	)	CASE NO. PUC800017

PROTEST

Pursuant to Commission Rule 5:16(b) The Chesapeake and Potomac Telephone Company of Virginia ("C&P") files this Protest to the Application filed by Roanoke and Botetourt Telephone Company ("R&B"). In support of this Protest C&P states:

(1) C&P is a Virginia corporation with its principal place of business at 703 East Grace Street, Richmond, Virginia 23219 and furnishes telecommunications services in the Commonwealth of Virginia. The intrastate telecommunications services provided by C&P are subject to the regulatory authority of this Commission.

(2) C&P presently furnishes one-way mobile radio paging service within its certificated territory in the Cities of Roanoke and Salem, Virginia and the County of Roanoke.

(3) In its Application, R&B seeks permission to provide one-way mobile paging service in C&P's certificated territory.

(4) C&P has a vital interest in protecting the viability of its own service and in assuring that R&B's proposed service meets all the conditions established in §56-265.4:3 of the Code of Virginia.

(5) Section 56-265.4:3 provides that R&B's Application should be granted only in the event that R&B establishes the following facts:

> "(i) The applicant is duly licensed by the Federal Communications Commission to provide mobile telephone service or radio paging service in its own certificated territory; (ii) the applicant's mobile telephone or radio paging service as licensed was designed to serve customers within the applicant's existing certificated area, but the reliable service area of the applicant's system incidentally extends into a contiguous area certificated to another telephone company; (iii) the applicant's proposed service does not, by reason of harmful electrical interference or other practical reason, interfere or conflict with any like service; and (iv) it is in the public interest to grant the request."

(6) At the hearing in the referenced case C&P will offer direct evidence to establish that R&B has failed to meet its burden of showing that approval of R&B's Application is in the public interest. In addition C&P will develop through other evidence that R&B has failed to meet its burden of showing that R&B's mobile paging service was designed to serve customers within R&B's certificated area but that the reliable service area of the system "incidentally" extends into C&P's service area. R&B's failure to meet its burden of showing compliance with the provisions of Section 56-265.4:3(ii) and (iv) requires that the Commission deny R&B's Application.

WHEREFORE, C&P respectfully requests that the Application of the Roanoke and Botetourt Telephone Company be denied.

Respectfully submitted,

Warner F. Brundage, Jr.
703 East Grace Street
Richmond, Virginia 23219

Attorney for
The Chesapeake and Potomac
Telephone Company of Virginia

CERTIFICATE OF SERVICE

I hereby certify that I have this 9th day of January, 1981, hand delivered a copy of the foregoing Protest from The Chesapeake and Potomac Telephone Company of Virginia to: George E. Honts, III, Esquire, Carter, Roe, Emick & Honts, P.O. Box 158, Fincastle, Virginia 24090; and Henry C. Clark, Esquire, Clark, Bradshaw, Harrison & Layman, P.O. Box 71, 92 North Liberty Street, Harrisonburg, Virginia 22801.

Warner F. Brundage, Jr.

WILLIAM T. WILSON, an Intervenor, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Good morning. Mr. Wilson, for the record, please state your name and address.

A William T. Wilson, Covington, Virginia.

Q Do you have a statement you would like to make to the Commission?

A I do. I don't have a prepared statement but if I may just speak off the cuff, I would like to do that. Is that satisfactory?

Q Please proceed.

A Okay. If Your Honor please, I introduced the Bill which I guess gives this Commission leeway to have this hearing. That was House Bill 384. And the Roanoke-Botetourt Telephone Company came to me before the last session and explained the situation to me. I knew practically nothing about it at the time. I don't pretend to be an expert now. But what they said made sense.

application. I think that the Staff should maintain a neutral position on the application. So if it's introduced merely for the purpose that the letter is written, that's fine. But I don't think it's here to support the application one way or the other.

WITNESS WILSON: The only reason I offer it is because this was the issue before the Legislature and it was at that time the position of the Staff. Whether or not that has changed, I don't know. But it was at that time the position of the Staff.

And essentially what we were looking at was, I guess, the policy or the principle of whether or not we ought to permit a telephone company with a particular geographical franchise to do something that theretofore had not been -- at least tradition -- and that was to go outside of its certificated area in the selling of these beepers or whatever you call them. The Legislature addressed that policy, and as you can see

from the language in the Bill, the Legislature has said yes on that question.

And in essence I think the Bill says that if it is shown to the satisfaction of the Commission that it is in the public interest, subject to some other qualifications, that this permit be granted, then, the Commission shall do so. And in the case of Roanoke-Botetourt Telephone Company, while I don't know all the technical aspects of the case, it does make sense to me for that telephone company to be permitted to sell these beepers.

Right now the radio waves are going out, as I understand it, in all directions. And certainly they don't recognize any geographical boundary line. People in Botetourt County buy these beepers; I'm sure people coming from outside secure them by using Botetourt addresses and that sort of thing. So as a practical matter, I guess you get down to the question of whether or not you are going to permit people in Roanoke

County or outside the certificated area to buy these beepers, and to use the service.

I recall that in support of this proposition was Barbara Bitters, who I believe represents the Virginia Consumer Congress. We were talking about the name of that organization earlier, and I think it's the Virginia Consumer Congress. But it made sense to her. And she supported it. Ernest Jordan, who is now with the Coops, was in support of it, of the proposition. And, of course, as I've indicated earlier, subject to any changes that may have occurred in the Staff, I think Mr. Addison, I think that the Staff at the time thought that it was a sensible proposition.

And I think if we are talking about saving money, and saving costs, and convenience to customers, as opposed to fights between companies and businesses, that is what we are primarily concerned about, and I think we are, then in these inflationary times, I think the customer is entitled to have competition. We don't have enough of it. Specially where you are talking about utilities, regulated competition normally is not there very much, certainly within the certificated area.

In this situation, I see no reason why we ought not grant this permit, unless the Commission finds there is some other reason, beyond my knowledge, to deny the permit.

I notice in the information we have I think that is the trend, and of course, I am not here to go back to 1970 and explain how the RCC has got a jump. I think they probably are foresighted. They came and got

CROSS EXAMINATION

BY MR. CLARK

Q Mr. Wilson, we have met quite a few times before the Legislature.

A Yes.

Q When the legislation was finally adopted, it was considerably different from that which you first offered, wasn't it?

A That is true. We thought at first --

Q Let me ask the questions, and then you can explain afterwards, if you don't mind, sir.

A All right, sir.

Q You admit that you are not, say, conversant with radio waves and technologies, is that correct?

A I have some small amount of common sense that I apply to the subject, but I am not a technician. I think you understand that.

Q And your statement that this particular area, radio waves go in all directions already is not because you are unaware that radio waves can be directed and confined to areas. Aren't you aware of that?

A Well, I have to say again, I am not

Q Would you agree that the legislation was not intended to cover an area where the telehone company designed its system to serve outside its area?

A I think that was the spirit of the legislation.

Q That it shouldn't be allowed in that case?

A That is correct.

MR. CLARK: Thank you, sir.

MR. BRUNDAGE: No questions.

HEARING EXAMINER: Thank you, Mr. Wilson.

MR. WILSON: Thank you all for letting me get on and off.

WITNESS STANDS ASIDE
****

THOMAS A. GIBSON, a witness called by and on behalf of the Applicant, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HONTS:

Q State your name and address.

A My name is Thomas A. Gibson. I live at Daleville, Virginia.

Q All right, sir. And your occupation?

A I am General Manager of Roanoke and Botetourt Telephone Company.

Q And how long have you been associated with the Company and in what capacity?

A Well, I have been associated with the Company since 1972 and at that time I was inside Plant Manager. And subsequently changed to Operations Manager, and I believe in mid-1970s made General Manager.

Q All right. Is it correct that the Roanoke and Botetourt Telephone Company presently provides land line telephone service in Botetourt County and operates four exchanges which are designated as situated at Troutville, Fincastle,

Eagle Rock and Oriskany?

A That is correct.

Q All right. I ask you, then, Mr. Gibson, as to whether or not you have filed testimony in this hearing, prefiled testimony?

A Yes, I have.

Q All right. Will you please give us a summary of that testimony?

A My name is Thomas A. Gibson. I am General Manager --

Q Just skip the first paragraph and go onto the second one.

A All right. The Company was licensed by the Federal Communications Commission to operate one-way paging service on September the 29th, 1979 from an antenna control at the Troutville, Virginia exchange and located on Tinker Mountain south of Botetourt County.

The current license expires on July the 1st, 1983.

The Company has provided one-way tone and voice paging service since December of 1977, and presently serves one hundred thirty-nine customers, some of whom work in the area.

The area we propose to serve is commonly referred to as the Roanoke Valley and includes the Cities of Roanoke, Salem and the Town of Vinton and the greater part of Roanoke County.

Our Exhibit B filed with the testimony is the dBu contour map, dated August the 12th, 1977, and filed with the FCC and shows a predicted area of ninety percent reliability of the one hundred fifty megahertz tone and the voice paging coverage. That map shows coverage for the area we seek, is within the ninety percent reliability range.

Prior to the issuance of the FCC license, the FCC did, as it does in similar cases, detailed studies for electrical interference and interference from harmonic signals from a similar and dissimilar services for the radius of at least twenty miles. No license is granted by the FCC if such interference exists.

Our license was granted and we have received no subsequent notice or complaints of interference from our service.

The southern end of the Botetourt County is a bedroom for the Roanoke Valley and the

northern portion of the County is essentially rural. The demand for our service is in the southern end of the County where the numerous professional people and skilled workers reside, but work in the Roanoke Valley. This is particularly true of the people who tend to be on-call who desire to have the service we offer, both at the residence and the business locations.

We have filed with our additional testimony, petitions circulated at some places of business in the Roanoke Valley showing the present demand for our service. Additionally, copies of the letter which were sent to the Corporation Commission when we were ordered to cease an offering of our service in Roanoke Valley are filed.

The governing bodies of Vinton, Salem, Roanoke County, while not endorsing our Company or its service, have gone on record favoring the competition in the paging service business within our jurisdiction. The City of Roanoke took no position on one way or another on the matter.

In 1977 when the Company first started offering the service under the territorial map approved by the State Corporation Commission, more than fifty percent of our customers were from

the Roanoke Valley. We feel that all of the foregoing matters indicated a real public interest in a demand for our service in the Roanoke Valley.

Presently C&P Telephone Company offers a tone only service in the Roanoke Valley. RCC of Virginia offers a similar service to our service we propose to offer. We feel there is sufficient interest and demand to support our entry into the Roanoke Valley market at rates which are competitive with RCC's. C&P does not offer a voice paging service in direct competition with our proposed service.

Q Mr. Gibson, let me stop you there.

MR. HONTS: Mr. Hearing Examiner, there is an error in our testimony at this point that I would like to clear up before he proceeds. It's in the additional testimony at the top of Page 3 where there is a statement that C&P's quantity of servicing was only one percent of the number of pagers we have out in Botetourt County. That should be amended to read eleven percent.

HEARING EXAMINER: You are changing it from one percent to eleven percent?

MR. HONTS: To eleven percent. Yes, sir.

HEARING EXAMINER: Thank you.

BY MR. HONTS: (Continuing)

Q All right, Mr. Gibson. Go ahead.

A If I can remember exactly where we were. From information available to me, it appears that C&P's sales of tone only voice in the Roanoke Valley equals only eleven percent of our sales of voice paging in our present certificated area, which has much smaller population than Roanoke Valley.

Virginia law was amended July the 1st, 1980 and provided the criteria we meet must -- providing the criteria we meet -- providing the criteria we must meet to enter the Roanoke Valley market. It is that we must be licensed by the FCC, which we are; that we must demonstrate a capability to provide reliable service, which we have done based on the experience and the dBu map; that no harmful interference, electrical or otherwise,

exists, which we have shown; and, lastly, it is in the public interest that we be allowed to serve the area, and that is shown by the competitive effort effect of allowing us into the market, by the letters and petitions filed with our testimony, by the past demonstration of demand for our service, and the demonstration of the existing demand for our service, and the capabilities and experience we have built up over the past four years.

Q Mr. Gibson, at the time you prefiled your testimony, we did not have a response from the City of Roanoke, counsel from Roanoke County, regarding their position on the question of competition in the paging field in that particular area, is that correct?

A Yes, sir, that is correct.

Q And subsequent to that time, letters were received from them?

A Yes, they were.

MR. HONTS: Your Honor, I have copies of those letters that I would like to offer as additional exhibits on behalf of the Applicant. Further, these letters have been furnished to counsel here at the table earlier this morning.

HEARING EXAMINER: You are proposing to introduce this as an exhibit, as an additional attachment?

MR. HONTS: Yes, Your Honor. These are letters from the City of Roanoke over the signature of the Clerk, dated December 18, 1980. One from Roanoke County, over the signature of the Chairman of the

Board of Supervisors, dated December 29, 1980.

MR. RICHARDSON: Are those letters in support of Roanoke-Botetourt's Application?

MR. HONTS: Yes, sir.

MR. RICHARDSON: They are in support?

MR. HONTS: Well --

MR. BRUNDAGE: I think the letters probably speak for themselves.

MR. HONTS: Yes, they do. The Roanoke County letter, Regional Department, supports Roanoke-Botetourt's application for granting of the certificate. The Roanoke City letter indicates what he has testified to previously, that is that it wishes to remain neutral. But it is a written response.

BAILIFF: Pass them to the file?

HEARING EXAMINER: Mark the entire package Applicant's Exhibit TAG-1, and all of the attachments and petitions and the letters -- I think we will leave them as attachments to the exhibit, but I think everyone understands that since the author of those letters cannot be present to be

cross examined, they can be attached as part of the exhibit only to show that they are in support of his general opinion, to which he has testified to and to which he can now be subjected to cross examination. Is there any comment or discussion the attorneys would like to offer on that?

That will be TAG-1, Mr. Bailiff.

BAILIFF: His testimony?

MR. HONTS: For the record, Your Honor, we also ask that the FCC license, the contour map, the tariffs, and the other exhibit -- the fourth exhibit with our initial testimony -- also be marked as exhibits.

BAILIFF: That is included in the package, is that right, sir?

HEARING EXAMINER: I believe it is.

BAILIFF: I have all of them together.

MR. HONTS: If you want to put them all together, that is fine with me.

practicable.

Q As soon as it is granted?

A As soon as practicable.

Q Will expansion of your service require any additional equipment or personnel to serve this area?

A The only additional equipment to be required would be the pager units themselves.

Q Just the pager units?

A Yes, sir.

Q Okay. Now, I believe you stated in your prefiled testimony that R&B telephone can provide paging service to the entire county of Roanoke with ninety percent reliability, is that correct?

A I assume so.

Q That is what your dBu contour map indicates.

A Yes, sir.

Q When was the Tinker Mountain base station constructed? Who constructed the station?

A I will estimate somewhere in 1974 or '75. Motorola, Incorporated established a land site and had power and telephone lines connected to it,

in 1975 or '76, some time when we first constructed the maintenance radio system on that location.

Q Okay. I believe you indicated in your testimony that the Company's investment in this facility initially was twenty-six thousand dollars. Do you have any idea what the present investment is?

A Somewhere in the neighborhood of sixty thousand.

Q And how many subscribers do you have in Botetourt County?

A I believe this week there is a hundred and sixty-nine.

Q So there has been approximately an additional thirty subscribers since you filed your application?

A Yes, sir.

Q Have you had any customer complaints in Botetourt County since you began providing this paging service?

A We had only one, which was not a customer. He was a subscriber -- an inquiry more or less, that stated that he wanted to be over in the

Eagle Rock area. And we instructed him that if you were in the Town of Eagle Rock, that it would not be reliable service, as well as any other type radio service within any other area, it could not be provided economically.

Q I think I recall in your dBu contour map that the area of ninety percent reliability did not extend to Eagle Rock. Do you have any idea of the percentage reliability out that far?

A Well, excluding the town areas around -- including the town area around Eagle Rock itself, which is in a deep, mountainous hole along the James River, there is at least fifty percent to seventy percent reliability.

Q Would it be practical for someone to have a paging unit in that area?

A Yes, it would.

Q Do you have any subscribers in that area or anything?

A Not to my knowledge.

Q Were you involved in the initial planning of the Tinker Mountain base station?

A No, I don't believe I was.

Q Okay. Who was primarily responsible for the planning of this station?

A Motorola, Incorporated. Motorola, Incorporated first presented a proposal to Roanoke-Botetourt prior to 1972.

Q Who represented Roanoke-Botetourt as far as your dealings with Motorola, Incorporated?

A That would have been the previous manager. I am not aware of his name at this time.

Q All right. Is there anyone who is currently employed by Roanoke-Botetourt that dealt with Motorola, Inc., during its planning stage?

A To my knowledge, no.

Q Could you tell me what service area your Company intended to serve at this base station?

A We intended to serve the customers in the most populous area, which is about eighty-five percent of the population in the area, through their housing and place of business in the Roanoke Valley. Namely, if they had a house or business in our territory, we could serve them no matter whether they were in Botetourt County, Roanoke County, or Salem or otherwise; since they are bedroom, we felt that was

the desirable place.

Q So what you are telling me is your Company intended to serve these people in Roanoke County Valley?

A We intended on serving the customers within our territory, even though they may be traveling within their place of business or work, because we are a bedroom in Roanoke, and the majority of the people in the County do live in Roanoke and they do travel that area. They certainly do not wish to be paged while they are home, because they have the telephone. That is not what a pager is designed for. It is designed to get you when you are not near a telephone, and they don't know where you are. And since the majority of the business is in Roanoke and not in Botetourt, they would desire to have that type of facility outside of our territory, even though they were a subscriber of ours.

Q Okay. What I am really trying to ask you is was it Roanoke-Botetourt's primary aim to design a system to serve customers in its existing certificated area?

A Yes, it was.

Q In light of that fact, can you explain why the base station is located on the southern boundary of your certificated area?

A Yes, sir. As I stated previously, the site was generally picked by Motorola, Inc., because they had the power and lines available, and we looked at other sites which would cover more territory, but we found that there was no physical access to these sites, no electrical power, no telephone facilities, and the construction costs involved would have been substantial.

In addition to that, the other sites that surround our area, other than one, which is not in our territory, is in the Federal Communication Quiet Zone.

Q Okay. Can you enlighten me just briefly what a 'quiet zone' is?

A A quiet zone is an area set out by the Federal Communications Commission to reduce the amount of radio signals being transmitted into this area so that it can use the Green Bank, West Virginia listening area. And it listens to radio frequencies and monitors not only the satellite area, radio waves coming out of the sky -- but the existing radio transmits -- transmitters operating to see that they are operating within the limits of the law.

Q Does your Company provide any type of service in this quiet area?

A We provide telephone service, yes.

Q Telephone service, but not paging service.

A I think if the radio wave will go into that area,yes, we will provide it.

Q Can you briefly describe to me the area within your certificated area that your base station does not serve with ninety percent reliability?

A Well, the majority of it -- I can't say the majority -- but a good number, a good portion of the square miles in that area are national forests.

They are very mountainous and very non-populated.

Q Okay. But the paging service also doesn't serve two of your exchanges, does it not?

A It will serve the exchange. Well, in Eagle Rock it will serve the outside boundaries but will not serve the Town limits as such, which is a half mile. In Oriskany it may or may not serve part but would serve the majority of this area, but not in the ninety percent reliability, no.

Q Could the base station at Tinker Mountain be fitted with an antenna or any other type of equipment to serve your entire service area?

A Well, our investigation in this area has determined that we are operating at our maximum allowable power, which is a little under a hundred watts. The antenna has a directional lead on it now which blocks out the northwest portion of it. And, because of that height, without going into the extra cost of lighting or anything else, we felt that it would serve the needs of the majority of our customers.

Q Okay. Mr. Gibson, have you had occasion to review the testimony of Mr. Warren Denton and the testimony of Mr. Jan Jubon?

A Yes, I have.

Q Okay. In their prefiled material, they indicate alternate locations which could have been utilized by your Company in order to provide paging service to all of the customers in your service area, and specifically they cite Switzer Mountain, Crawford Mountain and Mays Mountain as better locations.

Now, did your Company examine these possible locations for a base station?

A Not specifically. We didn't go say: Can we put it on this mountain.

We asked questions: Where is there first access physically to the location. Secondly, we said: Where is there telephone facilities and power facilities.

Q And, to your knowledge, these three mountains do not have any access roads or any electric power or telephone facilities?

A No, sir, they do not. Not to my knowledge.

Q Does your Company currently

transmit one-way signal in the proposed service area?

A Yes, we are.

Q Will your Company increase the power output of its signals in this area if the application is granted?

A No, it will not.

Q Now, are you aware of any complaints made by C&P or RCC that the transmissions to date interfer with their paging service?

A No, I am not.

Q Okay. Now, what leads you to believe that the granting of this application is in the public interest?

A By the demands from the customers and --

Q Could you give me an approximate number of demands you have received?

A We received -- well, three petitions, I think they only estimate because I did not count, but they estimate somewhere in the neighborhood of seventy-five customers on those specific locations.

In addition to that, we received estimated one to two calls per month from customers

requesting our service. And their answer is quite astonishing. We say we can't provide it.

Q Now, do you believe that C&P and RCC can handle this added demand on their service with their existing facilities?

A I think that RCC could handle it, yes.

Q But not C&P?

A No, sir.

Q Why is that?

A Because they only offer the tone only paging. And, since that is the least of our demand -- less than three percent of our total customers -- we feel that C&P can't fulfill this, or does not fulfill the service at this time.

Q Now, if I want to subscribe to your paging service, would I be forced to rent paging equipment from your Company, or would I have the option of buying this equipment?

A You would have the option of either leasing or buying.

Q Is there a minimum subscription period?

A Yes, sir, one month.

Q One month?

A Yes, sir.

Q Could you give me the average cost of purchasing this equipment for both the tone only and also the tone and voice units?

A The tone only pagers run about three hundred and forty-five dollars. Excuse me, the tone and voice.

I'm really not too sure about the tone only. It would be something under that.

Q Now, I noticed that with your prefiled testimony you filed a General Services tariff. Is this tariff still in full force and effect?

A Yes, it is.

Q If your application were granted, would the same charges be charged against the customers in the Roanoke area?

A Yes, they will.

Q And if your application is granted, will your Company comply with all the applicable rules and regulations of the Commission?

A Yes, they will.

MR. RICHARDSON: I have nothing

CROSS EXAMINATION

BY MR. CLARK:

Q Mr. Gibson, did you participate in the preparation of the material which was handed me this morning pursuant to our subpoenae?

A Yes, I did.

Q You are familiar with the contents?

A Generally speaking, yes.

Q And is this all correspondence, documents that you have relative to the initial design, construction and installation of your paging service?

A Yes, sir, it is.

Q When did you personally first become involved in any aspect of the paging service offered by Roanoke-Botetourt?

A I would estimate somewhere between 1973 and 1974.

Q Who prepared the initial FCC application?

A Motorola.

Q Did you discuss it with them prior to its preparation?

A I cannot remember a specific discussion, but I'm sure we did.

Q You filed a copy of that application with your exhibits, did you not?

A Yes, we did.

Q And did you ever meet or talk to the man who prepared it, prepared that FCC application?

A I talked with, I did not meet.

Q Didn't you have any written communication with him?

A I do not recall.

Q Well, the man who prepared it was a fellow named John Gaiser, is that correct?

A Sounds adequate. I really don't really remember.

Q Well, to refresh your recollection, I hand you a copy of your application. And it shows it is prepared by John Gaiser . And where was he?

A I believe he was in Chicago.

Q Would you look at the application? I believe it gives his name there.

A I believe he is located in

Chicago, Illinois. (Witness looking at paper writing) I see that the word is -- whether I can pronounce it correctly -- Schaumburg, Illinois.

Q All right, sir. And, the application, was it dated 1974 but was not filed until 1977; is that correct?

A I assume so. I don't really recall. I'm sure it was filed before '77, as when it was dated I couldn't tell you.

Q When this application was sent to you for signature or for review, was there any correspondence saying: I'm enclosing this?

A I believe the application was hand-carried by a salesman.

Q A salesman?

A Yes, sir.

Q Who was the salesman?

A Tom Switzgood (phonetic).

Q From where?

A Motorola.

Q From where?

A Richmond, Virginia.

Q Now, did you first make contact with Motorola regarding a paging service or did a representative of Motorola contact you regarding

paging service?

A Prior to my arrival at the Roanoke and Botetourt Telephone Company, Motorola had made proposals of mobile radio, paging and maintenance radio system to the Corporation.

Subsequent -- at a subsequent time it was brought back into view by the salesman. Do you remember our application or our quote.

Q And they designed the system, Motorola; is that correct?

A Yes, sir.

Q In the documents that you brought along as a part of your file, there is a document entitled "Roanoke and Botetourt Telephone Company Metro-Paging".

Do you recognize that document?

A Yes, I do.

Q And who prepared that document?

A Motorola Communications.

Q When was that prepared?

A I don't know exactly. I would probably say '74, '75.

Q It was prepared prior to the preparation of the application, wasn't it?

A Yes, sir.

Q Well, your application was prepared in 1974; isn't that correct?

A As I said previously, I don't recall exactly.

Q Don't you have a copy of this application in your file?

A I'm sure I do.

Q Would you refer to it and see when it was prepared?

A Mine does not have a date on it.

Q The one that is filed with Protestant's protest, designated as Exhibit 3, with Protestant's protest, I would like for you to examine that and see if that is a correct copy of the document.

A To my best knowledge.

Q So this presentation of Motorola that was in your file, and which you produced, could not have been prepared in 1975.

A Well, I don't believe I said specifically 1975. I believe I said it was somewhere between '74, '75, which was an updated original application made prior to '72.

Q Where is a copy of that?

A I have no record of it.

Q I would like to introduce as an exhibit Protestant's -- or with their testimony -- this copy of the Roanoke-Botetourt Telephone Company metro paging as an exhibit.

BAILIFF: Protestant's No. 2, sir?

HEARING EXAMINER: TAG-2. Mark it Protestant's Exhibit TAG-2.

MR. CLARK: That is the only copy we have. I assume it will be available.

HEARING EXAMINER: This is the same document that you gave to him?

MR. CLARK: He gave to me this morning, pursuant to the subpoena.

HEARING EXAMINER: The one he gave to you this morning did not have a date on it?

MR. CLARK: It did not have a date on it.

HEARING EXAMINER: And the document you are now offering as an exhibit --

MR. CLARK: Does not have a date on it. It is the document which he produced under the subpoena.

BY MR. CLARK (Continuing)

Q I need to examine him on that while he is looking at the document. Will you read the basic system design into the record, please?

A This says the system has been designed to provide good reliable subscriber paging service for the Roanoke Valley area.

Q When did you first start offering

paging services for customers located outside of your certificated area?

A Somewhere between December and January -- December '77 and January '78.

Q Did you obtain any customers outside of your certificated area?

A Yes, we did.

Q How many customers did you obtain? What was the largest number of customers outside of your certificated area that you had at any time?

A Approximately fifty.

Q And when was that?

A Somewhere around April of 1978.

Q And when was the last customer service discontinued to a customer outside of your certificated area?

A I really don't know. We did a search of records some months back, and found no customers in there.

Q No customers in that area?

A No customers.

Q Did you notify them that service was being terminated due to an Order of the State Corporation Commission?

A We notified them that the State Corporation Commission had requested that we no longer continue to offer service to them.

Q And when was that done?

A I can't tell you.

Q Was that by written communication?

A Yes, it was.

Q Will you produce a copy of that?

A I do not have a copy of it.

Q I would like to request a copy of that communication to customers terminating service be filed with the -- in this proceeding.

MR. HONTS: I have no objection to doing so, Your Honor; if Mr. Gibson doesn't have it in his file, we don't have it here. It can be produced back in the office. It was not a matter, as I understood, to be covered by the subpoena of documents.

MR. CLARK: It wasn't. I didn't say that it was, but I am asking for it now. As it turns out, that such a letter was prepared, I would like to have it in the file particularly as it relates to the date that they were notified.

HEARING EXAMINER: Do you have a copy of that correspondence?

WITNESS GIBSON: I am sure we do, yes.

HEARING EXAMINER: Will you see, Mr. Honts, that he files that with the Documents Control Center within --

MR. HONTS: As soon as we can get back and find it, yes, sir.

BAILIFF: Is that to be an exhibit, or part --

HEARING EXAMINER: No, it will just b e filed subsequent to the case, and filed in the case jacket.

BY MR. CLARK (Continuing)

Q And immediately after you went into operation, you started soliciting customers outside of your certificated area, is that correct?

A No, sir.

Q When did you go into operation?

A On December 1, 1977.

Q When did you start soliciting customers? In the Roanoke - Salem area?

A My best estimate about February or March.

Q Within a couple of months after you went into operation you started soliciting?

A Within a couple of months.

Q All right. And prior to your going on the air, do you recall a conversation with Mr. Denton regarding service outside of the certificated area?

A No, sir.

Q Did you check with anyone to see if you were authorized to provide service outside of your certificated area?

A No, sir. We had a stamped copy of the territorial map, provided by the State Corporation Commission, that said our tariffs were approved.

Q Your tariffs were approved?

A Yes.

Q You had no grant of any certificated territory by the State Corporation Commission, did you?

A No, sir.

Q And did you make any commitment to anybody prior to the time that you went on the air

that you would not provide service outside of your certificated area?

A We made two commitments -- excuse me. We made one commitment. We were committed to the Rural Electrification Association, which is a Federal lender of our Company, whereby we said that we were going to provide radio paging service to our customers. We assured them by using the Federal funds, which is a requirement, that we were going to serve the customers within our territory. We provided detail studies of the customers we had pre-signed to provide the service, and that we had all intentions of using REA funds.

However, due to the red tape involved, and the fact that we had expended our funds some three to four months earlier, that the red tape involved through REA, and the request from the customers, we decided to abandon the REA concept and not sell within our territory strictly.

Q You did commit to them that you wouldn't serve outside of your territory?

A Yes, I did. We committed to them that we would not use the funds of REA to serve any customers outside of our territory.

Q During the time that you were providing paging services in the City of Roanoke, did you have any complaints on the quality of your service?

A Not to my recollection.

Q Do you recall United Virginia Bank there terminating their service with you and going to RCC because they said they wern't getting the coverage they used to get from the Mill Mountain?

A I vaguely remember a customer. I don't know whether it was that bank or not, yes.

Q All right.

A I believe it was from the back part of the Salem area.

Q Now, in your testimony, your prefiled testimony, you have stated that you get about five calls a week for service, is that correct?

A I was under the impression it was five a month.

Q Five a month was it?

A At one time it used to be five a week. I think in recent times it has slacked off considerably.

Q And you say you -- this says, yes, we have application of five a week for the proposed

service area. Is that correct.

A I think the word should be, 'month.'

Q A month. In another place, you say we get several calls each month, even though we did not advertise the service through the Roanoke media for about three years.

That would probably be the more correct statement, isn't that right?

A Yes, sir.

Q Where do those calls originate?

A I am not sure I understand the question.

Q Well, when people call, do they tell you how they happen to call you?

A Not all the time, sir. I guess I will answer the question -- I think the one you want to get to -- there are times where they find that we do have -- they do see an advertisement in the C&P yellow page directory.

Q You have been carrying an advertisement in the Roanoke Telephone pages for pager service.

A That is correct, sir.

Q Even since you were ordered not to provide service in the Roanoke area.

A All of the Roanoke-Botetourt Telephone Company business customers do receive, without charge, from Roanoke-Botetourt Telephone Company, a C&P of the Roanoke area telephone directory. We provide this, as I said, without charge.

We feel that since we have business customers who live in our territory -- pardon me -- or who work in our territory, and do go vice versa, that they are going to have the opportunity to see that we have paging service that we can offer to them.

Q Now, Mr. Gibson, you wanted to create the impression in your testimony that these people were just coming along, even without having any type of advertising, and soliciting your service. When, in fact, the yellow pages of the Roanoke City directory for 1981 carry your advertisement for paging services, don't they?

A What is your question?

Q I said: Don't you advertise in the Roanoke yellow pages?

A Yes, we do.

Q Do --

A However, the majority of our calls do not come from that; they come from word of mouth.

Q But, as you say, not five a week?

A I have no estimation.

Q Do you maintain any records of calls you receive as to who and addresses?

A Not anymore, no.

Q Have you ever?

A We did at one time. Yes, sir.

Q When was that?

A Some two and a half, three years ago.

Q That's when you were advertising in the newspapers and so forth, wasn't it?

A Well, I don't recollect newspapers, but radio stations.

Q Have you investigated the possibility of providing service for the northern

part of your County?

A Not in detail.

Q You have never requested any engineering studies be done on it?

A Not in detail. We've had no requests from the customers in that area, so we have not done any detailed engineering; however, should we get requests in that area and a number that will substantiate such an investment, then, we will provide an additional repeater station or transmitter, whichever will be required.

Q Now, you say included with your testimony as Exhibit B is a copy of the dBu contour map filed with the Federal Communications Commission, dated August 12, 1977, showing the predicted area of ninety percent reliability.

That is not really a dBu contour map, is it?

A To my knowledge, it is.

Q Well, isn't it really a reliability of service map?

A I don't know that I know the difference.

MR. CLARK: Thank you. I have

no other questions.

HEARING EXAMINER: Mr. Brundage.

MR. BRUNDAGE: Thank you, Your Honor.

CROSS EXAMINATION

BY MR. BRUNDAGE:

Q Mr. Gibson, first, a couple of questions of clarification to some of your earlier answers.

I believe earlier, in response to a question from Commission's counsel, you stated that at the time Roanoke and Botetourt commenced its paging service it was their intent to serve customers only in their territory. Isn't that your testimony?

A Yes, sir.

Q But didn't you also say you were not involved in the planning and designing of that system?

A Yes, sir.

Q So you really cannot testify, of your own knowledge, as to what the intent of the Company was.

A We finalized the decision during that '77 year.

Q Does that mean you were involved in the -- in determining what the Company's intent was with respect to providing this service?

A I would say the Company's intent, yes.

Q Okay. Now, Mr. Clark has provided us some very interesting documentation providing evidence of the Company's intent. Let me ask: Once the Roanoke and Botetourt put in the system, did it commence advertising in the Roanoke area?

A Yes, it did. Botetourt has no radio stations in its area or magazines, so we therefore used the ones in the Roanoke area, since they do go into our area.

Q I would like to show you a letter and ask you to take a look at it and read it, please.

A Top to bottom?

Q You can just read it to yourself first, if you like.

A (Witness looking at paper writing)

HEARING EXAMINER: I wonder if you could pass one up here?

MR. BRUNDAGE: I'm sorry. I would be happy to do so. Sorry.

BY MR. BRUNDAGE: (Continuing)

Q Would you identify the date of that letter?

A September the 26th,1977.

Q And when did the Roanoke and Botetourt Telephone Company actually commence providing paging service in the Roanoke area?

A December the 1st, 1977.

Q Now, could you address or identify the person who signed that letter?

A It is stated here, it is Mr. Allen Layman, Commercial Representative.

Q He is Commercial Representative for the Roanoke and Botetourt Telephone Company?

A Yes, he is.

Q What is his position in the Company, his functions?

A I would say he is in the area of selling the services offered by Roanoke and Botetourt Telephone Company.

Q And this letter is on the stationery of Roanoke and Botetourt Telephone Company?

A Yes, it is.

Q I would like to focus, if I might, your attention on the second paragraph of that letter. Doesn't Mr. Layman, in that second paragraph, on September 26th, 1977, report that the Roanoke and Botetourt plans on advertising its service in the Roanoke's yellow pages?

A Yes.

Q And doesn't he also solicit C&P's assistance in referring C&P's customers to Roanoke and Botetourt?

A It appears so.

MR. BRUNDAGE: Your Honor, at this point, I would like to offer this letter into evidence.

HEARING EXAMINER: That will

be TAG-3.

THE BAILIFF: Beg your pardon?

HEARING EXAMINER: The letter.

THE BAILIFF: Protestant's 3.

HEARING EXAMINER: Yes. TAG-3.

MR. HONTS: Your Honor, do you have the original of the letter? Is that what you are offering?

MR. BRUNDAGE: I do not have the original of the letter. I have the original of the letter back at the office. I could produce the original if there is any question that this is a true and correct copy of the letter.

HEARING EXAMINER: If the issue you are raising is whether or not we should accept this as a photo of the original, I have no problem with this Xerox copy.

MR. HONTS: Very well.

BY MR. BRUNDAGE: (Continuing)

Q Mr. Gibson, I would like to show you another document, if I might, and this is a page from a magazine identified as Telephone Engineering and Management, April 1, 1980, and ask you to take a

look at that. I will focus your attention, if I might, particularly to a letter that appears on that page from one Allen Layman.

Have you had an opportunity to review that?

A Yes, I have.

Q Let me ask you. Is Allen Layman identified in this document the same Allen Layman that wrote the September 26, 1977 letter?

A Yes, he is.

Q Focusing your attention again on the second paragraph of this particular letter, I wonder if you might read the second sentence of that paragraph. If you would read it into the record, please?

A Well --

Q Would you read it aloud into the record, please?

A We began offering radio paging service in November of 1977.

Q And then the following sentence also, please.

A Radio paging seemed like an ideal revenue-stimulator for us, since our franchised territory is adjacent to the City of Roanoke, Virginia.

Q With approximately a hundred and fifty thousand people.

A With approximately a hundred and fifty thousand people.

Q Doesn't this letter evidence an intent on the part of Roanoke-Botetourt Telephone Company, as of November 1977, to provide its service to the City of Roanoke, Virginia; in the City of Roanoke, Virginia.

A Not as far as myself, General Manager of the Company, is concerned. No.

Q What is Mr. Allen Layman's relationship to other officers?

A He is the uncle of the Board Member, the son of the President and Chairman of the Board.

Q Thank you. Your Honor, I offer this letter into evidence.

HEARING EXAMINER: Mr. Honts?

MR. HONTS: Judge, I am going to have to object to this, I think, on the basis this is a copy of a page out of a magazine which purports to be a letter. It bears no signature or anything else. I wonder about the relevancy of the material to begin with. And secondly, the fact -- you know, this carries no signature or anything other than the typing of the

state that Allen Layman did send this letter to the magazine, or that Allen Layman is the same Allen Layman who is affiliated with your Company, wrote this letter to the magazine?

WITNESS GIBSON: I have had conversations concerning this was in that regard, yes.

HEARING EXAMINER: I think based on the witness' testimony, he has verified it, and it will be so marked TAG-4, is that correct, Mr. Bailiff? TAG-4 will be received into evidence.

BY MR. BRUNDAGE (Continuing)

Q If I could get now some further clarification of some earlier testimony. I believe earlier you stated that your present investment in your paging service was approximately sixty thousand dollars.

A Yes, sir.

Q Now, do you recall reviewing the Company's application in this case?

A I --

Q Have you reviewed the Company's application in this case?

A I would have to say yes.

Q Do you have a copy? Do you have a copy there? Let me hand it to you and see if we can move this along a little bit. I hand you a copy of the Company's application filed in this matter, and I ask you to look at page 2 of that application. Isn't it stated thereon that as of January 1, 1980, aren't the investments in this paging system seventy-six thousand, two hundred and twenty-one dollars and seventy-two cents?

A That is right.

Q Are you now changing your testimony to say your investment is approximately seventy-six thousand dollars, or are you saying that since January 1, 1980, your investment has decreased?

A No, sir. It is seventy-six thousand dollars, approximately.

Q Let me ask you another clarification question in respect to something that appears in the Company's application. Turn to page 1, at the bottom of that Application. It is stated that the Company's base station is currently providing service to

a hundred and forty mobile paging units, approximately twenty of which have been purchased by customers. Do you see that?

A Yes, sir.

Q Going on to the next page, in the immediately succeeding sentence, it says in approximately twelve months, over sixty-five customers in the Roanoke - Salem area have been attracted to R&B's paging service offering. Telco paging service offering. My first question is, the sentence that says over sixty-five customers in the Roanoke - Salem area have been attracted.

Is this an indication that you are still presently providing service to customers in the Roanoke - Salem area?

A No, it isn't.

Q Can you clarify that statement for me?

A The customer area -- the area defined here would have to be customers who travel within the Roanoke - Salem area.

Q But they are customers who live or have businesses in your service area, is that the testimony?

A That is correct, sir.

Q All right. You are not presently offering service to customers in the Roanoke - Salem area?

A No, sir.

Q You -- who have their place of business or live in the Roanoke or Salem area?

A No. What I said was they have a place of business or residence in Botetourt, within our franchised territory.

Q Earlier, I believe, you stated what your investment was in the paging receiver. I believe you cited a figure of three hundred and forty-five dollars. I just wanted to verify that number. Is that correct?

A No, that is not what I said. I said the original investment in the paging system was about twenty-six thousand dollars.

Q What is your average investment in the pager, the receiver itself?

A About three hundred and thirty dollars.

Q Three hundred and thirty?

A That is approximately right. Again,

that is my recent estimate.

Q There has been some discussion here about how many calls Roanoke-Botetourt is now getting every month from customers soliciting paging service from Roanoke-Botetourt. Again, I just want to make sure I understand what the correct number is? I believe in a response to the Commission's counsel, you said that you get approximately one to two calls per month. Is that correct?

A I think it is four to five calls per month.

Q Do you have actually any knowledge of your own how many calls you do or do not receive?

A That information is passed to me by my people.

Q Have you kept any records?

A No records, no.

Q I think also earlier you stated that you had no doubt that the RCC of Virginia could handle this demand that you are receiving, calls that you are receiving, isn't that true?

A I did state that, yes.

Q In your testimony at Page 3, you state that Roanoke and Botetourt, following the Commission's rejection of your original attempts to provide service in C&P's territory, sought legislative assistance.

Now, isn't it true that the legislative assistance you sought was a law permitting open competition in the provision of mobile radio paging services?

A It is true we sought legislative assistance because the interpretation of the law as interpreted by our lawyers in Washington and Virginia determined that radio waves were not included in this area; however, the Staff of the SCC did determine it was in that area so, therefore, we then took the position that if that was the case, then, we would go to the legislative area and see if they are desirous to have this available.

Q Again, my question to you is: What was the law you sought? Isn't it true you sought a law that would permit open competition in the provision of mobile radio paging services?

A For our territory.

Q It's not for --

A For our proposed territory. Pardon me.

Q The original law Bill that you supported was not the Bill passed; isn't that true?

A Not verbatim, no.

MR. BRUNDAGE: That's all the questions I have, Your Honor.

MR. CLARK: Your Honor, I have realized that -- I said I had no more questions, but I -- in going through these, I find there is one area that I do need to cross-examine him on, and I would ask permission to ask some further questions on an area that has not been discussed to this point.

HEARING EXAMINER: How much time do you think you need?

MR. CLARK: It shouldn't take more than five minutes, five to ten minutes at the most to cover this one area.

HEARING EXAMINER: Why don't we do that and, then, we will break for lunch.

MR. CLARK: All right.

CROSS EXAMINATION

BY MR. CLARK:

Q Mr. Gibson, you are aware that in the latter part of 1977, January of 1978, that RCC of Virginia at that time had its sole antenna site on Mill Mountain, which is somewhat east of Roanoke; isn't that correct?

A To the best of my knowledge, yes.

Q You are also aware that either December or January, December, 1977, or January, 1978, RCC applied to the Federal Communications Commission for permission to construct a tower on Tinker Mountain near the area where your antenna was.

You are familiar with that, are you not?

A Yes, I am.

Q At the time RCC filed this application for the antenna site, you, through your counsel and your personal Affidavit, filed objection to RCC's use of that antenna site, did you not?

A Yes, sir.

Q And why did you do that?

A Felt that the need for the

additional site was not necessary.

Q Didn't you do that because, as you reported to the Federal Communications Commission, that you did not want any competition?

A No, sir. It is not.

Q I hand you a document designated as having been filed in the Federal Communications Commission, Washington, D. C. regarding the application of RCC of Virginia for a new transmitter on Tinker Mountain, Virginia, and it is entitled "Petition to Deny", is signed by Thomas J. O'Riely, counsel for Roanoke and Botetourt Telephone Company and to which is appended an Affidavit by Thomas A. Gibson, that he has read the foregoing and that it is true.

Do you recognize that?

A (Witness looking at paper writing) I recall it.

Q Would you read into the record, beginnning at the bottom of Page 1, the new facilities, beginning there?

A It says: The new facilities at the new location proposed by RCC would be essentially duplicating Roanoke and Botetourt's existing service, to the economic detriment of Roanoke and Botetourt, and

its limited paging customer public and the limited paging customer public in Botetourt County.

Q Go ahead.

A Roanoke and Botetourt, therefore -- therefore, Roanoke and Botetourt, therefore, has standing to file this Petition.

Q Read the next paragraph, would you, please?

A Basic to Roanoke and Botetourt's concern is the thinly veiled but transparent attempt on the part of RCC to invade the area now served by Roanoke and Botetourt without economic and technical nor public interest justification.

Q Well, at that time, wasn't RCC certificated in the same area that you were serving?

A In parts of it. Yes.

Q Well, the larger part of it; isn't that correct?

A Larger part of our territory?

Q Yes.

A I can't say it's larger. Maybe half of our territory.

Q Well, their antenna serves the same as your area serves, doesn't it?

A It does now that you have the new

location. Not in the old one.

Q So you are opposing any competition with your service?

A We were opposing the fact that RCC of Virginia wanted to put a site equal to ours when the traffic did not necessarily indicate it was necessary.

Q But you said it was a thinly veiled threat to invade your territory. Was that your exclusive territory?

A Not anymore than it was yours.

Q So they had the right to invade that territory, didn't they?

A Yes, sir.

Q Thank you, sir.

A The same right we had to oppose it.

MR. CLARK: I would like to offer in evidence the documents referred to and read from. I do not have copies, because I did not know that they would be necessary.

I will furnish you copies.

MR. HONTS: I would very much appreciate one.

REDIRECT EXAMINATION

BY MR. HONTS:

Q Mr. Gibson, this is just for clarification. The Company did not use any REA funds in establishing its paging service?

A No, sir, it did not.

Q All right. In reference to your contour map showing your ninety percent reliability area, does that fully cover the Troutville and Fincastle exchanges?

A Generally speaking, yes.

Q Also I believe covers a portion of the Eagle Rock exchange?

A The Eagle Rock and Oriskany exchanges can be covered, not to ninety degree percent, but at least it's fifty to seventy-five percent.

Q All right. Less than ninety percent reliability?

A Yes.

Q What are the relative sizes?

A Oriskany is about forty main stations. Eagle Rock is approximately six hundred main stations. Fincastle is about nine hundred main stations. And Troutville is about thirty-two hundred main stations.

Q Do you know what a standard metropolitan statistical area is, commonly referred to as an SMSA?

A Generally. Yes.

Q Do you know, of your own knowledge, that at least a portion of Botetourt County is in the Roanoke SMSA?

A Yes, sir, southern end of the County generally is in that area.

Q Is it a fair statement, then, that for some purposes that Botetourt County or a portion thereof is referred to as a part of the Roanoke Valley?

A Yes, sir, most of the time.

Q When Motorola referred, in its proposal to you, the Roanoke Valley area, which is the words I believe they used, do you know what specific area they had in mind?

A Well, the areas of the Troutville coverage, part of the Fincastle and the Roanoke --

Q All right. Now, in relation to your antenna site on Tinker Mountain, are there other antennaes existing at that site?

A Yes, there are.

Q Could you enumerate those for us?

Just so they are marked as our exhibit.

HEARING EXAMINER: They will be collectively received as single exhibit TAG-1.

MR. HONTS : Thank you, sir.

BY MR. HONTS (Continuing)

Q Mr. Gibson, what is your total investment in plant? To provide this paging service, sir.

A It is approximately twenty-six thousand dollars.

Q Is that service as presently offered in Botetourt County a profitable service?

A Yes, it is.

Q Has it been a reasonably profitable service since its inception. Well, let me withdraw that question. Has it been profitable since you have been serving only your certificated area?

A Well, after the first two months of service it was, yes.

Q And did it remain profitable after you received a desist and decease order from the

Commission?

A Yes, it did.

Q And it is profitable today?

A Yes, sir.

Q And --

A And I might comment, sir, that in the question you asked me what is our investment, the investment of twenty-six thousand dollars was at the intial time of installation. The present day investment is greater.

Q All right. I offer Mr. Gibson for cross examination, at this point, and I understand that we do intend to use him in rebuttal.

MR. BRUNDAGE: Mr. Examiner, before we proceed with the cross examination of Mr. Gibson, we could perhaps go to our break. I would like to make a motion to strike a certain portion of Mr. Gibson's testimony, and what I would like to do first is identify those portions and then state my reasons, if I might.

And they are relatively limited. I first would like to make reference to

CROSS EXAMINATION

BY MR. RICHARDSON

Q Mr. Gibson, I would like to ask you something about the four criteria set forth in the Code, and the information requested by the Commission's August 19th's Order. Are you familiar with that criteria?

A Generally.

Q Now --

A I have it in front of me.

Q All right. Now the first criteria you filed -- to satisfy the first criteria, you filed a copy of Roanoke-Botetourt's FCC license authorizing it to transmit a one-way signal from Tinker Mountain, is that correct?

A Yes.

Q How far is Tinker Mountain located from the Roanoke County line?

A I would not know exactly. I would assume somewhere within half a mile.

Q Half a mile. Now, if the Commission grants the application, when are you preparing to serve Roanoke County?

A As soon after granting as is

A Well, there is our maintenance radio system. Again, our paging system. There is a ham, two meter repeater, and there is an emergency medical radio transmitter.

Q All right. In relation to your telephone dispatch antenna, if I may call it that, I believe you referred to it as the maintenance antenna --

A Yes, sir.

Q -- what is the wattage on that antenna?

A It is seventy-five watts.

Q And do you use that antenna to dispatch personnel throughout your franchised area?

A Yes, we do.

Q Does it work effectively?

A Yes, it does.

Q Does that signal also extend into Roanoke Valley, as we have defined it?

A Yes, it does.

Q Now, have you had in the past customers from Botetourt County who have come to you inquiring about the paging service and questioned whether or not that service reaches into the Roanoke Valley?

A Yes, sir. The majority of them do question that.

Q Do they indicate that this is a matter of concern to them?

A Yes. The majority of them do live in the southern end of the County and do travel in the Roanoke Valley and make that a part of the requirement.

MR. HONTS: Thank you, sir. Those are my questions.

MR. RICHARDSON: I have no questions.

HEARING EXAMINER: On recross, gentlemen, I would hope --

MR. CLARK: I have no other questions.

MR. BRUNDAGE: I have no questions.

HEARING EXAMINER: Thank you, sir.

* * * * * * * * * *

WITNESS STOOD ASIDE

ALAN R. WICKHAM, a witness called by and on behalf of the Commission Staff, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q Mr. Wickham, for the record, please state your name and position you hold with this Commission?

A My name is Alan R. Wickham. I am a Senior Engineer with the Division of Communications of this Commission.

Q Mr. Wickham, did you prepare prefiled testimony in this proceeding?

A Yes, I did.

Q It consists of four pages of testimony and one exhibit which is labeled ARW Attachment 1?

A Yes, I did.

Q Do you have any amendments or additions to make to that testimony?

A No, I do not.

~~MR. RICHARDSON: Your Honor, at~~

this point I would like to move that Mr. Wickham's testimony be received into the record as an exhibit.

HEARING EXAMINER: Staff Exhibit ARW-6; is that correct?

THE BAILIFF: Yes, sir.

BY MR. RICHARDSON: (Continuing)

Q Mr. Wickham, I don't think it is necessary to read the testimony word for word, since it has been admitted as an exhibit, so would you just briefly summarize the nature and scope of this testimony?

A Yes. The nature was to comment on the Commission's Order entered in this case on August 19, 1980. And I will just give a brief summary of that.

The Company's testimony included a copy of a dBu contour map showing the predicted area of signal coverage within which ninety percent reliability can be expected. The Tinker Mountain location does not provide for full coverage with ninety percent reliability of the Company's service area; however, the most populace areas appear to be

covered and well within range of the transmitter. Based on the contour map presented, the Applicant should be able to provide reliable paging service within the proposed new areas.

The signal being transmitted from the Company's Tinker Mountain site is not, to our knowledge, causing any interference or other problems for subscribers to like service in the Roanoke-Salem-Vinton areas.

CROSS EXAMINATION

BY MR. BRUNDAGE

Q Mr. Wickham, at page 1 of your testimony, in the last answer on that page, you state that in compliance with the Commission's Order in this case, the Commission's Order of August 19th 1980, the Staff reviewed the Company's prefiled testimony and Application.

Now, let me ask you: In forming the conclusion you reached in your testimony, did you also review the testimony and evidence offered by C&P and RCC?

A No, sir, they were not available at that time.

Q Let me ask you: Did you make any -- in forming your conclusion, did you make any analysis of the market for paging service in the Roanoke area?

A No, we did not.

Q In forming your opinion, you did not analyze C&P's data concerning the scope of the market for paging services in the Roanoke area?

A I did not have it, no, sir.

Q And in forming your opinion, did you review the documents which have been previously

identified in this case as Exhibits TAG-2 through TAG-5?

A Which ones are they?

Q I will show you those documents. This is Exhibit TAG-2. This is TAG-3. TAG-4 --

A I have seen this document.

Q How about TAG-5?

A No. Only this one right here.

Q The only document that you have seen prior to the preparation of your testimony was Exhibit TAG-4.

A Yes.

Q Okay. That is all the questions I have, Your Honor.

CROSS EXAMINATION

BY MR. HONTS

Q Mr. Wickham, you have been present throughout this proceeding today, have you not?

A Yes, sir.

Q You heard the cross examination of Mr. Gibson, as well as his direct testimony?

A Yes, sir.

Q I am going to read the last question in your testimony: Does it appear that the Applicant's proposal for one-way mobile radio paging service complies with the requirements of Section 54-265.4:3 of the Code of Virginia? Your answer to that is: Yes, it does.

Do you agree with that?

A In my testimony, it is.

Q Is that still your answer?

A I would say it complies with the provisions of the Code, but I am not going to draw any conclusion.

MR. HONTS: Thank you, sir. That is all.

MR. CLARK: I have some other questions.

FURTHER CROSS EXAMINATION

BY MR. CLARK

Q In your prepared testimony you quote the items that need to be considered , and in the B part on page 2, I assume there that you are quoting from the Order that was entered by the Commission?

A That is correct.

Q And that this is what you considered at arriving at it. Did you go back and read the Code and take into consideration the requirement that such a service outside of the certificated area only be incidental to the reliable service within their area?

A I don't think I did that, because I think the Order to me was very clear. I don't have the same problem you have with that. I understood what the Order said.

Q But did you consider the fact that whether or not this service was designed for an area outside, or was just incidental to their providing service within?

A From the evidence that we had available, the Staff had available, we concluded, based on this question in the Order -- this is part of the

Order -- that the system was designed for service of customers in Roanoke and Botetourt area, and it does that.

Q But you are reading from the words of the Order. That does not include the reference that such service must be only incidental --

HEARING EXAMINER: May I interject something here? I understand what your point is. I think it is kind of an extension perhaps of what we discussed earlier.

MR. CLARK: Yes, sir; I understand that. But when he is asked was he still of the same opinion, I want to show that he didn't consider the correct law.

HEARING EXAMINER: I will consider all those things in my Report.

MR. CLARK: I know you will, but I want to question this witness' judgment on it, sir.

HEARING EXAMINER: Then your question as I understood it is to elicit whether or not Mr. Wickham considered the incidental requirement of the statute?

MR. CLARK: As a part of forming his opinion.

HEARING EXAMINER: What is your answer to that?

WITNESS WICKHAM: Yes, it is. I didn't know then and I don't know now the intent of the Company. I am not going to comment on that.

BY MR. CLARK (Continuing)

Q But isn't that an important aspect of it?

A Yes, it is.

Q Then shouldn't your opinion be based on the fact -- the statement in your opinion here -- based on the facts that we have, this is what it appears to be, and not come to a conclusion that it is?

MR. RICHARDSON: Mr. Hearing Examiner, I'm going to object to that, because I think the intent of the Company is such an objective matter, I think it is impossible for Mr. Wickham to answer that question.

MR. CLARK: Your Honor, I don't think there is any way that Mr. Wickham can answer the question here or anywhere at any other time, unless he does ascertain the intent of the Company, because that is what the statute provides.

MR. RICHARDSON: Your Honor, I believe determining the intent is up to your prerogative and the Commission's prerogative, and I don't think the Staff should be made to comment or make an opinion on the Company's intent; that's all I'm saying.

MR. CLARK: Your Honor, I would say, then, they should not voice an opinion that it complies without making that judgment, because that is what the statute says.

WITNESS WICKHAM: I think if you read through my answer to this, though, I did not even mention the intent of the Company. All I had available, and do have now, are files that were filed to the Commission. There has been other things introduced here today that I did not have when I prepared this testimony.

If I had time to review through all of that, it's possible that maybe I wouldn't have written this exactly the same way; I don't know. But I did not have them available at the time.

BY MR. CLARK: (Continuing)

Q That's my point, Mr. Wickham, that it is an opinion arrived at without the facts.

A I did not have all the facts.

Q And you would not deny that?

A Oh, no. I don't deny that. I never did. I didn't in the beginning.

MR. CLARK: That's all. Thank you.

CROSS EXAMINATION

BY MR. HONTS:

Q Mr. Wickham, does Roanoke and Botetourt Telephone Company's paging service serve its customers and their needs?

A To my knowledge, it does.

MR. RICHARDSON: I just have two redirect.

HEARING EXAMINER: All right. Mr. Richardson.

There it is. I see it right there. It's right here, right in front of this.

HEARING EXAMINER: Let's mark that Protestant's Exhibit JDJ-7.

THE BAILIFF: Yes, sir.

BY MR. CLARK: (Continuing)

Q Mr. Jubon, where do you reside?

A I reside in West Berlin, New Jersey, 25 Hazelhurst Drive.

Q What is your business or profession?

A I am a practicing telecommunications consulting engineer serving the radio common carrier and the wire line telephone industry in addition to the broadcast industry.

Q What are your qualifications?

MR. CLARK: If it please Your Honor, I would -- there is filed with this statement a copy of the qualifications.

BY MR. CLARK: (Continuing)

Q I would like for you to read them into the record, please.

A Certainly. I am a graduate of Newark College of Engineering, now the New Jersey Institute of Technology, holding a Bachelor of Science degree in electrical engineering with honors, Summa Cum Laude. I am a member of Tau Beta Pi, the national engineering honor society, Eta Kappa Nu, the national electrical engineering honor society, the Radio Club of America, the Association of Federal Communication Consulting Engineers, and I am a Senior member of the Institute of Electrical and Electronics Engineers.

I am also a licensed professional engineer in the States of Illinois, license number 62-32701, New Jersey, license number 21358, and Louisiana, license number 18525.

I hold a Federal Communications Commission First Class Radio-Telephone Operator license with Radar Endorsement, license number P1-3-14171, and an Amateur Extra Class Operator license, call sign K2HJ.

I have practiced telecommunications engineering for over fifteen years, seven of those

in the employ of the Bell Telephone system, specifically Bell Telephone Laboratories, New Jersey Bell, and AT&T General Departments, during which I had extensive in-field applications and system engineering experience with and authored a number of public and Bell system documents concerning radiotelephony, and interconnection and traffic interchange between Part 21, which now includes Federal Regulations Part 22, radiotelephone systems and the public message telephone network.

An additional three years was spent in the employ of Motorola, Incorporated, serving as internal consultant on wire telephone matters as related to Motorola's common carrier radio telephone system business, and as a technical liaison to both domestic and overseas wireline and non-wireline common carrier operators.

During the Motorola tenure, I was also responsible for the conception of Motorola's EMX radio telephone switching machine and with the co-workers who assisted in the system's initial development, am a named co-inventor on the system patent application.

I have in the past three-plus years been engaged in engineering consultation

practices specializing in telecommunications technical and economic matters.

I am wholly familiar with the FCC Rules Part 21 and 22, which cover non-wireline common carrier operations and economics, and I have been directly involved with their business and technical matters for eight years.

Q Mr. Jubon, did you, at the request of RCC of Virginia, do and prepare any studies involving the paging services rendered in the Roanoke Valley area by RCC and by Roanoke and Botetourt Telephone Company?

A I provided a study which dealt with what would amount to the administratively designated reliable service areas for Station KDS709, which is the Roanoke and Botetourt Company's paging station.

Q I would -- as a part of your testimony, there is filed an engineering statement.

A Yes.

Q After doing this study, I would ask you to read into the record your findings as beginning on Page 2, the second paragraph and through the rest of that page.

A Beginning at the second paragraph

on Page 2, the statement is subtitled "Service Area/ Franchise Area Relationships". And I quote: Even the most cursory evaluation of the KDS709 service area contour and technical parameters -- see the attached map and Table 1 -- as presently authorized, points towards two facts. First, the greatest radiated power, and thus the greatest level of service, is concentrated towards the southerly quadrant from the Tinker Mountain site, an orientation generally towards the Roanoke and Salem urban area. Significantly lesser power is concentrated towards the R&B Telco franchise area which lies generally north of the transmitter site.

Secondly, apparently no effort was made to provide service to R&B Telco's two northerly wire center locations, Oriskany and Eagle Rock, within the initial design. The radio power distribution favored the southerly direction for greatest reach and service.

Based upon an approximation of the R&B Telco franchise area from other references, it further does not appear feasible, without requesting a waiver of FCC Rule Section 22.505, as regards power limits imposed upon Tinker Mountain, DPLMRS operations due to site elevation, to have

engineered a paging system transmitting from Tinker Mountain which would provide a reliable service contour wholly encompassing the R&B Telco franchise area.

Parenthetically, at this point, the DPLMRS is the Federal designation for the radio service within which the R&B Telco, C&P Company and RCC operate their services.

Continuing. Alternative locations could have afforded a noticeably better overall grade of service within, and essentially total coverage of the R&B Telco franchise area.

Based upon examination of area topographic maps, examples of such locations include but are not limited to, Switzer Mountain, Crawford Mountain, and Mays Mountain just north of Buchanan toward Saltpetre Cave.

Q How about are there any possible modifications to the Tinker Mountain to provide better service to their certificated area?

A Yes, there are, sir.

Q Would you give us your statement on that?

A Quoting from the exhibit, page 3, first complete paragraph, sub-title "Possible Modifications at Tinker Mountain," an overview of the Tinker Mountain site and facilities indicates that service to the R&B Telco franchise area could be significantly improved if additional radio frequency energy were directed over the area.

FCC Rule 22.505 permits a maximum effective power of about one hundred and twenty watts, specifically dependent upon the antenna height at Tinker Mountain.

Since the R&B Telco franchise area lies almost wholly north of the site, a two-element

yagi antenna similar to Decibel Products Model No. DB-225, aimed in a northernly direction, could provide this power concentration. Little overlap of the signal to non-franchised areas would result.

A quote, maximum facility, unquote, design using the DB-225 antenna, has been prepared with the antenna oriented at North 22.5 degrees east and a transmitter output power of fifty-seven watts. The parameters of this design are summarized in Table 2 of this exhibit, and the resultant reliable service contour is shown on the attached map as the hatched line.

Note that the revised contour encompasses all R&B Telco wire center locations. As noted earlier, it does not, however, encompass one hundred percent of the wire franchise area. Only relocation to a different site or application for waiver of FCC Rule Section 22.505 could accomplish a one hundred percent figure.

Q On page -- the next page, I believe your conclusion is the last paragraph. Would you read that into the record?

A Yes, sir. Quoting from page 4, the first full paragraph, the point to be made is that the R&B Telco franchised area is receiving a lesser level of paging service than is practical

and feasible using readily available equipment operating wholly within the FCC Rules, while the maximum service authorized from Tinker Mountain for KDS 709 has been directed toward the southerly quadrant, away from the area of principle influence of the licensee, that area being the wire line service franchise area of the Roanoke and Botetourt Telephone Company.

Q Now, Mr. Jubon, the data that you have attached is the data that you have developed in support of the map?

A That is correct, sir.

Q And in support of the statements that you have made?

A Yes, sir.

MR. CLARK: I have no more questions.

CROSS EXAMINATION

BY MR. RICHARDSON

Q Mr. Jubon, did you go out and personally inspect this Tinker base station?

A Yes, we did that yesterday.

Q All right. I believe in your testimony you indicate that there are several alternate locations where this base station could have been located and could have provided service to the entire Botetourt County area.

A Yes, sir.

Q Did you go out and inspect Switzer Mountain, Crawford Mountain, also Mays Mountain?

A We inspected them using binoculars from roadways around the area. The two sites, Switzer and Mays, appear to be relatively undeveloped whereas Crawford Mountain, which would be the primary site that I would choose for covering the entire service area, does have a fire lookout tower, with tower and telephone poles leading up to the tower, and a residence or house or some variety nearby to the tower.

So I would have to say that in terms of sites, Crawford does hold a potential for being a developable site.

Q But you personally inspected these locations after you had already prefiled your testimony?

A After I prefiled the testimony, yes, sir. As you note in the testimony, I believe we said based upon examination of topographic maps.

Q Okay. I believe you stated that Crawford Mountain had electric facilities, telephone services?

A Yes, sir.

Q How about Mays Mountain, and also Switzer Mountain?

A We did not see any immediately available to the peaks of those hills.

Q Assuming these locations do not have these facilities, would you honestly construct a base station on a mountain where it might cost you more and you would consequently have to charge your subscribers more to render this paging service?

A One would necessarily have to look at where the customer base lay, for one. Also, in what I am going to say is a one-day examination of the area, it is extremely difficult without also getting the records of the power company and the

telephone company as to the placement of cable and power lines.

It is extremely difficult to say what would be prohibitively expensive to construct and what might simply be an extension of available service, or a relatively easy installation of new facilities.

However, the basic question that you ask does an engineer consider not only the radio freauency capabilities, but also economics, is obviously,yes. We must consider the whole picture before we can make a final and binding, reasonable recommendation.

Q But you didn't consider these physical facilities at these alternate sites before you filed your statement, did you?

A No, that is true. The question was asked of me by the client simply are there other facilities which appear to be workable. Now, let me qualify the 'appear to be workable' by saying where there are facilities noting lookout tower, and I think you will see on the map that we filed with my testimony there are notations on Crawford Mountain

and Mays Mountain both of lookout towers.

That in looking at those particular sites we had to assume that there was some variety of electrical or telephone, or both, because of the ability or the necessity of the lookout towers to communicate with someone, somehow, some way. So there is an assumption of availability which, true, is not confirmed until an actual on-site survey is done.

Q So what you are telling me, then, is you recommended these alternative sites, nothwithstanding whether or not these might be cost effective to Roanoke and Botetourt?

A That is true. The question was asked, again: Are there sites which would provide radio frequency coverage capability.

The question was not asked: What is the total cost of the project.

Q Okay. So, would you say that it's possible that Roanoke and Botetourt's decision to locate its base station on Tinker Mountain was based on economic considerations rather than on a purposeful intent to provide paging service in Roanoke County?

A I would say that the Tinker Mountain site development could have been economically based, at least in part; but were that the case, then as demonstrated in the exhibit, there are alternative mechanisms available which would have provided much better levels of service over the R&B Telco franchise area regardless of whether or not service was desired south of the Tinker Mountain site. That has also been brought out in the engineering statement.

Q Okay. This is separate and apart

from the alternate sites you suggest?

A Exactly. Separate and apart. Yes, sir.

MR. RICHARDSON: I have no further questions.

MR. BRUNDAGE: I have no questions.

HEARING EXAMINER: Mr. Honts.

MR. HONTS: I have some questions.

CROSS EXAMINATION

BY MR. HONTS:

Q Mr. Jubon, you have to bear with me, sir; I am not an engineer and not a technician, so I may phrase my questions in a manner that confuses you and me both. All right.

Did you physically go up on Crawford Mountain?

A No, sir. We inspected it by binoculars from down on the foot of the hills.

Q Do you know of your own knowledge whether or not that tower on that mountain is abandoned at this time?

A We do not know specifically.

Q So you don't know whether there is electrical or telephone service?

A We saw pole lines going up the hill.

Q You saw pole and lines?

A Yes, sir.

Q Now, do you know whether that site is situated in a national forest or within the boundaries of the national forest?

A I do not know. However, let me

qualify the statement of not knowing by saying that the Forest Service has, as in all other states, been not reluctant to allow radio transmitters on their facilities provided that a Forestry permit is obtained.

Q That's right. It takes an additional permit from the Forestry Service in order to do that?

A Right.

Q And the Mays Mountain site, which you indicated was somewhat remote, if I may use that word --

A Yes.

Q -- is it within the Roanoke and Botetourt Telephone Company's franchise territory?

A Very honestly, I couldn't tell you without having a surveyor plot the two points.

Q Do you know of your own knowledge whether or not it is in the national forest --

A No, I do not.

Q In response, I believe, to Mr. Richardson, you indicated that an engineer, in determining where he is going to locate an antenna, takes into consideration where the customer base is situated

also?

A That is true.

Q Did you ride through Botetourt County yesterday?

A Extensively.

Q Extensively? And from that riding through, could you determine where the potential customer base would appear to lie?

A On the principal population, as has been demonstrated by your General Manager, in terms of main station numbers, also by our own experience, that it certainly lies in the southern half of the County. Without question.

Q All right, sir. Do you know if there is a demand for paging service outside the existing ninety percent reliability area now covered by the Company?

A I do engineering. That is a subject of a market survey. Very honestly, it's out of my league.

Q All right, sir. Are you aware, sir, that the Roanoke and Botetourt Telephone Company's FCC license carries a maximum wattage of one hundred watts?

A The power that we show on the

license, per file 21421-CD-P-77, is ninety-nine watts or minus one zero dot zero five DBK of maximum effective radiated power.

Q So --

A That was what was applied for; that is not necessarily the maximum which can be applied for in the future.

Q I understand that. But the information you have in here regarding an output of a hundred and twenty watts requires a Rule waiver?

A No, sir. Any proposal up to one hundred twenty watts may be made to the FCC, under the current Rules, or under Rules which were applicable in '77. Any power up to the one hundred twenty watts can be applied for within totally the constraints of FCC Rules. Anything in excess of one hundred twenty watts would need a waiver of the Rules.

Q Is there a correlation between wattage and antenna height?

A Yes --

Q That is, as to what is allowed?

A Yes, sir. That is Rule 22.505, in which there is a maximum effective radiated power, at five hundred feet above average terrain permitted of five hundred watts; however, there is a, if you

wish, a derating curve which lowers the power. I can give you the formula for up to two thousand feet if you want. But it's a long arithmetic formula which lowers the power for heights in excess of five hundred feet above average terrain.

Q All right. So the answer is yes, there is a correlation?

A Absolutely.

Q Between height and wattage?

A Right.

MR. HONTS: Judge, I'm going to ask you to bear with me a minute. I'm in an area I'm really not comfortable with. (Counsel consulting with client)

Judge, I believe that's all the questions I have.

HEARING EXAMINER: Mr. Clark, do you have any additional questions?

MR. CLARK: No, sir.

HEARING EXAMINER: No one else has anything further of this witness? (No response)

Thank you, sir. You have been

E. WARREN DENTON, JR., a witness called by and on behalf of the Protestant, RCC of Virginia, having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLARK:

Q Please state your name and address.

A Warren Denton, Jr. My residence address is in Penn Laird, Virginia. My office address is 84 West Water Street, Harrisonburg, Virginia.

Q What is your relationship with RCC of Virginia?

A I am sole stockholder and President of the Corporation.

Q How long has RCC of Virginia, Incorporated been incorporated?

A RCC of Virginia has been incorporated, was chartered as a public service corporation under the laws of the State of Virginia on January 20th, 1967.

Q Mr. Denton, in what business is

RCC of Virginia involved?

A RCC of Virginia, Incorporated, is a radio common carrier holding certificates of convenience and necessity under Virginia Radio Common Carrier law for several cities in the State of Virginia, including the Roanoke area.

Q Mr. Denton, when did you first become aware that Roanoke and Botetourt Telephone Company intended to install the necessary equipment for the operation of a one-way paging service?

A It was some time in the early or mid part of 1977 when I saw the public notice published by the Federal Communication Commission advising of the application for the channel frequency by the Roanoke and Botetourt Telephone Company.

Q What was your reaction or actions at this time?

A I called Mr. Thomas A. Gibson, the General Manager of the Telephone Company, and told him that I had seen the public notice. I called for the purpose of offering our assistance and to voice my concern regarding what information my have been given Mr. Gibson by the equipment salesman. It appeared to me that they were investing

quite a large sum of money to provide services for a sparsely populated area. And I was concerned that they intended to -- and I was concerned that they intended from the location of their antenna to serve the certificated area of RCC of Virginia and C&P Telephone Company.

Mr. Gibson advised me that they were aware of the restrictions on service outside of their certificated area and that they intended to beam their signal in order to maximize the coverage of their certificated area.

Q When did you next become aware of any activity of Roanoke and Botetourt Telephone Company in providing paging services?

A In the early part of 1978, they commenced soliciting customers in the Salem area, which is outside their certificated area, and on April the 14th, 1978 we filed a complaint with the Virginia State Corporation Commission.

Q What disposition was made of this complaint?

A After several meetings between the Commission Staff and the parties, the Staff issued an opinion which held that Roanoke-Botetourt Telephone Company could not serve outside of their

certificated area. This Opinion was later incorporated in a ruling of the Commission on June 15th, 1978.

Q Did Roanoke and Botetourt Telephone Company then cease serving customers outside their area?

A No. They continued to serve customers and filed with the Commission an application to amend their certificate to furnish one-way paging services outside the certificated area on June 23rd, 1978.

Q What happened to these proceedings?

A After hearings on April 3rd, 1979, the application was denied and this ruling was appealed to the Virginia Supreme Court. The Virginia Supreme Court dismissed the appeal on September 14th, 1979.

Q Mr. Denton, what has been your personal involvement in radio common carrier development in Virginia?

A Over the past fifteen years, I've become thoroughly familiar with the basic technical aspects of the radio common carrier operations, as well as the administration of radio common carrier operations.

Q Mr. Denton, have you examined the maps supplied by Roanoke and Botetourt Telephone Company which were filed in prior proceedings and with the Federal Communication Commission which shows the area of effective service from their antenna site on Tinker Mountain?

A Yes.

MR. CLARK: Your Honor, I would like to rephrase my next question from the way that is written there.

BY MR. CLARK: (Continuing)

Q Have you examined the publication of C&P Telephone Company entitled "Assigned Utilities Facilities Act", dated 1976 which outlines the certificated territory of Roanoke and Botetourt Telephone Company for telephone services?

A Yes, I have.

Q From your experience and from these maps, does Roanoke and Botetourt Telephone Company effectively cover their certificated area with paging service?

A No, they do not. As is shown by the map marked Protestant's Exhibit 2, you can see

that the area they contend they effectively serve for paging services covers more area outside their certificated area than it does inside the certificated area. Of their four exchanges, their paging service covers only two.

It would have been very simple for them to locate their antenna on Switzer Mountain, Crawford Mountain, or any number of high elevations in the central part of their certificated area and effectively serve the greater portion of their certificated area.

Instead, they located their antenna at a point on the edge of their certificated area closest to Roanoke and Salem.

There is filed herewith as Protestant Exhibit 3, a copy of the Applicant's application to the Federal Communication Commission dated October 31, 1974, which conclusively shows that the system was to be located at the southernmost end of their certificated area, with most effective range being directed to the south, outside of their certificated area, rather than to the north to serve their area.

Q Would it be possible for them to effectively cover their presently certificated area from the existing antenna site?

A Yes. It would require that an antenna be beamed to a northernly direction to cover certificated area, which would reduce their coverage outside of their certificated area in Roanoke and Salem.

Q What types of services does RCC of Virginia offer in the Roanoke and Salem area?

A We have a full line of radio common carrier services, including one-way paging, tone and

voice paging, and automatic mobile telephone.

Q What provision do you make for maintenance of the system and the individual equipment?

A We have a full time repair and technical service.

Q Do you have the capability in place to provide a full line of radio common carrier services, including one-way paging service for the Roanoke and Salem area?

A Yes, we do. We have equipment in place. We have the technical know how, and capacity to expand the service, and we have the financial capability of providing any request for service in the area.

We have an antenna on Mill Mountain, as well as Tinker Mountain, and therefore can better cover the entire Roanoke - Salem metropolitan area. There is no public need that is not being fully served. The cost differential cited by Applicant is less than two cents a day. It is misleading to say that the public can be better served by the Applicant based on cost.

Q Is paging service provided in the Roanoke and Salem area by anyone other than RCC

of Virginia?

A C&P Telephone Company has the authority and frequencies for providing service for one-way paging and provide competition within the service area.

MR. CLARK: Your witness, sir.

CROSS EXAMINATION

BY MR. RICHARDSON

Q Mr. Denton, do the signals generated by RCC of Virginia's tower sites fully cover the certificated areas within which they are located?

A You mean our certificated area?

Q Right. Do your tower sites cover your entire certificated areas?

A I couldn't answer that right off. I would imagine about eighty or ninety percent. There are always some pockets that you don't cover.

Q So you would admit that there are some areas within your certificated area that are not served by RCC of Virginia's tower sites?

A Yes, but generally we serve a large proportion of the area that we are certificated for.

Q All right. Now, Mr. Denton, you indicated in your testimony that Roanoke and Botetourt could have constructed their base station at another location and provided service to all of Botetourt County. Specifically, you mentioned Switzer Mountain and also Crawford Mountain, correct? Have you personally inspected these sites?

A No, I haven't.

Q Do you know whether these mountains have access routes, electric power, telephone transmission lines?

A No, I don't.

Q Okay. Now, assuming these locations do not have these facilities , would you construct a base station at that location where you might have another mountain?

A No, I wouldn't.

Q It would cost considerably more, wouldn't it?

A Absolutely.

Q And consequently the cost to your subscribers would be up.

A Yes.

Q So would you say it is possible that Roanoke and Botetourt's decision to locate its base station at Tinker Mountain was based on economic considerations rather than a purposeful intent on its part to invade your service area?

A I would have to answer that one to say that it wasn't properly engineered to cover their territory.

Q Okay. What is your minimum

subscription period, if any, for your paging?

A Two months.

Q And RCC offers both tone units and tone and voice?

A Yes, we do offer -- twenty-two fifty for tone and voice; twenty-four fifty for tone and voice; and twenty-seven fifty for tone and voice.

Q I would like to hand you this exhibit which was filed by the Applicant which is entitled General Services Tariff, and ask you to compare your rates for service with those filed by the Applicant.

A Generally, their rates for tone only is eighteen dollars. Our rate is eighteen fifty. Of course, it doesn't say complete tariff, but I presume that is very close. Ours will be eighteen fifty, and theirs would be eighteen.

Q And that eighteen fifty, does that cover the rental of the unit and service?

A Yes.

Q And that is for your tone only models, is that correct?

A Yes.

Q What about your tone and voice?

A Tone and voice, they run from twenty-two fifty to twenty-four fifty, to twenty-seven fifty. And they have listed here twenty-four fifty for their rate.

Q All right. Now if somebody owns their own tone only paging unit, how much will it cost for them to obtain service solely?

A From Botetourt it is eight dollars.

Q From you.

A Six-fifty.

Q How about the tone and voice units?

A Tone and voice units for service only is thirteen dollars, and from Botetourt -- I am not sure --

Q I think it is twelve dollars.

A Twelve dollars. Okay. I am not familiar with these tariffs here.

Q Okay. Now, considering the fact that many of the Applicant's customers work in the Roanoke - Salem area, wouldn't it be logical for that Company to consider to a high degree their transmitter coverage in that area as well as their own?

A Yes.

MR. RICHARDSON: I have no further questions.

CROSS EXAMINATION

BY MR. BRUNDAGE

Q I have just one or two questions. Who has authority over the rates you charge?

A State Corporation Commission.

Q If the Commission determined that your rates were too high , did they have the authority to lower those rates?

A Yes, they did.

MR. BRUNDAGE: That is all the questions I have, Your Honor.

CROSS EXAMINATION

BY MR. HONTS

Q Mr. Denton, did your company recently add an additional terminal to its Roanoke operation?

A I think we added a mobile terminal just in the last couple of weeks.

Q Is that for mobile telephone?

A Yes.

Q Haven't you recently installed a new antenna for your paging service?

A It seems like we have been doing it since 1967, but I think we have been on the air a year or two at a new location, which we have been referring to as Tinker Mountain.

Q Right. And why did you put that antenna on Tinker Mountain, sir?

A For two or three reasons, one of them is technical, which we have a mobile telephone and our other paging channel at Mill Mountain, and of course, technical reasons, it would get into our mobile receivers and mess up the voice message, so to speak.

But the main reason was to get

better coverage in our certificated area. Of course, when you start an operation, you always try to cover your main areas first, and then move out to your satellite areas.

Q Did you find some economies in the Tinker Mountain site that perhaps weren't available in other sites in your certificated area?

A We didnt hunt for another site.

Q You didn't consider any other sites?

A No. Because that covered all our area, up to the north that we had to cover, it covered every bit of it.

Q You found it to be an attractive site for your whole certificated area?

A For the northern part of it, yes.

Q Are you certificated in Montgomery and Franklin Counties to the south of Roanoke?

A I am not familiar with counties.

Q How many pagers does RCC now have in service in the Roanoke Valley?

A My guess it would be six hundred. And I would imagine that the population of area coverage, counting the metropolitan areas, around two thousand people. The average around the United States is usually about five per thousand. That

would mean about a thousand pagers is a potential, although I believe C&P is prepared to give some statistics on that.

Q I see. Can you tell me how many of the pagers that you have out in the hands of people in the Roanoke Valley are tone only pagers?

A No, I couldn't.

Q Do you have any data from your system, either relating to the Roanoke Valley of Virginia, statewide, as to how many tone only pagers you place in comparison with tone and voice pagers?

A I am sure it could be looked up, but at this time I have no knowledge of the percentage.

Q Do the tone only pagers constitute a large part of your market?

A No, we don't market that as strongly as we do tone-voice. That is the main reason.

Q Why do you not market it as strongly as you do tone and voice.

A We feel that it is easy to sell apples against oranges as it is apples against apples some time. Most of the areas that we have, we have competition mostly in tone only. In four or five areas, we have tone and voice competition, too.

Q Is it a correct and fair statement that most of your customers prefer the tone and voice pager to the tone pager?

A I would say so.

Q Is the service in Roanoke Valley profitable?

A Yes.

Q Do you know what your growth rate has been in the last twelve months?

A No, I don't.

Q Has it been substantial?

A No. I would say averaged ten percent.

Q Per year?

A In the last year, yes. That would be my estimate.

Q You have already answered this I think with Mr. Richardson, but after hearing Mr. Jubon's testimony, based on the question he asked, would you still testify if you were preparing your testimony today that the Tinker Mountain and Crawford Mountain sites are simple sites in which to install an antenna?

A Tinker Mountain and Crawford --

Q I am sorry. Switzer Mountain and Crawford Mountain. Your testimony prefiled was that it would be a simple matter --

MR. CLARK: I object, Your Honor. That was not the testimony prefiled. He said they were possible sites.

There is a lot of difference.

BY MR. HONTS (Continuing)

Q Your testimony, Mr. Denton, on page 4, the last full sentence on that page: It would have very simple for them to locate an antenna on Switzer Mountain and Crawford Mountain, or any number of high elevations in the central part of their certificated area, and effectively serve the greater portion of their certificated area.

Do you find that in your testimony?

A Yes.

Q My question to you is: Based on what you have now heard about the Switzer Mountain and the Crawford Mountain sites, do you still consider them to be a location where it would be simple to place an antenna?

A I really haven't heard anything yet

other than that nobody knows what is up there. Has anybody testified -- maybe I missed it.

Q All right, sir. Referring to your testimony as to the charges for your services, do you require a customer deposit?

And what is that?

A Twenty-five dollars.

Q Sir?

A Twenty-five dollars.

Q Twenty-five dollars?

A Yes.

Q Is that for both tone and tone and voice?

A I believe so.

Q Is that the only money you require to be paid in advance?

A I think we are required to have either one month or a two month deposit on issuing service, on this service itself.

Q Am I to understand you to say that you require a twenty-five dollar deposit?

A Connect fee.

Q And, then, a deposit for two months rental on the unit?

A I believe it's two months, sir. We had a turnover, a churn rate of about five years of average pager and that amounts to only about a little over two cents a day deposit cost, if you want to figure that in, because of how long the customer stays with us.

Q Now how many franchises does RCC of Virginia have?

A I really don't know the number, but I would imagine around fourteen.

Q About fourteen?

A Fifteen.

Q Are the majority of these certificated by contour line and ninety percent reliability?

A No.

Q None of them are?

A No, sir.

Q How are they determined?

A I don't know what the Staff would say in the State Corporation Commission, but they are usually set by railroad tracks, roads, counties, or something like that.

Q All right.

A And the telephone companies, I think land line telephone companies, are the same way.

Q Okay. Now, you testified to a conversation that you had back in 1977, I believe it was, with Mr. Gibson.

How do you recall that conversation, Mr. Denton?

A You mean, the reason why I remember?

Q Yes, sir.

A I saw on public notice about the Roanoke-Botetourt Telephone Company, and I remembered calling.

Q Do you recall in that conversation hearing any mention of the use of REA funds by Mr. Gibson or anyone?

A No, I don't.

Q You are positive the party you talked with was Mr. Gibson?

A Yes.

Q But you do not recall any mention of the Roanoke-Botetourt going into this business and at that time anticipating the use of Rural Electrification loan funds?

A No, I do not.

Q You are presently certificated in Botetourt County, or at least a portion of it?

A Yes.

Q Are you providing service there? Do you have customers existing in Botetourt County?

A I'm not sure whether we have customers, but we can provide service. The FCC set

up the RCC's kind of like this hearing, to me. We are kind of wearing the black hat here, but the FCC set us up to compete against the land line telephone companies, and that's what we are trying to do.

Q Would you agree, sir, that the customer base in Botetourt County is in the southern end of the County?

A Yes, although we counted around six thousand people that Roanoke-Botetourt's radio paging signal would not cover in their certificated area. And how many -- I don't know how many people are in Botetourt, sir. I don't know what percentage that is.

Q Did you count people in the Buchanan area?

A Buchanan, I think their service area covers that. I'm not sure at this point.

Q Did you count people in the Glen Wilton area? Do you know where Glen Wilton is?

A I don't have those figures.

Q All right.

A I don't have the list of them. I can produce them for you, though.

BY MR. BRUNDAGE: (Continuing)

Q Was this prepared by you or under your supervision?

A Yes, it was.

Q Are there any corrections or modifications to your testimony?

A Yes. I would like to make a correction on Page 3, the Answer to Question 4. The testimony should be corrected to read, or the answer should be corrected to read: RCC of Virginia, Incorporated, provides tone only and tone plus voice paging and C&P provides tone only paging service.

Q As corrected, is this exhibit true and accurate to the best of your knowledge and belief?

A Yes, it is.

MR. BRUNDAGE: Your Honor, I ask that it be received into evidence.

HEARING EXAMINER: I presume there is no objection, gentlemen.

(No response)

BY MR. BRUNDAGE: (Continuing)

Q I would like to ask Mr. Hudson if

he would briefly summarize his testimony.

A Although there is a market need for radio paging in the Roanoke-Salem area, that need can be adequately served by the C&P Telephone Company and RCC of Virginia.

C&P presently provides tone only paging service in the Roanoke area and has the capability to serve many additional customers. RCC of Virginia provides tone only and tone plus voice paging.

And, although I have no direct information I believe that RCC of Virginia has the ability to serve additional customers, since they are soliciting additional customers for their service. I conclude, therefore, that there is no public need for granting Roanoke and Botetourt's application.

Moreover, granting Roanoke and Botetourt's application will adversely effect C&P's general ratepayers. C&P's decision to provide radio paging in Roanoke was based on the results of a study of the market demand and the cost of providing service to meet that demand. This study was based on the facts at the time, mainly that C&P and RCC of Virginia were the only common carriers in the Roanoke market and showed that C&P could reasonably

expect revenues to exceed costs by fifty-eight thousand dollars over five years. However, allowing Roanoke and Botetourt to participate in the Roanoke market will dilute the number of customers that might be expected to subscribe to the existing services to the point that C&P's service would be unprofitable.

Consequently, the general rate-payers would have to bear the revenue deficiency of C&P's service.

MR. BRUNDAGE: Mr. Hudson is ready for cross-examination.

MR. RICHARDSON: I have just a few questions, Your Honor.

CROSS EXAMINATION

BY MR. RICHARDSON:

Q Now, as I read your testimony, Mr. Hudson, I believe you are arguing that C&P -- or excuse me, the R&B application should not be granted because it's not in the public interest and also because it will adversely effect your land line ratepayers; is that correct?

A Yes, that's correct.

Q So you aren't contending here today that R&B Telephone constructed their base station at Tinker Mountain intentionally to provide service to customers in the Roanoke County area?

A No. My testimony does not address that point.

Q And I also understand that C&P only provides one-way toning pagers, is that right?

A Tone only paging, right.

Q Do you have any plans in the future to provide both tone and voice pagers?

A No, we do not.

Q How many subscribers do you have in the Roanoke County area?

A At present, about twenty.

Q About twenty?

A Twenty.

Q And how long have you been in the paging business?

A We entered the market in April of 1979.

Q And you only have twenty pagers in almost a year?

A Yes. We have not actively marketed the service, awaiting service improvements.

Q Do you have any type of minimum subscription period for your one-way pagers?

A One month.

Q One month. And how about any type of deposit?

A There is a deposit. I am not sure

of the amount. It is at the discretion of the local manager. Business office manager.

Q So it varies within Roanoke County?

A No. It varies from service area to service area.

Q Can you give me the approximate amount of the deposit. Is it more than twenty-five dollars, or less?

A Yes, it is more than twenty-five dollars.

Q All right . I am going to hand you a copy of the General Services Tariff filed by the Applicant in this case, and ask you to compare the rates for the Page Boy II tone only pager, and also the service only, which is under Category A and C. How much does C&P charge for the tone-only pager?

A For the tone only, which is the equivalent of Roanoke-Botetourt Page Boy II service, eighteen dollars.

Q So it is the same charge.

A Same charge.

Q How about just service only for a customer that provides his own equipment?

A Seven dollars and fifteen cents.

CROSS EXAMINATION

BY MR. HONTS

Q Mr. Hudson, you have twenty pagers placed in the Roanoke Valley?

A Yes.

Q That includes Salem, Roanoke City, Roanoke County, Vinton.

A That includes that area, right.

Q Does it include any additional areas.

A Outside?

Q Outside of C&P's certificated areas, or outside those areas?

A Outside of those areas, not that I am aware of, no.

Q How many of these twenty pagers, if any, are in the hands of your employees?

A None.

Q None. Regarding the George Fine Market Research Company survey, can you tell me a little bit about who or what was covered by that survey?

A The survey consisted of telephone interviews with randomly selected business customers within the Roanoke Valley.

Q Business customers only?

A Yes.

Q In other words, people who had a commercial rate listing with you were randomly selected and called?

A Right.

Q Was a comparison done between the demand for tone-only service and tone and voice service in that survey?

A The study included those features, including tone plus voice.

Q Do you know what the response was to the tone and voice as compared to the tone-only service?

A In absolute numbers, no, I do not know. I know that the tone plus voice demand is less than the tone-only demand.

Q From that survey.

A From that survey.

Q What is C&P's investment in its paging service in Roanoke Valley?

A The total investment that we have in place now?

who is going to bear the cost of it, and is that cost going to be burdensome to anyone. That is the whole question.

MR. BRUNDAGE: Your Honor, the point is we wouldn't have the burden to bear any loss. Nobody would have to bear any loss if R&B were not permitted -- if their application were not granted here. I don't see why -- we can provide evidence as to the anticipated loss, but as to why it is relevant and material to this case, to divide that by one point five million customers, or whatever, that C&P has in the Commonwealth, I don't see how that is relevant.

HEARING EXAMINER: I agree with Mr. Brundage.

MR. HONTS : Very well, Your Honor.

BY MR. HONTS (Continuing)

Q Let me ask this question then: Is your service in the Roanoke Valley presently profitable?

A At present, no.

Q All right. You indicate that you are showing a three year period before it becomes profitable.

A That is correct.

Q But you can't tell me what your investment is there? You don't know the amount of your investment in the service.

A I have a study that provides the amount of the investment. I do not recall that figure.

Q All right. And your Company began this service in 1979?

A Right. That is correct.

Q Now, you have been authorized, have you not, to provide this service prior to 1979.

A Well --

Q Do you have an FCC license?

A We have an FCC license.

Q Do you know when it was issued?

A I do not know the date of the license. I know that we filed -- let me back up, I do not know when we filed.

Q All right. You mentioned, I believe in response to a question by Mr. Richardson, that you

were waiting to, I take it, advertise your service until you got a service improvement. What did you have reference to there, sir?

A The location of our transmitter or our antenna.

Q Where is your antenna now?

A At present, it is in Mill Mountain.

Q And where do you propose to relocate it?

A We are in the process of searching for an alternate site; for a better site.

Q All right. Can you tell me what the difficulty is with the Mill Mountain site?

MR. BRUNDAGE: I object to that, Your Honor. I don't know, again, how that is relevant and material to the case. If there is any particular service difficulty with C&P's service, it certainly was within the powers of this Commission under the Utility Facilities Act to direct and order C&P to correct the service difficulties.

But how that is relevant at all to the issues in this case, I fail to see.

BY MR. HONTS (Continuing)

Q Are you aware of any customer complaints directed to C&P over its page boy servicing or its Bell Boy?

A I am not.

Q You are not?

A No.

Q You are located in Richmond, are you not?

A No, I am not. I work in Silver Springs, Maryland.

Q You work in Silver Springs, Maryland.

A That is correct.

Q Do you receive reports periodically, then, from your local managers as to these matters?

A As to the sales at Roanoke, yes.

Q And also --

A Not from the local managers, but from mechanized reporting system.

Q Is Roanoke Valley the only area in Virginia in which the C&P offers this service?

A No, it is not.

MR. HONTS: I believe that is all.

MR. BRUNDAGE: I have no redirect.

HEARING EXAMINER: Nothing further of this witness. Mr. Hudson, thank you very much.

* * * * * * * * * *

WITNESS STOOD ASIDE

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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

JAN 1981
STATE CORPORATION COMMISSION
11:32am

CASE NO. PUC-800017
EXHIBIT NO. ARW-6
FILED JAN 9 1981
Witness Alan R. Wickham
Bailiff

ROANOKE AND BOTETOURT TELEPHONE COMPANY

CASE NO. PUC 800017

STAFF'S TESTIMONY

DECEMBER 31, 1980

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

PREPARED TESTIMONY

OF

ALAN R. WICKHAM

ROANOKE AND BOTETOURT TELEPHONE COMPANY

FOR A CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY AUTHORIZING THE
CERTIFICATE HOLDER TO PROVIDE
ONE-WAY MOBILE RADIO PAGING
SERVICE IN THE CITIES OF
ROANOKE AND SALEM, VIRGINIA
AND THE COUNTY OF ROANOKE

CASE NUMBER PUC 800017

DECEMBER 31, 1980

Q. Please state your name, place of residence and position?

A. I am Alan R. Wickham and I reside in Richmond, Virginia. I am a Senior Engineer with the Division of Communications of the State Corporation Commission.

Q. Have you reviewed the application and testimony filed by Roanoke and Botetourt Telephone Company in this Case?

A. Yes, I have.

Q. Please proceed with your comments.

A. Ordering provision one (1) of the Commission's Order entered on August 19, 1980 required the Division of Communications to undertake an investigation to determine whether the Company's proposed one-way mobile paging radio service, if granted by the Commission, will comply with the requirements of Section 56-265.4:3 of the Code of Virginia. In compliance therewith, the Staff reviewed the Company's prefiled testimony and application, and now offers the following comments on each item of ordering provision two (2) of the aforementioned Order:

(a) "That the Company is licensed by the Federal Communications Commission (FCC) to provide telephone service or radio paging service in its own certificated territory; such filing shall include a copy of the Company's FCC license authorizing the telephone service or radio paging service in the Company's existing certificated territory;"

The Company provided a copy of the Federal Communications Commission's (FCC) Form 462-A, Radio Station Authorization, construction permit and station license. The document was issued on September 29, 1979 and expires July 1, 1983. By possessing this permit, Roanoke and Botetourt is authorized to provide one-way signalling from one antenna located on Tinker Mountain and controlled from 1 Sunset Avenue, Troutville, Virginia. This permit allows the Company to transmit a signal in a three hundred sixty (360) degree pattern from the antenna site.

(b) "That the Company's mobile telephone or radio paging service, as licensed, was designed to serve customers, within the Company's existing certificated area, but the reliable service of the Company's system extends into the proposed service area, a contiguous area certificated to another telephone company; such filing shall include a copy of the Company's FCC Dbu contour map(s) showing the area of coverage of its existing radio paging base located on Tinker Mountain, Botetourt County, Virginia;"

The Company's testimony included a copy of a Dbu contour map showing the predicted area of signal coverage within which 90% reliability can be expected. ARW attachment 1 shows the Company's present area of coverage within.

The Tinker Mountain location does not provide for full coverage with 90% reliability, of the company's service area. However, the most populous areas appear to be covered and well within range of the transmitter. According to the Company, Tinker Mountain is the only suitable tower site that has electric power and telephone facilities already available. Based on the contour map presented, the applicant should be able to provide reliable radio paging service within the projected new areas.

(c) "That the Company's proposed service, by reason of harmful electrical interference or other practical reason, will not interfer or conflict with any like service; and"

The signal being transmitted from the Company's Tinker Mountain site is not to our knowledge causing any interference or other problems for subscribers to like service in the Roanoke-Salem-Vinton area. No complaints to that effect have been received by the Staff.

Paging is now provided by RCC of Virginia and the C&P Telephone Company in the proposed additional area. However, they are required to use different signalling frequencies at stipulated and controlled by the FCC.

(d) "That it is in the public interest to grant the request of the Company."

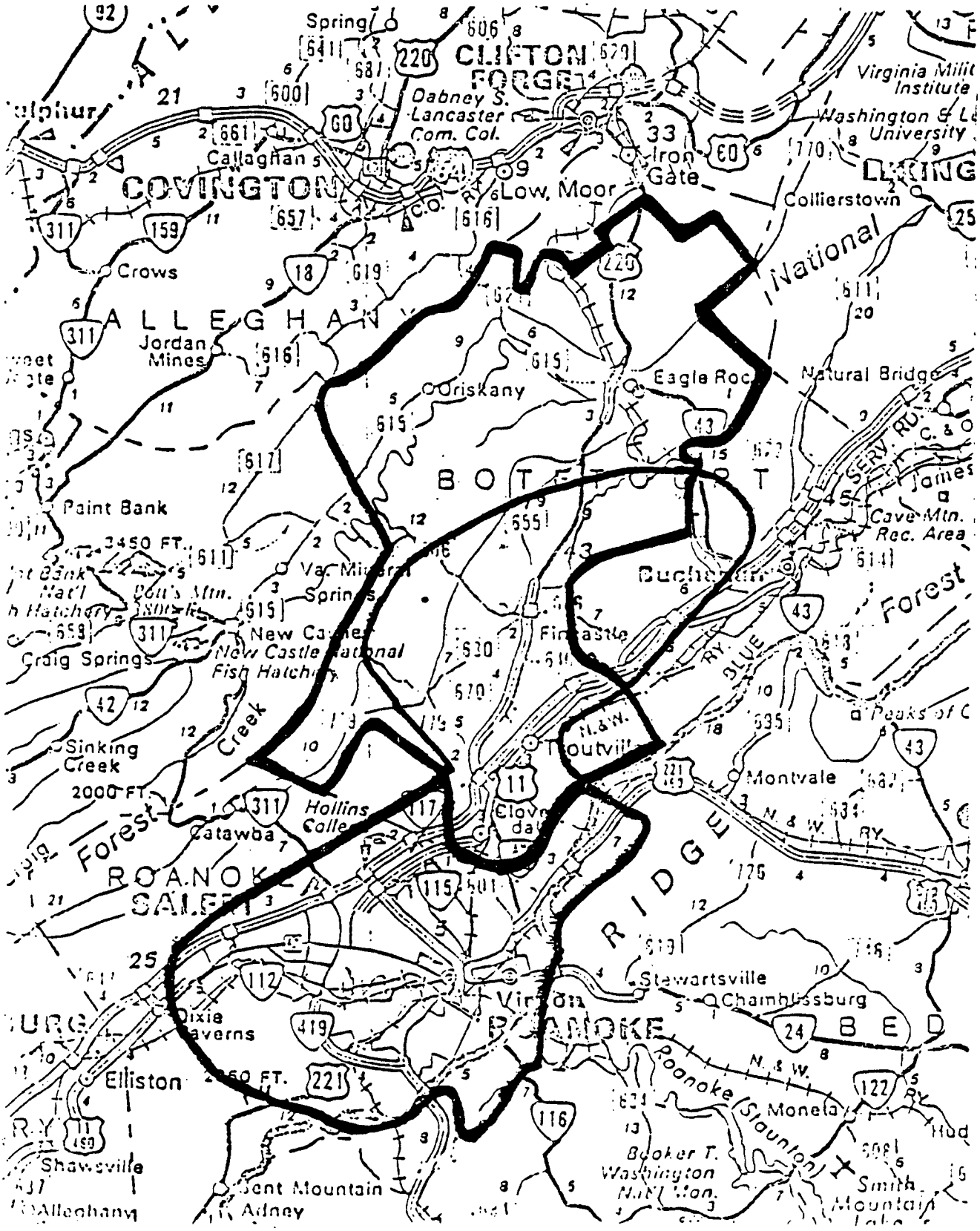
Several petition's and letters endorsing the Applicant's proposal have been received and made part of the case file. The Town of Vinton and City of Salem do not object to the granting of a certificate for the purposes proposed by the Applicant.

The rates proposed by the applicant are competitive with those now charged by RCC of Virginia for a very similar voice paging service.

C&P Telephone Company does not offer voice paging in the proposed area at this time.

Q. Does it appear that the Applicant's proposal for one-way mobile radio paging service complies with the requirements of Section 56-265.4:3 of the Code of Virginia.

A. Yes, it does.



Applicants Certificated Area
Predicted Signal Coverage
Proposed Additonal Area

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A F F I D A V I T

I, Jan David Jubon, having been duly sworn, do hereby depose and state as follows:

1. I, Jan David Jubon, P. E., telecommunications engineer, specialize in land mobile radio station and systems engineering for paging and two-way services including private and common carrier communications networks, interconnection and traffic interchange with the public switched telephone network, and radio and television broadcasting. I hold a Bachelor of Science Degree in Electrical Engineering, and am a Licensed Professional Engineer in the states of Illinois (#62-32701), New Jersey (#21358), and Louisiana (#18525). I also hold a Federal Communications Commission First Class Radiotelephone Operator License (#P1-3-14171) and have extensive credentials in radio and wire telecommunications.

2. The attached "Engineering Statement" was prepared by me at the request of RCC of Virginia, Inc. The "Statement" is true and correct by my personal knowledge.

3. The "Statement" considers three points concerning Domestic Public Land Mobile Radio Service station KDS709 licensed to the Roanoke and Botetourt Telephone Company. It defines the presently authorized 43 dBu contour of KDS709 on 158.10 MHz., shows that a higher level of service could have been designed over the Telephone Company wire franchise area instead of having "maximum" service directed southward toward the Roanoke urban center, and offers an example of facilities designed to maximize service within the Telephone Company franchise area using the presently authorized Tinker Mountain transmitter site.

By: Jan David Jubon
Jan David Jubon, P. E.

Dated: 23 December 1980

Subscribed to and sworn before me this 23 day of December 1980

Dorothy Louise Jubon
SEAL

My Commission expires:

DOROTHY LOUISE JUBON
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires May 23, 1983

EXH. JDJ-7

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Qualifications

I am a graduate of Newark College of Engineering (now New Jersey Institute of Technology) with a Bachelor of Science Degree in Electrical Engineering with honors - Summa Cum Laude. I am a member of Tau Beta Pi the national engineering honor society, Eta Kappa Nu, the national electrical engineering honor society, the Radio Club of America, the Association of Federal Communication Consulting Engineers, and am a senior member of the Institute of Electrical and Electronics Engineers. I am also a Licensed Professional Engineer in the States of Illinois (#62-32701), New Jersey (#21358), and Louisiana (#18525). I hold a Federal Communications Commission First Class Radio-Telephone Operator License with Radar Endorsement (P1-3-14171), and an Amateur Extra Class operator license (K2HJ).

I have practiced telecommunications engineering for over 15 years, seven of those in the employ of the Bell Telephone System (Bell Laboratories, New Jersey Bell, and AT&T General Departments) during which I had extensive in-field applications/ systems engineering experience with and authored a number of public and Bell System documents concerning radiotelephony, and interconnection and traffic interchange between Part 21 (now including Part 22) radiotelephone systems and the public message telephone network. An additional three years were in the employ of Motorola, Inc. serving as internal consultant on wire-telephone matters as related to Motorola's common carrier radiotelephone system business, and as technical liaison to both domestic and overseas wireline and non-wireline common carrier operators. During the Motorola tenure, I also was responsible for the conception of Motorola's EMX radio-telephone switching machine and with the co-workers who assisted in the system's initial development, am a named co-inventor on the system patent application.

I have, in the past three-plus years, been engaged in engineering consultation practices specializing in tele-communications technical and economic matters.

I am wholly familiar with FCC Rules Part 22 (formerly Part 21) non-wireline common carrier operations and economics, having been directly involved with their business and technical matters for eight years.

ORIGINAL

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RCC of Virginia, Inc.
Virginia PUC Case Number PUC800017
Roanoke and vicinity, Virginia

ENGINEERING STATEMENT:

RCC of Virginia, Inc. has requested that a study be prepared examining the following points:

1. Definition of the FCC Rule §22.504 Reliable Service Area / 43 dBu Contour for DPLMRS (Domestic Public Land Mobile Radio Service) one-way signaling station KDS709 originally proposed in FCC File 21421-CD-P-77, and currently licensed to the Roanoke and Botetourt Telephone Company (R & B Telco) with facilities at Tinker Mountain operating on 158.10 MHz.

2. Evaluation of the reasonability of the original design of the station in light of the primary service area for the station being the R & B Telco wireline service franchise area.

3. Description of any possible modifications which could be / could have been effected at Tinker Mountain to allow the KDS709 reliable service area to more closely approximate the wireline franchise boundaries.

43 dBu Reliable Service Contour:

No contour dimension data are available as "licensed values" from the KDS709 file at the Federal Communications Commission (FCC) in Washington, D. C. Therefore, the available file data were used to calculate, according to FCC Rule §22.504, the dimensions of the reliable service contour (43 dBu) of KDS709 along each of the eight principal radials specified in Rule §22.115. From these calculations, tabulated in TABLE 1, attached, the overall contour shape was then calculated using third-order spline interpolation of the eight-radial data noted above. Consideration of terrain factors surrounding the Tinker Mountain site indicates that the contour shape which was obtained by interpolation would reasonably represent the contour shape which would be obtained were §22.115 calculations performed for all pertinent radial directions from the site.

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RCC of Virginia, Inc.
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ENGINEERING STATEMENT (Page 2):

The contour data and shape thus calculated is presented graphically in the attached area map. The solid line on that map shows the FCC §22.504 43 dBu contour. The solid dots show the approximate locations of the R & B Telco wire centers, and the "crossed-dot" shows the Tinker Mountain transmitter location.

Service Area / Franchise Area Relationships:

Even the most cursory evaluation of the KDS709 service area contour and technical parameters (see MAP and TABLE 1) as presently authorized, points toward two facts ...

First, the greatest radiated power, and thus the greatest level of service, is concentrated toward the southerly quadrant from the Tinker Mountain site - an orientation generally toward the Roanoke and Salem urban area. Significantly lesser power is concentrated toward the R & B Telco franchise area which lies generally north of the transmitter site.

Second, apparently no effort was made to provide service to R & B Telco's two northerly wire center locations (Oriskany and Eagle Rock) within the initial design; the radio power distribution favored the southerly direction for greatest "reach" and service.

Based upon an approximation of the R & B Telco franchise area from other references, it further does not appear feasible, without requesting a waiver of FCC Rule §22.505 as regards power limits imposed upon Tinker Mountain DPLMRS operations due to site elevation, to have engineered a paging system transmitting from Tinker Mountain which would provide a reliable service contour wholly encompassing the R & B Telco franchise area.

Alternative locations could have afforded a noticeably better overall grade of service within, and essentially total coverage of the R & B Telco franchise area. Based upon

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RCC of Virginia, Inc.
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ENGINEERING STATEMENT (Page 3):

examination of area topographic maps, examples of such locations include, but are not limited to Switzer Mountain, Crawford Mountain, and Mays Mountain just north of Buchanan toward Saltpetre Cave.

Possible Modifications at Tinker Mountain:

An overview of the Tinker Mountain site and facilities indicates that service to the R & B Telco franchise area could be significantly improved if additional radio-frequency energy were directed over the area. FCC Rule §22.505 permits a maximum effective power of about 120 watts (specifically dependent upon antenna height at Tinker Mountain). Since the R & B Telco franchise area lies almost wholly north of the site, a two-element yagi antenna similar to Decibel Products Model DB-225 aimed in a northerly direction could provide this power concentration. Little "overlap" of the signal to non-franchised areas would result.

A "maximum facility" design using the DB-225 antenna has been prepared with the antenna oriented at N 22.5° E and a transmitter output power of 57 watts. The parameters of this design are summarized in TABLE 2, and the resultant reliable service contour is shown on the attached map as the "hatched" line. Note that the revised contour encompasses all R & B Telco wire center locations. As noted earlier, it does not, however, encompass 100% of the wire franchise area. Only relocation to a different site or application for waiver of FCC Rule §22.505 could accomplish a 100% figure.

Observations:

Were the proviso of "service only to the R & B Telco wireline franchise area" not present, essentially equivalent northward coverage, coupled with southerly coverage equivalent to that currently authorized and having an essentially circular

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RCC of Virginia, Inc.
Virginia PUC Case Number PUC800017
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ENGINEERING STATEMENT (Page 4):

"reach" from the Tinker Mountain site (per FCC Rule §22.504) could be achieved with a unity gain omnidirectional antenna system and increased transmitter power.

The point to be made is that the R & B Telco franchise area is receiving a lesser level of paging service than is practical and feasible using readily available equipment operating wholly within the FCC Rules while the "maximum" service authorized from Tinker Mountain for KDS709 has been directed toward the southerly quadrant, away from the area of principal influence of the licensee ... that area being the wireline service franchise area of the Roanoke and Botetourt Telephone Company.

Prepared by:
Jan David Jubon, P. E.
New Jersey License 21358

Dated: 23 December 1980

JAN DAVID JUBON, P. E.,
TELECOMMUNICATIONS ENGINEERING, INC.
WEST BERLIN, NEW JERSEY 08091

RCC of Virginia, Inc.
Virginia PUC Case #PUC800017
Roanoke and vicinity, Virginia
158.10 MHz.

TABLE 1

TECHNICAL PARAMETER SUMMARY OF KDS709

Licensee: Roanoke and Botetourt Telephone Company
Station: KDS709 per file 21421-CD-P-77
Tinker Mountain - 2.6 Miles at 198° from ... North Latitude: 37° 22' 23"
Daleville (Botetourt) Virginia West Longitude: 79° 55' 40"

Transmitter: Motorola CC3181 50 Watts Output Power		-13.01 dBk
Isolator: Motorola NLN-6722		- 0.5 dB
Cavity Filter: Motorola TDD6250A		- 0.5 dB
Connecting Cable: 12 feet RG-9/U + 6 feet Andrew FHJ4-50B		- 0.69 dB
Transmission Line: 60 feet Andrew FHJ5-50A		- 0.35 dB
Antenna: Motorola TDD6023A Max. Gain at N 210° E		+ 5.0 dB
Antenna Orientation: N 150° E		
Max. Directional E.R.P.: 99 Watts at N 210° E		-10.05 dBk

Azimuth Degrees True	Average Elev. Ft. AMSL	Rad. Center Ft. AAT	Antenna Gain in dBd	Effective Radiated Power at Azimuth in dBk	in Watts	43 dBu Contour Miles
0	1316	953.5	*	-19.24	11.9	12.2
45	1307	962.5	*	-12.05	62.4	17.3
90	1523	746.5	*	-11.35	73.3	16.3
135	1419	850.5	*	-11.85	65.3	16.7
180	1028	1241.5	*	-10.75	84.1	20.3
225	1098	1171.5	*	-10.35	92.3	20.2
270	1473	796.5	*	-16.46	22.6	13.2
315	1730	539.5	*	-21.94	6.4	8.2

* - not enumerated in FCC File 21421-CD-P-77

Ground Elevation at Site: 2228 feet AMSL
Antenna Elevation of Terrain (Eight Radials): 1362 feet AMSL
Antenna Radiation Center Elevation: 41.5 feet AGL; 2269.5 feet AMSL; 907.5 feet AAT;
[§22.505 Maximum E.R.P.: -9.12 dBk; 122 Watts]
Antenna Tip Elevation: 45 feet AGL; 2273 feet AMSL

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RCC of Virginia, Inc.
Virginia PUC Case #PUC800017
Roanoke and vicinity, Virginia
158.10 MHz.

TABLE 2

TECHNICAL PARAMETER SUMMARY OF THEORETICAL STATION:

Licensee: Roanoke and Botetourt Telephone Company
Station: Theoretical Station
Tinker Mountain - 2.6 Miles at 198° from ... North Latitude: 37° 22' 23"
Daleville (Botetourt) Virginia West Longitude: 79° 55' 40"

Transmitter: Motorola CC3181	57 Watts Output Power	-12.43 dBk
Isolator: Motorola NLN-6722		- 0.5 dB
Cavity Filter: Motorola TDD6250A		- 0.5 dB
Transmission Line: 90 feet Andrew LDF4-50		- 0.79 dB
Antenna: Decibel Products DB-225	Max. Gain at N 22.5° E	+ 5.0 dB
Antenna Orientation: N 22.5° E		
Max. Directional E.R.P.:	120 Watts at N 22.5° E	- 9.22 dBk

Azimuth Degrees True	Average Elev. Ft. AMSL	Rad. Center Ft. AAT	Antenna Gain in dBd	Effective Radiated Power at Azimuth in dBk	in Watts	43 dBu Contour Miles
0	1316	962	+ 4.5	- 9.72	107	19.2
45	1307	971	+ 4.5	- 9.72	107	19.3
90	1523	755	+ 1.0	-13.22	48	15.0
135	1419	859	- 8.0	-22.22	6.0	10.0
180	1028	1250	-16.5	-30.72	0.8	7.2
225	1098	1180	-16.5	-30.72	0.8	7.0
270	1473	805	- 8.0	-22.22	6.0	9.7
315	1730	548	+ 1.0	-13.22	48	13.1

Ground Elevation at Site: 2228 feet AMSL
Average Elevation of Terrain (Eight Radials): 1362 feet AMSL
Antenna Radiation Center Elevation: 50 feet AGL; 2278 feet AMSL; 916 feet AAT;
[§22.505 Maximum E.R.P.: -9.22 dBk; 120 Watts]
Antenna Tip Elevation: 51.5 feet AGL; 2279.5 feet AMSL

JAN DAVID JUBON, P. E.,
TELECOMMUNICATIONS ENGINEERING, INC.
WEST BERLIN, NEW JERSEY 08091

RCC of Virginia, Inc.
Virginia PUC Case Number PUC800017
Roanoke and vicinity, Virginia

AREA MAP SHOWING PRESENTLY AUTHORIZED RELIABLE SERVICE AREA (FCC RULES §22.504)(43 DBU CONTOUR) FOR KDS709, AND THEORETICAL RELIABLE SERVICE AREA POSSIBLE WITH A DIRECTIONAL ANTENNA:

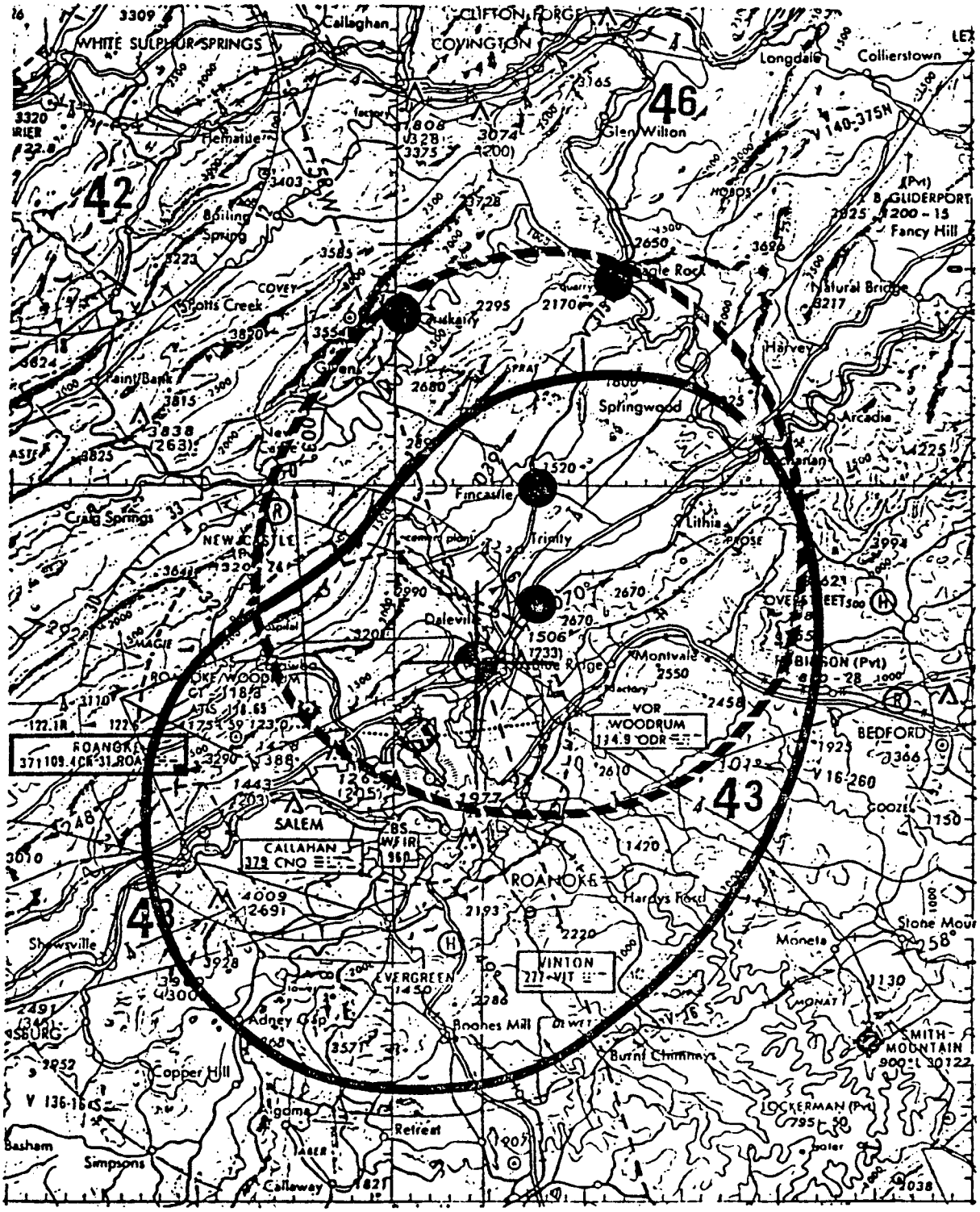
MAP SYMBOLS

TINKER MOUNTAIN TRANSMITTER SITE

R & B TELEPHONE WIRE CENTERS

AUTHORIZED RELIABLE SERVICE CONTOUR

THEORETICAL RELIABLE SERVICE CONTOUR



APPROXIMATE MAP SCALE = 1:500,000

| | | |

BEFORE THE STATE CORPORATION COMMISSION OF VIRGINIA

CASE NO. 800820039

IN RE: ROANOKE AND BOTETOURT TELEPHONE COMPANY, APPLICANT

TESTIMONY AND EXHIBITS

Q. State your name and address.

A. Thomas A. Gibson, Daleville, Virginia.

Q. State your position with Roanoke & Botetourt Telephone Company, which we shall hereafter refer to as the Applicant.

A. I am general manager of the Applicant. I have held that position since 1976 and prior to that time was operations manager of the Applicant from 1973.

Q. State what territory the Applicant provides telephone service.

A. The Applicant provides telephone service in Botetourt County, Virginia, with exception of Buchanan, Blue Ridge, and a small area adjacent to the Alleghany County line near Glen Wilton. Four exchanges are operated at Troutville in the southern end of the County, Fincastle in the center of the County, Eagle Rock in the northern part of the County and Oriskany in the western part of the County. The business office is located at Daleville, Virginia.

Q. Is the Applicant licensed to provide radio paging service in its own certificated territory?

A. Yes. Attached to this testimony as Exhibit "A" is FCC form 462-A, Radio Station Authorization, construction permit and

EXH. TAG-1

station license issued September 29, 1979 and expiring July 1, 1983 authorizing one-way signaling from one antenna controlled from 1 Sunset Avenue, Troutville, Virginia.

Q. Where is that antenna located?

A. On Tinker Mountain in Botetourt County, Virginia.

Q. Is the Applicant's radio paging service in operation?

A. Yes. We have provided the service since December 1977. And to date we have 139 customers utilizing that service, some of whom work in the proposed service area but live on our certificated area.

Q. Given the location of the Applicant's antenna, can reliable service from the Applicant's system be provided in the proposed service area?

A. Yes. The proposed service area is commonly referred to as the Roanoke Valley and includes Roanoke County, the Town of Vinton, and the cities of Roanoke and Salem. The populous area of the Roanoke Valley is essentially a "bowl" surrounded by mountains including Tinker Mountain on the north of the bowl.

Included with this testimony as Exhibit "B" is a copy of the Dbu contour map filed with the Federal Communications Commission, dated August 12, 1977, showing the predicted area of 90% reliability for 150 MH_3 tone and voice paging coverage. On the map the antenna site is shown by a cross within a circle, and the reliability area covering Roanoke County to Starkey and Lynville Mountain to the south, the Town of Vinton and the Cities of Roanoke and Salem.

Q. Will the service proposed by the Applicant by reason of harmful electrical interference interfer with like service?

A. No. The Federal Communications Commission (FCC) does detailed studies for interference prior to issuance of a license. These studies encompass electrical interference but also interference from harmonic signals from similar and dissimilar service for a radius of at least 20 miles. If such interference exists or is supposed to exist, a notification is issued and no license will be granted by the FCC until the interference or supposed interference is corrected. The Applicant has a license in hand and has not received any notification of interference or complaint of interference.

Q. Is there any other practical reason to believe that interference will result from the proposed service or that it will conflict with a like service?

A. No. Since signals are presently being transmitted from the site throughout the proposed service area and have been transmitted from it for the past three years without complaint coupled with the fact the Applicant has FCC license makes it evident our service does not interfer with any like service and does not create any other practical interference.

Q. Is there a need for this service and is it in the public interest to grant the Applicant's request?

A. Yes, to both parts of the question. We have had an average of five applications per week from the proposed service area for

service. Obviously people in the area know about us offering the service and want it.

Botetourt County, particularly in the south end of the County, is a bedroom area for the Roanoke Valley. A number of people, including professional people, train crewman, realtors and others who are or tend to be on-call a great deal of the time live and work in the Roanoke Valley and need the paging service. Again referring to the map (Exhibit "B") our present and proposed service area includes both the home and business locations of these people.

Unlike telephone service, we feel radio paging service can benefit from competition. We feel our cost of service is competitive. Our rate structure is set out in Exhibit "C". We believe the public interest is served by granting us the additional service area.

Q. Do you feel that the Applicant has satisifed the statutory requirements of §56-265.43 of the Code of Virginia as amended?

A. Yes. As I understand that section of the Code, we must, first have a FCC license, which we have; second, that we must show we can provide reliable service to the proposed area, which I believe we have done via the DBu map data; third, that no harmful interference, electrical or otherwise exists; and lastly, that it is in the public interest to grant our request.

FEDERAL COMMUNICATIONS COMMISSION

RADIO STATION AUTHORIZATION

CONSTRUCTION PERMIT AND STATION LICENSE

ROANOKE & BOTETOURT TELEPHONE CO.

DALEVILLE, VIRGINIA 24083

FCC FORM 462-A
SEPTEMBER 1975

COMMON CARRIER
DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

SUBJECT TO THE PROVISIONS OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED, SUBSEQUENT ACTS, TREATIES, AND ALL REGULATIONS MADE BY THIS COMMISSION, AND FURTHER SUBJECT TO THE CONDITIONS AND REQUIREMENTS SET FORTH IN THIS AUTHORIZATION, INCLUDING THOSE ON THE REVERSE SIDE, THE GRANTEE HEREOF IS PERMITTED, WITHIN THE TIME PERIOD SHOWN, TO CONSTRUCT A RADIO TRANSMITTING STATION FOR OPERATION AS HEREINAFTER DESCRIBED. THE [illegible] NOT LATER THAN THE DATE OF REQUIRED COMPLETION OF CONSTRUCTION, TO FILE AN APPLICATION FOR RADIO STATION LICENSE ON FCC FORM 403 AND RETAIN A COPY THEREOF. THIS STATION AUTHORIZATION WILL AUTOMATICALLY BECOME LICENSE FOR THE TERM INDICATED HEREON UNLESS THE COMMISSION ADVISES THE GRANTEE TO THE CONTRARY WITHIN THIRTY DAYS AFTER THE DATE OF RECEIPT OF SUCH APPLICATION AT THE COMMISSION.

ONE-WAY SIGNALING

CALL SIGN: KDS709
FILE NO: 21407-CD- ML-01-79

PAGE 1 OF 2
OPERATOR: JMJ

LICENSE PERIOD
DATE OF GRANT: SEPTEMBER 29, 1979
EXPIRATION OF AUTHORIZATION: JULY 1, 1983

ALL PREVIOUSLY ISSUED AUTHORIZATIONS MADE LICENSE ARE VOID

CONTROL POINT NO. 1: SUNSET AVENUE
TROUTVILLE, VIRGINIA

LOCATION NO. 1: LATITUDE: 37 22 23 N LONGITUDE: 079 55 40 W
2.6 MILES AT 198 DEGREES FROM DALEVILLE
COUNTY: BOTETOURT STATE: VIRGINIA

XMTR NO.	STATION CLASS	FREQUENCY MHZ	EMISSION	ANT NO.	ANTENNA MFR AND MODEL	RADIATION PATTERN	TIP ANT AGL	EFF RAD PWR WATTS
1	BASE	158.100	15F2 16F3	1	MOTO TDD6023A		45	98

THE PROVISIONS OF SECTIONS 21.118(D)(2), 21.205(H)(3), AND 21.208(G)(2) OF PART 21 OF THE COMMISSIONS RULES ARE HEREBY WAIVED TO PERMIT THE BASE STATION TO BE OPERATED DURING THE NORMAL RENDITION OF SERVICE WITHOUT: (1)OPERATING PERSONNEL ON DUTY AND IN CHARGE OF THE RADIO SYSTEM AND (2)MAINTENANCE OF AN OPERATION LOG BOOK.

FEDERAL COMMUNICATIONS COMMISSION

FEDERAL COMMUNICATIONS COMMISSION

RADIO STATION AUTHORIZATION

FCC FORM 462-A
SEPTEMBER 1975

CALL-SIGN: KDS709
FILE NO: 21407-CD- ML-01-79

AZIMUTH OF CENTER OF MAIN LOBE OF RADIATION WITH RESPECT TO TRUE NORTH FOR ANTENNA 1 AT LOCATION NO. 1 :
210

188

DATE OF ISSUE: NOVEMBER 29 1979

FEDERAL COMMUNICATIONS COMMISSION

ROANOKE AND BOTETOURT TELEPHONE COMPANY
Daleville Va.

Exhibit "B"

#7072001N 8/12/77 L.E. Haug

Predicted 150 MHz Tone and Voice Paging coverage shown for 90% reliability.
Coverage shown for vehicle penetration using Pageboy II pagers.

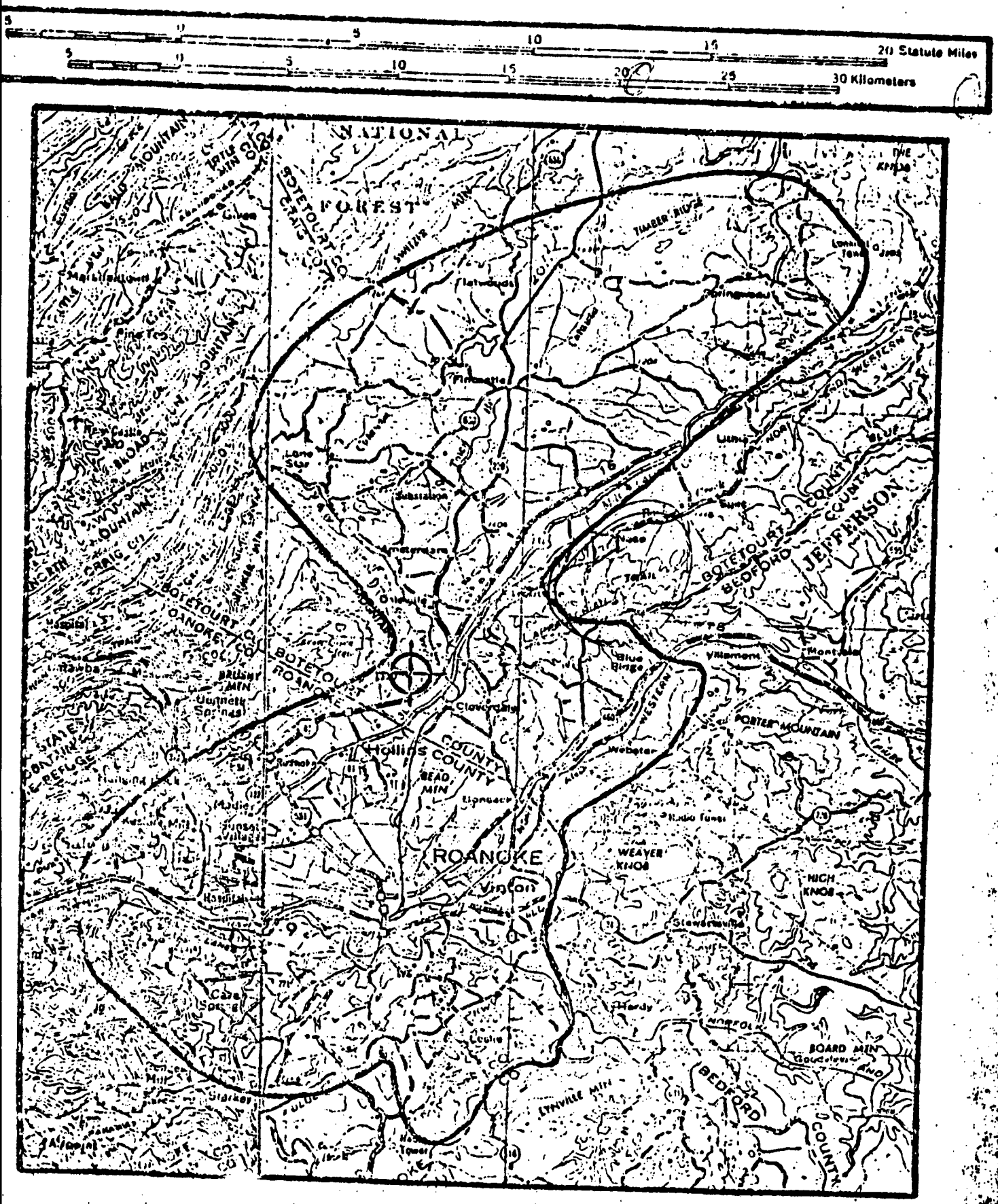

20 Statute Miles
30 Kilometers
NATIONAL
FOREST
BOTETOURT CO
CRAIG CO
ROANOKE CO
BOTETOURT
ROANOKE
COUNTY
Hollins
COUNTY
BEDFORD
JEFFERSON
COUNTY
ROANOKE
Vinton
Salem
Daleville
Blue Ridge
Villamont
Montvale
Webster
Stewartsville
Lynchburg
Substation
Amsterdam
Clearwater
Lone Star
Fincastle
Troutville
Buchanan
Eagle Rock
Glasgow
Goshen
Natural Bridge
Lexington
Buena Vista
Glenwood
Coopers Mill
Cave Spring
Starkey
Hardy
Boonsboro
Bedford
Stoney Creek
Moneta
Smith River
Hardy
Leesville
Lynville Mtn
Bead Mtn
Brushy Mtn
Porter Mountain
Weaver Knob
High Knob
Board Mtn
Timber Ridge
Switzer Mtn
Tinker Mtn
Broad Mtn
Craig Cr
Blue Ridge
Western
Blue Ridge Tunnel
Hollins Tower
Hardy Tower
Roanoke Tower
Bedford Tower
Lynchburg Tower
Lonesome Tower
Fine Knob
Mill Mountain
Fine Top
Mountain
Hawkins
Ivy
Lewis
Mill
Stoney Creek
Hardy
Leesville
Bedford
Boonsboro
Buena Vista
Glenwood
Natural Bridge
Lexington
Goshen
Glasgow
Clearwater
Amsterdam
Substation
Lone Star
Fincastle
Troutville
Buchanan
Eagle Rock
Daleville
Blue Ridge
Villamont
Montvale
Webster
Stewartsville
Hardy

Exhibit "C"

Roanoke and Botetourt Telephone Company

Issue 3
Date 5/8/80

DIAL PAGEBOY PERSONAL SIGNALING SERVICE (Cont'd.)

C. RATES

		Monthly	
A.	Pageboy II Personal Signaling Service - Tone Only, including receiver, battery and battery charger, each.....	$ 18.00	(T)
B.	Pageboy II Personal Signaling Service - Tone and Voice, including receiver, battery, and battery charger, each.....	$ 24.00	(T)
C.	Pageboy Personal Signaling Service Only, customer provided receiver equipment - Tone Only, each.....	$ 8.00	
D.	Pageboy Personal Signaling Service only, customer provided receiver equipment - Tone & Voice, each.....	$ 12.00	
E.	Additional Battery Charger, each.....	$ 2.00	
F.	Additional Tone Only Pageboy, including receiver, battery, and battery charger on an existing assigned pager number, each.....	$ 12.00	
G.	Additional Tone & Voice Pageboy, including receiver, battery, and battery charger on an existing assigned pager number, each.....	$ 17.00	
H.	Spirit FM Radio Pager, Personal Signaling Service - Tone & Voice, including receiver, battery and battery charger, each.....	$ 21.50	(N)

ACCEPTED FOR FILING
JUL 1 1980
DIVISION OF COMMUNICATIONS
STATE CORPORATION COMMISSION

Roanoke & Botetourt Telephone Co.
Daleville, Va. 24083

Company Authorized _____ Date 5/8/80

S. C. C. Authorized _____ Date 7/9/80

BEFORE THE STATE CORPORATION COMMISSION OF VIRGINIA

CASE NO. 800820039

IN RE: ROANOKE AND BOTETOURT TELEPHONE COMPANY, APPLICANT

ADDITIONAL TESTIMONY

AND

EXHIBITS ON BEHALF OF APPLICANT

Q. Mr. Gibson, do you have testimony to present in this case in addition to the testimony and exhibits filed September 23, 1980?

A. Yes. Subsequent to that filing we have explored on behalf of the Applicant the demand for the service we propose to offer in the Roanoke Valley.

Q. And what have you determined about that demand?

A. We placed petitions at the Norfolk and Western Railway Company, Radio Communications Corporation and Piedmont Airlines. Piedmont sent its petition directly to the Commission. The N & W petition and the RCC petition are filed with this testimony as exhibits "D" and "E", respectively. These responses plus the fact we still receive in our office several calls each month from people in the Roanoke area, even though we have not advertised the service through Roanoke media for about three years, indicate to us there is a very real demand for our paging service in the Roanoke Valley.

Q. Have you also determined the attitude of the local governments in the Roanoke Valley toward your offering the paging service?

A. Yes. None of the local governments opposed our offering the service. The City of Salem, Roanoke County and the Town of Vinton while not endorsing our Company, have gone on the record endorsing the concept of competition in the field of paging service. The City of Roanoke reviewed the matter and on the recommendation of the City Attorney's Office decided to take no position on the matter. It is our understanding that the City Council wanted to maintain neutrality in the matter and not support one company over another.

Q. What sort of paging services are presently offered in the Roanoke Valley?

A. C & P Telephone Company in the past and presently offers a tone-only paging service. From the data available to me, it appears their sales of the tone-only service equals only one percent of the sales we have of the voice paging service. I conclude from that data that their service is not comparable to what we will offer.

RCC of Virginia offers a service comparable to ours in that it is a voice paging service. Their present rate structure, however, is higher than the rate we propose for basically the same service.

Q. How long has the Applicant been attempting to provide service to the Roanoke Valley?

A. Since 1977. In 1977, the Applicant made application for rates with a territory map attached which was approved by the Commission staff. That map included in Roanoke Valley. We began to provide service as per the approved rates and map. The response in the Roanoke Valley was excellent. More than 50 percent of our customers in the first eight months were from the Roanoke Valley. However, a protest was filed by RCC of Virginia against our providing the service outside our telephone franchise area and that protest was sustained by the Commission. Subsequently we went to the General Assembly of Virginia to have the existing law amended. That was done and the resulting law which became effective July 1, 1980 is embodied in §56-265.43 of the Code of Virginia.

Q. What has been the effect of your present efforts to provide this service?

A. First of all C & P commenced offering its tone-only service about 12 months ago. Prior to that time it offered no paging service.

About six months ago RCC of Virginia placed an additional antenna on Tinker Mountain very close to our antenna. Prior to that time RCC of Virginia only had an antenna on Mill Mountain in south Roanoke. Tinker Mountain offers a much wider coverage area than does a Mill Mountain location.

Q. What comments have you had about service available in the Roanoke Valley?

A. Filed herewith as Exhibit "F" are letters from people and businesses in the Roanoke Valley which were sent to the Commission when we were forced to pull out of the Roanoke Valley in 1978. We feel these letters still reflect the feeling of many people in the Roanoke Valley that we can provide a high grade of economical paging service, and that as a general proposition competition in the paging business is a good thing.

Introduced by witness.

CASE NO. PUC-800017
EXHIBIT NO. PAG-2
DATE FILED 9 1981
WITNESS Thomas A. Gibson
BY J. K. Carrington

ROANOKE BOTETOURT
TELEPHONE COMPANY

METRO-PAGING

TABLE OF CONTENTS

SECTION 1: System Description

SECTION 2: Figure 1 - System Block Diagram
Figure 2 - Transmitter Antenna Mounting

SECTION 3: Exhibit 1 - Coverage Map
Exhibit 2 - Equipment List, Installation and Maintenance Costs
Catalog Sheets

SECTION 1

ROANOKE & BOTETOURT TELEPHONE COMPANY
"METRO-PAGE" SUBSCRIBER PAGING SYSTEM

Basic System Design

This system has been designed to provide a good, reliable subscriber paging service for the Roanoke Valley area.

The system includes the latest design in solid-state paging equipment. Shown in Figure 1 is a simple block diagram. As shown, the system will use the new Metro-Page Terminal, allowing 1,000 subscribers in building blocks of 100. This is a completely automatic dial-interconnect terminal. Two inputs are proposed at this time allowing 1% grade of service up to 180 subscribers and 2% grade of service up to 260 subscribers. Up to four inputs can be added to allow 2% grade of service with 1,000 subscribers. This terminal is equipped for 48V DC operation as well as 120V AC.

The transmitter proposed is a 150 watt all solid-state transmitter with a high stability frequency oscillator. The pagers used in this system will be the solid-state Page Boy II's. Ten (10) "tone only" models are included in this proposal.

Coverage

Shown in Exhibit 2 is a map which indicates the expected paging area. This area estimation is based on a 90% reliability factor.

System Operation

This system will function as a two-tone sequential, dial interconnect subscriber paging system. To access the paging terminal and initiate a page, the customer will simply dial a standard seven digit number. The last three digits of this number will be the pagers code number. (Selector Level Access)

If desired, this system can be both tone only and tone and voice. This can be simply done by grouping each in their own block (100 pagers). The terminal will automatically steer the pages to tone only or tone and voice.

An automatic identification unit has been included in this system. This unit is needed to comply with F.C.C. rules and regulations.

SECTION 2

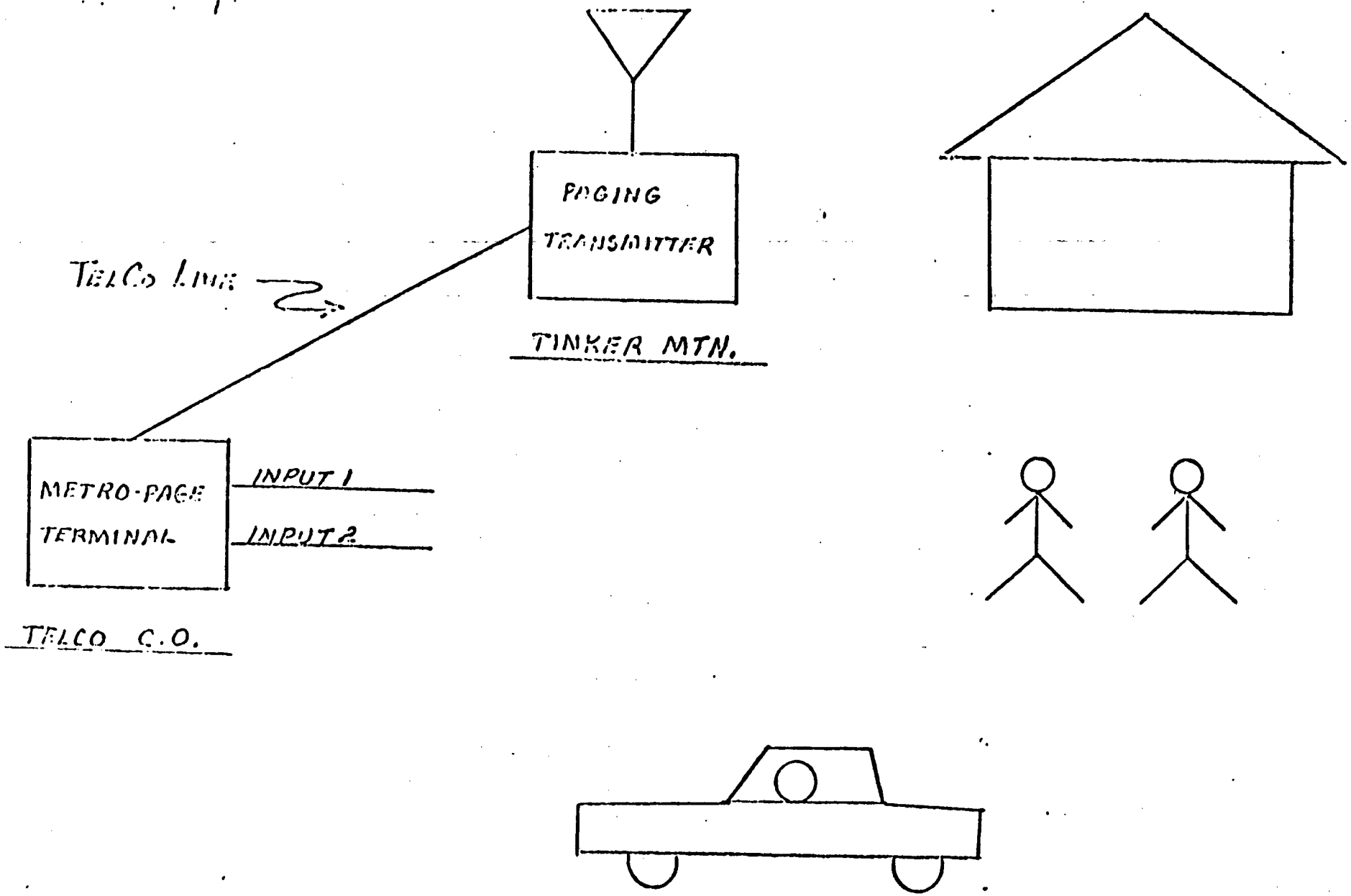
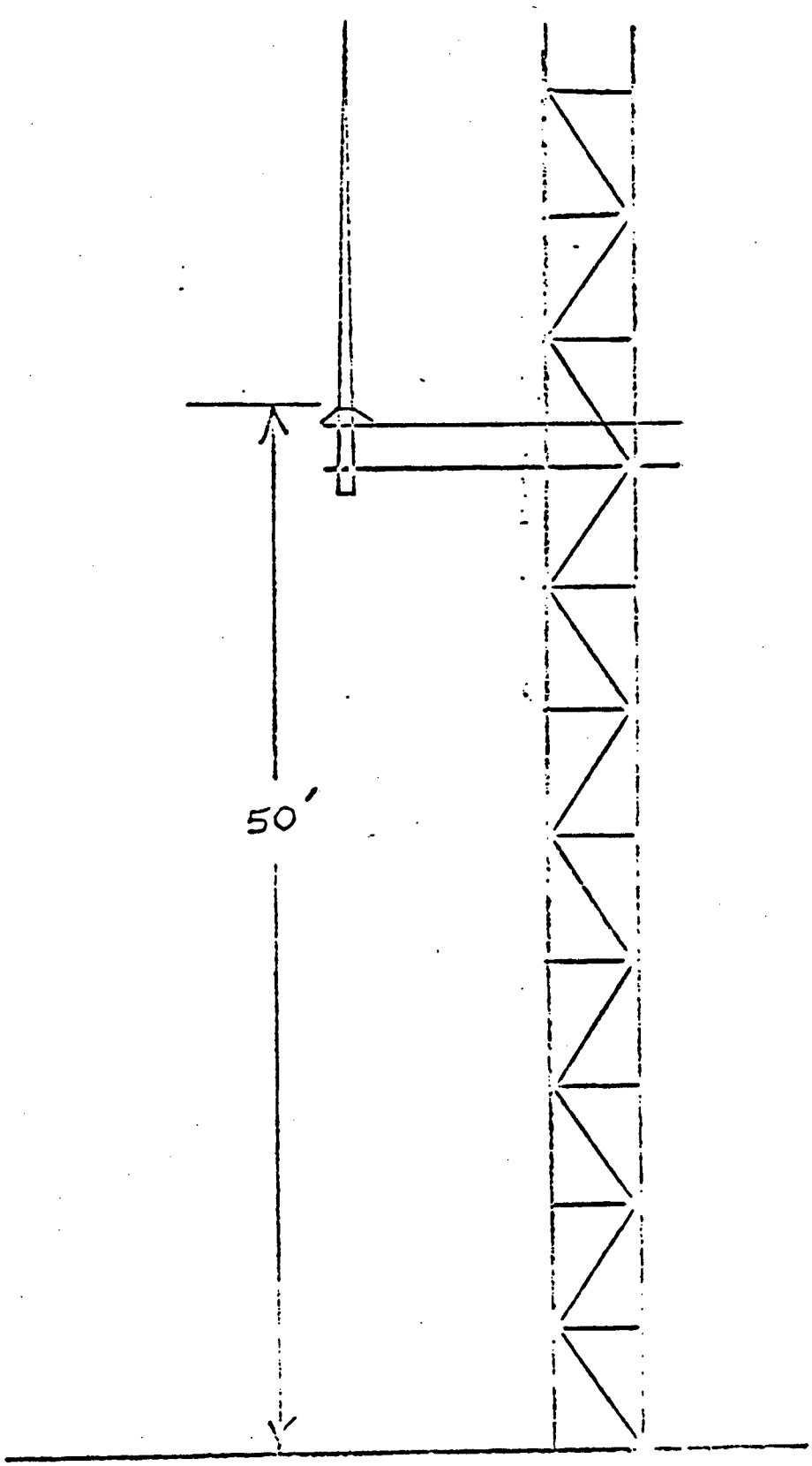

PAGING
TRANSMITTER
TINKER MTN.
TELCO LINE
METRO-PAGE
TERMINAL
INPUT 1
INPUT 2
TELCO C.O.

FIGURE 2



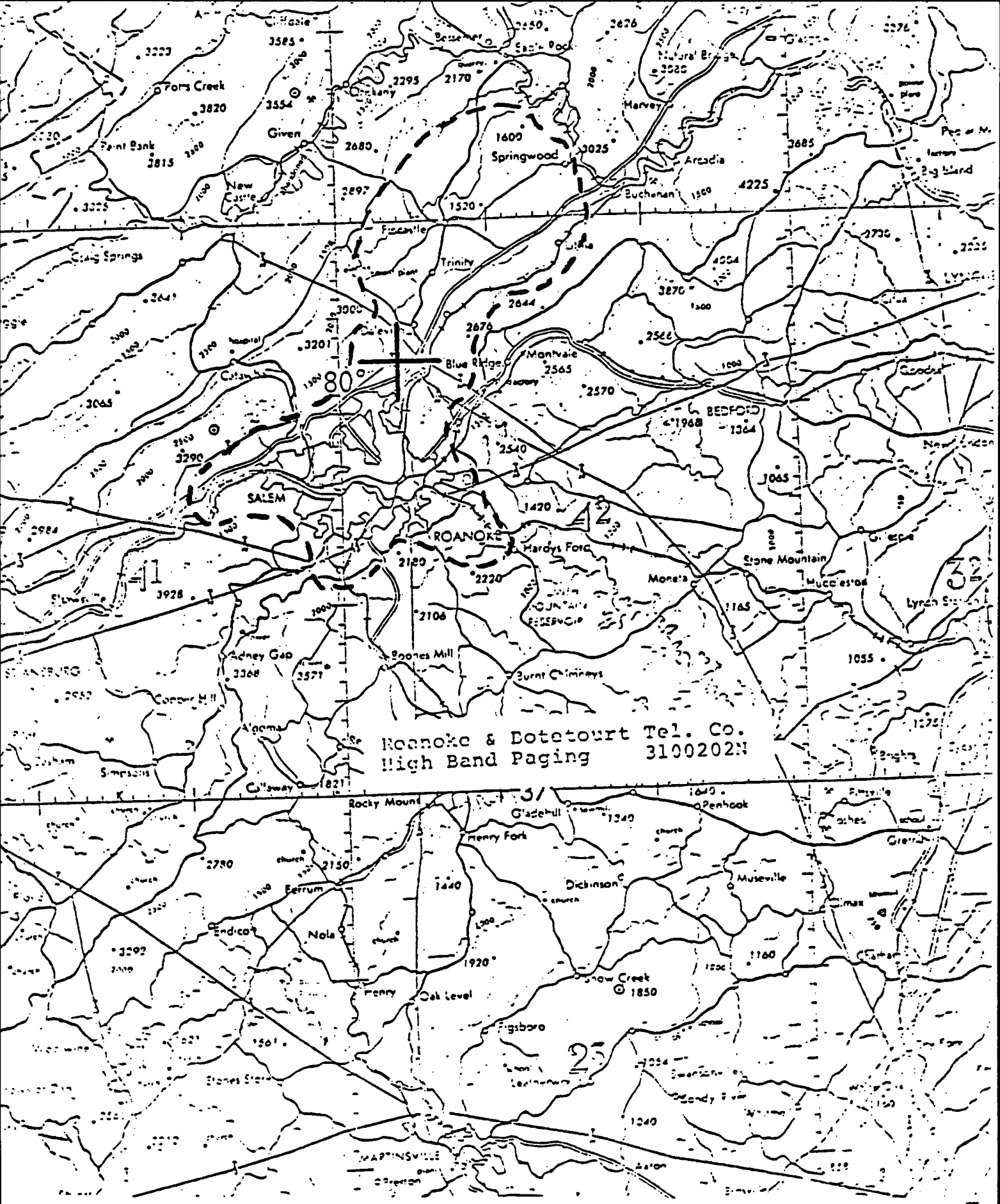
SECTION 3

EXHIBIT 1

The attached map indicates the coverage guaranteed by Motorola with 90% reliability.

The calculations were based on the following:

Site:		Tinker Mountain
Location:	Latitude	37°22'33" N
	Longitude	79°55'40" W
Elevation: (AMSL)		2,228'
Height of Tower:		70'
Height of Antenna Base:		50'
Antenna (Base):		TDD6073
	Gain:	5db
Transmission Line:		7/8" Foam Heliax
Base Power:		150 Watts
Frequency:		150MHz
Pagers:		Page Boy II's


Roanoke & Botetourt Tel. Co.
High Band Paging 3100202N
Fort Creek
Given
Paint Bank
New Castle
Craigsville
Springwood
Arcadia
Buchanan
Fincastle
Trinity
Craig Springs
Blue Ridge
Montvale
BEDFORD
SALEM
ROANOKE
Hardys Ford
Stone Mountain
Moneta
Mucclesroe
Lynch Station
Adney Gap
Boones Mill
Burnt Chimneys
Callaway
Rocky Mound
Penhook
Henry Fork
Dickinson
Museville
Endicott
Nola
Henry
Oak Level
Snow Creek
Figsboro
MARTINSVILLE
Aaron
80
42
41
32
31
25

ROANOKE & BOTETOURT TELEPHONE COMPANY

Transmitter Site Equipment Listing

ITEM	QTY.	DESCRIPTION	COST
1.	1	Paging Transmitter, Model No. N1140A	$4,746.00
2.	1	Antenna, Model No. TDE6073	200.00
3.	1	Transmission Line Kit, 70' 7/8" Foam, Model No. TDN6066	182.00
			$5,128.00

Central Office Equipment Listing

ITEM	QTY.	DESCRIPTION	COST
1.	1	Metro-Page Terminal (for mtg. in 19" Relay Rack), #E24PCR0900	$5,770.00
1A.	1	Steering 1 Option, #W/R006A54	280.00
1B.	1	Two-Tone Timer, #W/R006A36	NC
1C.	1	Automatic I.D. Unit, #W/R006A29	450.00
1D.	1	Line Expansion Buffer, #W/R006A12	975.00
1E.	1	Delete 48V Supply, #W/R006A51	-300.00
			$7,125.00

Pagers

ITEM	QTY.	DESCRIPTION	COST
1.	10	Pageboy II, Tone Pager, Model No. A03CAC1468N @ $259.00 each	$2,590.00
2.	10	Single Unit Chargers, Model No. NLN-1147 @ $20.00 each	200.00
3.	10	Spare Rechargable Battery, Model No. NLN8276 @ $5.00 each	50.00
			$2,840.00

EXHIBIT 2

Installation and Maintenance Pricing

Pageboy II Pagers

Checkout and Initial Battery Charge $2.00 each
Maintenance (parts and labor) $1.00 each per month
(Pageboy II maintenance price good only if agreed to at time of purchase)

Transmitter

Installation and optimization $150.00
Maintenance (parts and labor)
Eight Hour Work Day 30.00 per month
Twenty four hour a day 45.00 per month

Metro-Page Terminal

Installation and optimization $450.00
This price does not include relay rack, interconnect cable, cable rack and electrical runs if needed
Maintenance (parts and labor)
Eight Hour Work Day $30.00 per month
Twenty four hour a day 45.00 per month

Antenna & Coaxial Cable

Installation (Motorola Tower) $125.00

Transmitter Site Rental

Antenna at 50' Level on Motorola owned and maintained tower
$35.00 per month

Antenna mounted on customer owned and maintained tower or pole
$30.00 per month

MOTOROLA

Metro-Page 1

Radio Paging Terminals

new Metro-Page 1 paging terminals esigned for direct city wide access to the needs of small to medium size paging system users. These compact nals can accommodate up to 1,000 ribers on a single RF channel, and apable of both tone-and-voice and only system operation. Built-in h capabilities allow easy expansion e number of subscribers increases. with solid-state modular construc- the maximum system only occupies le 44-inch cabinet.

FEATURES

Flexibility — Metro-Page 1 paging terminals are compatible with virtually any metropolitan system requirement through the use of jumper options. They can be equipped to signal two types of pager codes from a single terminal. Either Tone, DC or Metro-Page system DC control of transmitters is available. Also, multiple area groupings of transmitters are possible with the standard terminal.

Expandability — As a typical system expands, more inputs are required to accommodate the additional traffic without system degradation. Up to four additional dial pulse or Touch-Tone inputs can be added to handle your growing traffic requirements.

Reliability — Principals of computer design were used in the Metro-Page 1 paging terminals. The computer bus concept permits efficient handling of input and output information. Software has been replaced by hard wiring and plug-in pin connections to accommodate the various system configurations, thereby removing the problems usually associated with a volatile memory. Flat cable wiring has been used to reduce the possibility of intermittent intercabling or wiring errors during system installation or expansion. A frequency synthesizer assures that precise, stable, output tone frequencies are generated. Regulation of the tone path assures minimum change in tone output with temperature variations or use time. In addition, AGC is used to provide a consistent audio output regardless of the speaker's voice level.

Alarm Reporting — Long life, light-emitting-diode (LED) indicators are used for alarm and indicator lamps. Furthermore, major and minor alarms can be extended to customer-provided external devices for immediate audible or visual indications of terminal problems. Thus, downtime can be minimized by completely monitoring and diagnosing all system functions.

Serviceability — Solid-state modular construction provides ease of servicing should failures occur. Plug-in printed circuit cards permit quick, on-the-spot repairs. Extensive use of test points enables system performance monitoring and ease of adjustments.

Multiple Coding — While the basic Metro-Page 1 paging terminal features two-tone sequential tone-only paging, it has the capability of signaling two different types of coding from the single terminal. Other selections include decimal digital five-tone, two-tone sequential tone-and-voice or sub-audible codes.

Multiple Area Steering Capability — Paging calls may be divided between coverage areas by selecting transmitters or groups of transmitters on the basis of pager codes. The basic Metro-Page 1

Metro-Page 1 Radio Paging Terminals

Performance Specifications

Number of Subscribers	100–1000
Number of Input Lines	1 to 5*
Input Types	Dial Pulse (Selector Level) (Standard) Touch-Tone (End-to-End)
Coding Types	Two-tone sequential (Standard) Sub-audible (Option) Decimal digital (Option)
Power Requirement	117V ac, 50/60 Hz, 7.5 amps 230V ac, 50/60 Hz, 4 amps
Paging Tone Stability Accuracy	± 0.1% from nominal
Output Areas, Basic Model	3
Transmitter Control Units –	
Basic	1
Maximum	2
Transmitter Control Types	DC/Metro-Page system DC (Standard) or Tone
Dimensions	21" wide x 16" deep** x 44" high (533 x 406 x 1118 mm) Optional mounting available for cabinet in 23" (584 mm) rack
Weight	250 lbs. (113 kg)
Announcer Options	Automatic Station Identifier Invalid Number
Alarms	Minor and major alarms are extended to permit remote audible or visual indications
Operating Temperature Range	0°C to + 50°C ambient; + 25°C ref.

* One less if Station Identifier is used
** 27" (686 mm) deep with optional stabilizer

MOTOROLA
Communications and Electronics Inc.
A Subsidiary of Motorola, Inc.
1301 E. Algonquin Road, Schaumburg, Illinois 60172 · (312) 397 1000

Specifications subject to change without notice.
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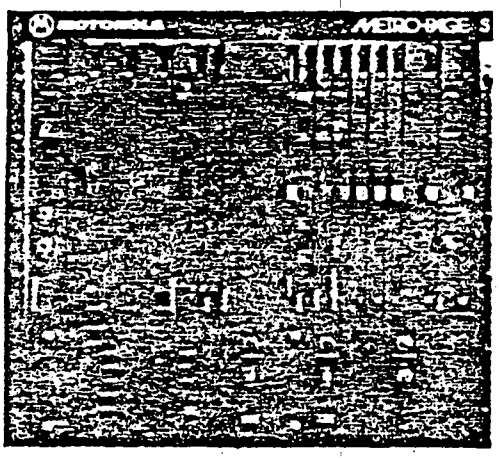
(7310 Bentley

P3-5-41

MOTOROLA

Metro-Page S

Sub-Audible Radio Paging Terminals



Permits Paging Simultaneously with Voice Communications on a Single RF Channel

The new Metro-Page S paging terminals are designed for direct city wide access to meet the needs of small to medium size radio paging system users. The basic compact terminal can accommodate up to 900 subscribers with sub-audible signaling, overlaid on an RF channel, which is being used for radio telephone or audible tone paging. Optional tone-and-voice and tone-only capability permits up to 1,000 subscribers. Built-in growth capabilities allow easy expansion as the number of subscribers increases. Yet, with solid-state modular construction, the maximum system only occupies as little as 17" of space in a standard 19" rack.

FEATURES

Flexibility — Metro-Page S paging terminals are compatible with virtually any metropolitan system requirement through the use of jumper options. They can be equipped to signal either of two types of pager codes. Either Tone, DC or Metro-page system DC control of transmitters is available instead of the standard sub-audible local control.

Expandability — As a typical system expands, more inputs are required to accommodate the additional traffic without system degradation. Up to four additional dial pulse or Touch-Tone inputs can be added to handle your growing traffic requirements.

Reliability — Principals of computer design were used in the Metro-Page S paging terminals. The computer bus concept permits efficient handling of input and output information. Software has been replaced by hard wiring and plug-in pin options to accommodate the various system configurations, thereby removing the problems usually associated with a volatile memory. Flat cable wiring has been used to reduce the possibility of intermittent intercabling or wiring errors during system installation or expansion. A frequency synthesizer assures that precise, stable, output tone frequencies are generated. Regulation of the tone path assures minimum change in tone output with temperature variations or use time. In addition, AGC is used to provide a consistent audio output regardless of the speaker's voice level.

Alarm Reporting — Long life, light-emitting-diode (LED) indicators are used for alarm and indicator lamps. Furthermore, major and minor alarms can be extended to customer-provided external devices for immediate audible or visual indications of terminal problems. Thus, downtime can be minimized by completely monitoring and diagnosing all system functions.

Serviceability — Solid-state modular construction provides ease of servicing should failures occur. Plug-in printed circuit cards permit quick, on-the-spot repairs. Extensive use of test points enables system performance monitoring and ease of adjustments.

Multiple Coding — While the basic Metro-Page S paging terminal features two-tone sequential sub-audible coding, it can optionally be changed to standard two-tone coding.

OPTIONS

System Monitor/Input Test Unit — This extremely versatile option can be used to facilitate a more complete routine maintenance check as well as system trouble-shooting. Using LED indicators and a built-in speaker, complete visual and audible observations can be made of the input units, the entire call process through the terminal, and the signals sent to the transmitter. Various test points throughout the terminal can also be observed. In addition, a numerical read-out frequency counter checks the internally generated tone frequencies and can also be used to monitor and calibrate external signals.

Memory Option — In sub-audible systems, calls are sent out at any time, overlaid on normal RF channel traffic. Without memory, the caller must remain connected to the terminal until the page is sent. When the system approaches maximum sub-audible capacity this will cause delay to the subscriber and may require added inputs. In high traffic, high capacity systems, the memory option will eliminate the need for added input equipment and line rental costs. In tone-only or mixed tone-only and tone-and-voice systems, up to 82 tone-only messages can be stored in memory. This enables use of the shared channel with mobiles or storing of tone-only calls while tone-and-voice messages are being handled.

Number Invalidation Chassis — Up to 40 receivers or groups of receivers, can be invalidated by plugging pins into the invalidator chassis. Two chassis can be used.

Additional Options — The user can delete or substitute features in the basic terminal to buy only what his system requires. Other options include an electronic Morse or voice recorded Automatic Station Identifier, message recording, separate tone-only and tone-and-voice timing circuits and a -48V dc inverter power supply.

MOTOROLA

"Pageboy" II

FM Radio Pager

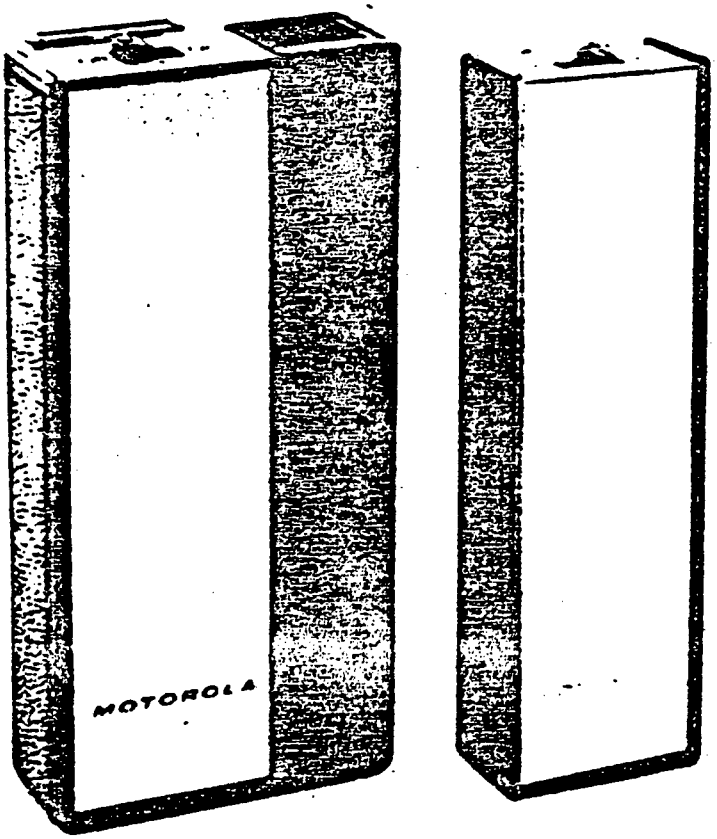
The "People Finders"

148-174 MHz

The first truly "shirt pocket" pager, Motorola's "Pageboy" II radio pager is the newest companion to your pocket pen and pencil. It's the smallest, lightest FM Radio pager ever manufactured. It's only 4½" in length and a feather light 3.9 ounces. You'll only know it's there when you need it—when you're paged.

The advanced solid-state electronics in "Pageboy" II design provide unprecedented performance and reliability:

- **Superior reliability.**
- **Excellent sensitivity.**
- **Solid state circuits.**
- **A rugged built-to-take-it design.**
- **Operational flexibility.**
- **"Hands free" option.**
- **UL approved.**



ONE AND VOICE/TONE CONVERTIBLE

he "Pageboy" II tone and voice pager of-rs the utmost in versatility. Every tone and oice receiver is capable of being converted a tone-only model. If originally ordered s a tone-only receiver, the pager can be onverted to a tone and voice model. A on-convertible "Pageboy" II tone-only ra-io pager is also available.

PTIONS

Options Are Field Addable

MEM-O-LERT

Mem-O-Lert" is a Motorola exclusive. It ows you to "defer" your alert tone, when may disturb others such as—in a meeting, spital room, or any place you do not want receive a page. When you are ready to eceive a page, you simply depress the itch or slide it to the on position. Had you received a page while the unit was in the "Mem-O-Lert" position, the radio would have beeped when it was interrogated. It's still another reason why Motorola leads the way in paging receivers.

GROUP CALL

Group Call permits calling an individual pager or group of pagers in a matter of seconds giving the message just once. For example you can contact your maintenance foreman, or the entire maintenance department. The loud steady Group Call alert tone is easily distinguishable from the individual page. You know whether you are being paged as a group or individually. The number and size of the groups are dependent on the size of the encoder.

EXTRA-LOUD HOUSING

"Pageboy" II standard pagers put out more than enough audio volume for most situations. However some pagers may be used in extremely high noise environments. For these environments an extra-loud housing model is available that is **25 times louder than the standard "Pageboy" II receiver.** The extra loud housing model can be ordered directly from the factory or can be easily replaced in the field.

AUTOMATIC RESET

Designed to provide the benefits of paging with a minimum of inconvenience, this "hands free" option will automatically reset the pager when the carrier strength drops below the voice locking sensitivity level. Receiving a page while driving a car or wearing a coat causes no inconvenience.

SUB-AUDIBLE (S/A) PAGING

For Common Carrier applications, sub-audible paging allows you to put an additional 870 tone-only pagers on already full two-way mobile or tone & voice paging channels. Result—more revenue from your channel.

Pager

FM Equipment.

bic In.) (113 mm x 34 mm x 20 mm)
2 Cubic In.) (113 mm x 51 mm x 21 mm)

Loud: 4.9 oz. (139 g)

Loud: 4.5 oz. (128 g)

ound pressure level at 12 inches (305 mm) (300-3000 Hz average)
5 dB SPL at 12 inches (305 mm) (300-3000 Hz)

evel at 12 inches (305 mm) Extra Loud: 87 dB at 12 inches (305 mm)

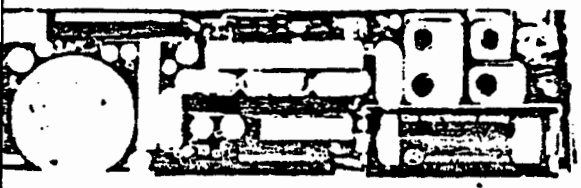
ratories as acceptable for operation in Class I, Groups A, B, C, D and Class II, heres with both NLN6965 Nicad & NLN6199 Mercury batteries.

ser will hear an "interrupted" alert tone instead of the normal "continuous" group

g Battery Life—A small inexpensive mercury battery vers the "Pageboy" II pager for up to 200 hours at a t of less than 12 cents per week. Motorola nickel-mium batteries, powering the pager for up to 40 hours a single 12 hour charge, are also available.

rmacode" Active Filters — The new "Permacode" ive filters replace conventional mechanical reeds. se solid state filters offer the utmost in reliability and nunity to mechanical falsing due to vibration or shock. cause they plug in, paging codes can be changed in atter of seconds.

led Three Position Switch—This rugged switch, ated with you in mind, provides many functions. Slid- positions select OFF, medium and high volume op- tion. On "Mem-O-Lert" equipped pagers, the ability defer and later interrogate pages is easily provided by multifunctional switch. Depressing the switch in the idle or "on" position resets your pager.



vanced Circuit Technology—Highly reliable mono- ic integrated circuits incorporated in hybrid circuit dules perform the basic receiver functions. A two- ds reduction in the number of components makes the t truly shirt pocket pager possible. And fewer parts an fewer problems.

gle Unit Electronics—All circuitry is on a single nted circuit board which slides into the case. No ews to remove, no wires to disconnect, but rather the erent high reliability of monolithic construction.

Approval—A paging first for both nicad and mercury tery operation. Underwriters Laboratories lists "Page- y" II as intrinsically safe for Class I—Groups A, B, C, nd Class II—Group G, hazardous atmospheres, using pager's standard battery—no special battery is uired.

Tamper Resistant, Easy to Service—The "Pageboy" II cover slides partially open for easy battery replacement. To access the receiver, a special key is needed to completely open the pager.

POWER SUPPLIES:

MODEL NO.:	Nickel-Cadmium NLN6965	Mercury* NLN6199
TYPE:	N size	N size
BATTERY LIFE: Based on 15 ten-second paging calls in an 8 hour period	40 hrs. with 12 hr. chg. or 10 hrs. with 3 hr. chg.	200 hrs

**The mercury battery is also available from Mallory (model RR5). Only those batteries mentioned in this specification sheet should be used with the "Pageboy" II. Other batteries have not been tested for leakage characteristics that could result in reduced receiver performance.*

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ronics Inc.

2) 358-7900

R3-5-12B

"Pageboy" II FM Radio Pager

Performance Specifications

er EIA Standard for Personal/Portable Land Mobile Communications FM Equipment.

Model:	A03DNC
Frequency:	148-174 MHz
Size:	Std.: 4½"x1½"x4/5" (4.8 Cubic In.) (113 mm x 34 mm x 20 mm) Extra Loud: 4½"x2"x4/5" (7.2 Cubic In.) (113 mm x 51 mm x 21 mm)
Weight with Battery:	Std.: 3.9 oz. (111 g) Extra Loud: 4.9 oz. (139 g)
Weight w/o Battery:	Std.: 3.5 oz. (100 g) Extra Loud: 4.5 oz. (128 g)
Audio Output:	Std.: Voice Message 61 dB sound pressure level at 12 inches (305 mm) (300-3000 Hz average) Extra Loud: Voice Message 75 dB SPL at 12 inches (305 mm) (300-3000 Hz)
Tone Output:	Std.: 73 dB sound pressure level at 12 inches (305 mm) Extra Loud: 87 dB at 12 inches (305 mm)
Power Consumption:	3.8 ma (Standby)
Modulation Acceptance:	±5 kHz
Selectivity: **EIA**	70 dB. (±30 kHz)
Spurious and Image Rejection:	60 dB
Frequency Stability:	0.0020%
Operating Range:	−10°C to 50°C
Field Strength Sensitivity	
Paging:	4 μv/m
Group Call Paging	8 μv/m*
E.I.A. SINAD:	10 μv/m
20 dB Quieting:	18 μv/m
Voice Latching with Automatic Reset Option:	10 μv/m
UL Approved:	Listed by Underwriters Laboratories as acceptable for operation in Class I, Groups A, B, C, D and Class II, Group G, hazardous atmospheres with both NLN6965 Nicad & NLN6199 Mercury batteries.

f the field strength drops below 8 μv/m but greater than 4 μv/m the user will hear an "interrupted" alert tone instead of the normal "continuous" group all alert.

BATTERY CHARGERS

ODEL:	NLN1094, 8086, 8087	NLN6957	NLN8238
PUT:	117V ac, 50-60 Hz	12V dc, Neg. Gd.	220V ac, 50 Hz
ECHARGE: ME*	12 Hrs.	15 Hrs.	12 Hrs.

*Replacing 40 hrs. of operation.

POWER SUPPLIES:

	Nickel-Cadmium	Mercury*
MODEL NO.:	NLN6965	NLN6199
TYPE:	N size	N size
BATTERY LIFE: Based on 15 ten-second paging calls in an 8 hour period.	40 hrs. with 12 hr. chg. or 10 hrs. with 3 hr. chg.	200 hrs.

The mercury battery is also available from Mallory (mode. 9R51). Only those batteries mentioned in this specification sheet should be used with the "Pageboy" II. Other batteries have not been tested for leakage characteristics that could result in reduced receiver performance.

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R3-5-12B

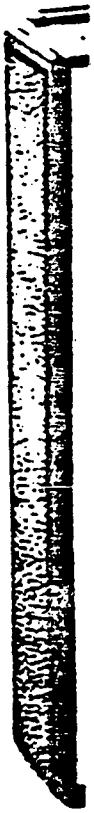
MOTOROLA

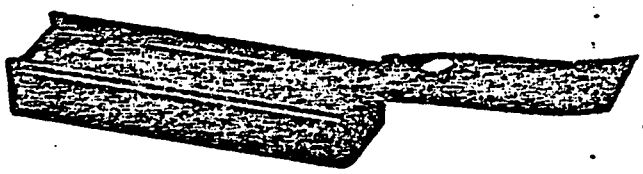
Excellent Sensitivity—Extended coverage is assured by Motorola's new design. One of the reasons for the excellent receiver sensitivity is the use of the receiver's entire metallic cover as the antenna. This antenna is more efficient than a common ferrite core antenna, both on and off the body.

The first truly "shirt pocket" pager, Motorola's "Pageboy" II radio pager is the newest companion to your pocket pen and pencil. It's the smallest, lightest FM Radio pager ever manufactured. It's only 4½" in length and a feather light 3.9 ounces. You'll only know it's there when you need it—when you're paged.

The advanced solid-state electronics in "Pageboy" II design provide unprecedented performance and reliability:

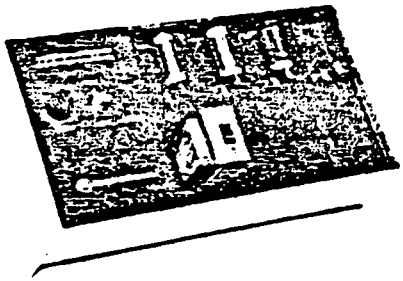
- **Superior reliability.**
- **Excellent sensitivity.**
- **Solid state circuits.**
- **A rugged built-to-take-it design.**
- **Operational flexibility.**
- **"Hands free" option.**
- **UL approved.**



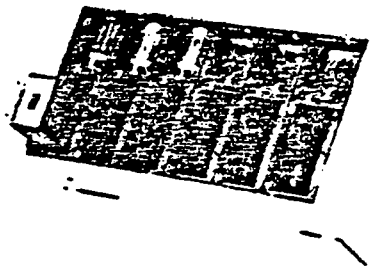


Unique Shock Protection System—An exclusive shock isolation system "floats" the receiver within its housing, significantly reducing the possibility of damage if the radio is dropped. This suspension system provides a greater level of reliability than any previous Motorola pager.

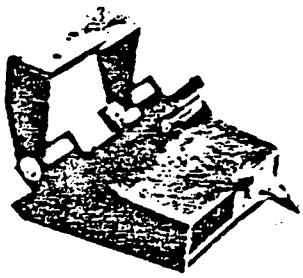
BATTERY CHARGERS ACCESSORIES



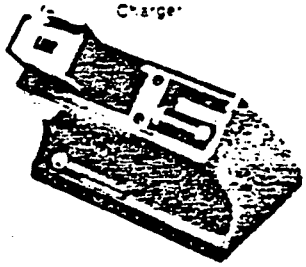
NLN8096A—Multi-Charge Master



NLN5087A—Multi-Charger Auxiliary



NLN5967A Vehicular Charger



NLN1094 Single Unit Charger

TONE AND VOICE/TONE CONVERTIBLE

The "Pageboy" II tone and voice pager offers the utmost in versatility. Every tone and voice receiver is capable of being converted to a tone-only model. If originally ordered as a tone-only receiver, the pager can be converted to a tone and voice model. A non-convertible "Pageboy" II tone-only radio pager is also available.

OPTIONS

All Options Are Field Addable

"MEM-O-LERT"

"Mem-O-Lert" is a Motorola exclusive. It allows you to "defer" your alert tone, when it may disturb others such as—in a meeting, hospital room, or any place you do not want to receive a page. When you are ready to receive a page, you simply depress the switch or slide it to the on positio[illegible] you received a page while th[illegible] "Mem-O-Lert" position, [illegible] have beeped when it was [illegible] still another reason why M[illegible] way in paging receivers.

GROUP CALL

Group Call permits calli[illegible] pager or group of pager[illegible] seconds giving the messa[illegible] example, you can contact [illegible] foreman or the entire ma[illegible] ment. The loud steady Gro[illegible] is easily distinguishable fr[illegible] page. You know whethe[illegible] paged as a group or [illegible] number and size of the [illegible] pendent on the size of the [illegible]

EXTRA-LOUD HOUSIN[illegible]

"Pageboy" II standard pa[illegible] than enough audio volum[illegible] tions. However, some pag[illegible] in extremely high noise [illegible]

CUMENT CONTROL CENTER

11 32 AM '81

Roanoke & Botetourt Telephone Co.

EXECUTIVE OFFICE DALEVILLE, VIRGINIA 24083 • PHONE (703) 992-2215

September 26, 1977

CASE NO. PUC-800017
EXHIBIT NO. JA6-3
FILED JAN 9 1981
Thomas A. Gibson
Witness
R. Harrison
Bailiff

Mr. Robert L. Baker
Staff Supervisor
Bell Independent Relations
C & P Telephone Company
609 East Grace Street
P. O. Box 27241
Richmond, Virginia 23261

Dear Bob:

I am writing you in reference to our conversation the other day concerning our company's offering of Dial Pageboy Personal Signaling Service. We have received appropriate F. C. C. and S. C. C. authorizations and are presently receiving the necessary equipment and pagers from Motorola. Barring any unforeseen problems, we expect to make this service available to the public November 1, 1977.

The C & P Telephone Company does not presently offer Pageboy Service in the Roanoke Area. Our area coverage will easily include the Roanoke Vally and surrounding suburbs. (I have enclosed an area coverage map for your review). I am writing in hopes that the C & P Telephone Company can and will refer inquiries regarding Pageboy Service to our Business Office. We plan on advertising in Roanoke's Yellow Pages, but the referrals your people could give us would be invaluable. Should C & P have a need for this service in their daily operations, we would be most happy to serve their needs.

We are excited about this new and unique service and certainly hope The C & P Telephone Company will aid us in its marketing. I sincerely believe that all telephone companies must work closely together in all areas in order to better serve the needs of our demanding public. Together, we certainly will meet this ever increasingly difficult task.

I look forward to hearing from you and seeing you at The Homestead in October. Should you have any questions, please do not hesitate to contact me.

Yours very truly,

Allen Layman

Allen Layman
Commercial Representative

AL:mj

FORUM

A Page in the Service Saga

Sir: While I agree that telcos are looking for additional sources of revenue as suggested in your Nov. 15, 1979 article (Observations), the path has not and still is not lined with roses.

Our company is a small independent serving 4500 main stations. We began offering radio paging service in November 1977. Radio paging seemed like an ideal revenue stimulator for us since our franchised territory is adjacent to the city of Roanoke, Va., with approximately 150,000 people. Our antennae is located atop the highest mountain in the valley, in our franchised territory.

Although C&P Tel of Virginia did not offer the service, an RCC, Radio Common Carrier of Virginia, served approximately 600 pagers in Roanoke. Six months after we began paging service, the RCC filed a complaint with our State Corporation Commission, asking them to take action to prohibit our company from offering these services outside our certificated territory. After many hearings, letters, lawyer's fees, trips to Richmond, we still are denied the opportunity to serve this valuable market area with radio paging.

C&P Tel, after objecting to our use of their "air space," has now begun offering tone only paging service.

Our last avenue is to introduce a bill to change the law that the SCC is basing their decision on. If successful, it would allow competition (sound familiar these days?) in the field of radio services. While franchised monopolies are in the public interest when land line facilities are involved, competition is in the public interest when radio services are involved. How can we stop our signals from entering their franchised "air space"?

Allen Layman
Marketing Manager
Roanoke & Botetourt
Telephone Co.
Daleville, Va.

■ *Many states have allowed competition in radio services, but we wonder if anyone has any views to express in this ongoing conflict. Ed.*

Hong Kong Vs. Japan

Sir: The article, "The Telephone Industry in the Year 2000," by Dr. Kobayashi, chairman of Nippon Electric Co. Ltd., includes an illustration showing that Japan has the highest density of telephones in the world—128.1 telephones per sq. kilometer (1977).

According to our records, if you had included Hong Kong in the illustration, our column would have gone right off the page! In 1977, we had 1.265 million telephones in an area of just over 1049 sq. kilometers and, by the end of 1979, the number of telephones had risen to 1.536 million. In other words, we have 1464.3 telephones per sq. kilometer, more than ten times the figure for Japan.

The professionals and decision-makers who read your magazine should be aware that, in fact, it is Hong Kong and not Japan that has the highest density of telephones.

F. L. Walker
Director & General Manager
Hong Kong Telephone

■ *This is a welcome addition to the facts and figures presented in our feature on "Hong Kong Tel . . . A Communications Gem" which appeared in the Aug. 15, 1979, TE&M.*

Announcement Systems

Audichron announcement systems meet all your needs for announcement service applications, with the total system approach

Pastel Division provides programs and sponsor sales support for these and other applications:

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- Time and Temperature
- Road Ski Conditions
- Lottery
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- Flight Information
- Weather
- Stock Market
- Dial-a-Sale

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- Over 10 years service to the telephone industry

audichron

Pastel Division

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DOCUMENT CONTROL CENTER
JAN 12 11 31 AM '81

CASE NO. PUC-800017
EXHIBIT NO. TAG-4
FILED JAN 9 1981

EXH. TAG-4

Protestant RCC

DOCUMENT CONTROL CENTER

JAN 12 11 31 AM '81

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RCC-800017
JA6-5

In the Matter of	)	
	)	
Application of RCC of Virginia, Inc.	)	
	)	FCC File No.
for a New Transmitter on Tinker Mountain, Virginia	)	20571-CD-P(2)-78

PETITION TO DENY

Roanoke & Botetourt Telephone Co. hereby opposes the application of RCC of Virginia, Inc. (RCC) for additional facilities for RCC's DPLMRS Station KWT 845 to be located on Tinker Mountain, Virginia, and respectfully urges denial of the application as filed.

The RCC application appeared on the Commission's January 9, 1978 public notice of applications accepted for filing; and this petition is thus timely filed under the Commission's Rules. The interest of Roanoke & Botetourt in this matter is that it is the licensee of DPLMRS Station KDS 709, Daleville, Virginia, through which it serves approximately 30 customers in an area of the Roanoke Valley, Botetourt County, Virginia. */ The new facilities at the

*/ The Roanoke & Botetourt system was financed by a loan from the Rural Electrification Administration, on the basis of a study showing loan feasibility with 25 customers. Should Roanoke & Botetourt lose even five customers by reason of the pending RCC proposal the feasibility of the REA loan would be in jeopardy. Should it lose more than five, the loan and the operation itself would no longer be feasible.

new location proposed by RCC would essentially duplicate Roanoke & Botetourt's existing service, to the economic detriment of Roanoke & Botetourt and the limited paging customer public in Botetourt County. Roanoke & Botetourt therefore has standing to file this petition.

Basic to Roanoke & Botetourt's concern is the thinly veiled but transparent attempt on the part of RCC to invade the area now served by Roanoke & Botetourt without economic, technical, or public interest justification. Indeed, the RCC application is more than somewhat misleading on this point, for although it can be ascertained from the filing that the proposed location of the new RCC transmitter is some 7 miles from its existing transmitter, what is not apparent is that from the new site RCC will be able to invade Roanoke & Botetourt's service area, a capability not present in RCC's existing transmitter location because of the presence of Tinker Mountain.

Rather than acknowledging what appears to be the primary purpose of RCC's application (and the application is devoid of any demographic, customer survey, or other pertinent public interest data), RCC suggests to the Commission that involved in its new transmitter location is only that "Applicant has reached the limit of capacity on the existing channel . . . and has had numerous reports

from mobile subscribers regarding busy channel conditions" (RCC Application, Exhibit 3).

Assuming, arguendo, that these conclusory representations are correct,*/ RCC offers no explanation as to why the simple, normal and obvious solution to the problem, i.e., putting its proposed new transmitter at its existing site, was not chosen. Had that been done, Roanoke & Botetourt would have had no concern, and indeed no basis for objection.

RCC did not choose this solution, however. Rather, it has elected to spend $8,200 for a new transmitter at a new location, the bulk of which, $6,000, is for a mysterious "miscellaneous" estimated cost (RCC Application, item 47). Additionally, RCC's selection of its proposed new transmitter location also appears to involve it in the establishment of a new control point**/ and a new radio control link neither of which, it would seem

---

*/ Roanoke & Botetourt notes that from the RCC 3-day study it appears that in terms of air time, the existing RCC channel is in use approximately two-thirds of the period.

**/ The precise location of the new control point appears to be uncertain, since the application gives it as 145 Campbell Street, S.W., the Commission's Public Notice lists 311 Shenandoah Avenue, N.W., and the address of Telephone Answering Services, which will staff the control point, appears to be 112-A Kirk Avenue, S.W. (RCC Application, Exhibit 3 (Attachment)).

reasonable to assume, would be necessary if the proposed new RCC transmitter were to be located at RCC's existing Mill Mountain, Virginia site.

Also pertinent to RCC's choice of a new transmitter site is a question of its certificate of public convenience and necessity from the State Corporation Commission of the Commonwealth of Virginia. RCC's certificate, (Certificate No. RCC-17, May 10, 1971) which in its current application is referenced as "On file-see File No. 7591-C2-P-71 for Station KTS 243," shows on its face a grant to serve "(from a base station located at Mill Mountain Road, Roanoke, Virginia)." It is Roanoke & Botetourt's understanding that RCC's proposed new transmitter location will require an amendment to this existing certificate to specify the proposed additional location. On information and belief, no request for this amendment has been filed by RCC.

For the reasons advanced herein, therefore, Roanoke & Botetourt respectfully urges denial of the pending RCC application.

Respectfully submitted,

CHADBOURNE, PARKE, WHITESIDE & WOLFF

Thomas J. O'Reilly
Counsel for
Roanoke & Botetourt
Telephone Company

1150 - 17th Street, N.W.
Washington, D.C. 20036

A F F I D A V I T

Thomas A. Gibson, being duly sworn, deposes and says:

1. That I am the General Manager, Roanoke and Botetourt Telephone Company.

2. That I have read the foregoing "Petition to Deny" the application of RCC of Virginia now pending under F.C.C. file No. 20573-CD-P(2)-78, and have personal knowledge of the facts recited therein; and based on that personal knowledge those facts are true and correct, except for those recited to be on information and belief, and as in those I believe them to be true.

THOMAS A. GIBSON

Subscribed and sworn to before me, a Notary Public in and for the Commonwealth of Virginia, on this 8th day of February, 1978.

CERTIFICATE OF SERVICE

I do hereby certify that I have this 8th day of February, 1978, sent a copy of the foregoing PETITION TO DENY by United States mail, postage prepaid, on the following persons:

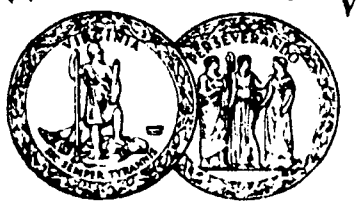
Mr. Walter R. Hinchman, Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Jeremiah Courtney, Esq.
2120 L Street, N.W.
Washington, D.C. 20037

Thomas J. O'Reilly

February 8, 1978

COMMONWEALTH OF VIRGINIA



THOMAS F. HARWOOD, JR
CHAIRMAN
JUNIE L. BRADSHAW
COMMISSIONER
PRESTON C. SHANNON
COMMISSIONER

WILLIAM C. YOUNG
CLERK OF THE COMMISSION
BOX 1197
RICHMOND, VIRGINIA 23209

STATE CORPORATION COMMISSION

June 15, 1978

Mr. E. Warren Denton, Jr.
President
RCC of Virginia, Inc.
84 West Water Street
P. O. Box 1086
Harrisonburg, Virginia 22801

Mr. Ira D. Layman, Jr.
President
Roanoke & Botetourt Telephone Company
Daleville, Virginia 24083

Warner F. Brundage, Jr., Esquire
General Attorney
C & P Telephone Company
703 E. Grace Street
Richmond, Virginia 23219

Re: RCC of Virginia, Inc. and Roanoke & Botetourt Telephone Company

Gentlemen:

On June 12, 1978, the Commission met with the parties to consider the complaint against Roanoke & Botetourt Telephone Company initiated by letter dated April 14, 1978 from RCC of Virginia, Inc. In said complaint, the Commission was requested to render a decision as to whether a telephone utility could provide radio paging services beyond the boundaries of its certificated area. Upon hearing the position of each party, the Commission concurred with the opinion of the Staff as stated in a previous communication. Said opinion was

> ...that a telephone company or radio common carrier can only serve customers having a residence or place of business within the certificated area of that particular utility. There may be competition between a telephone company and a radio common carrier only in areas which are certificated to both parties. However, in no case can a utility serve outside of its own certificated area.

PORTION OF EXH. EWD-8

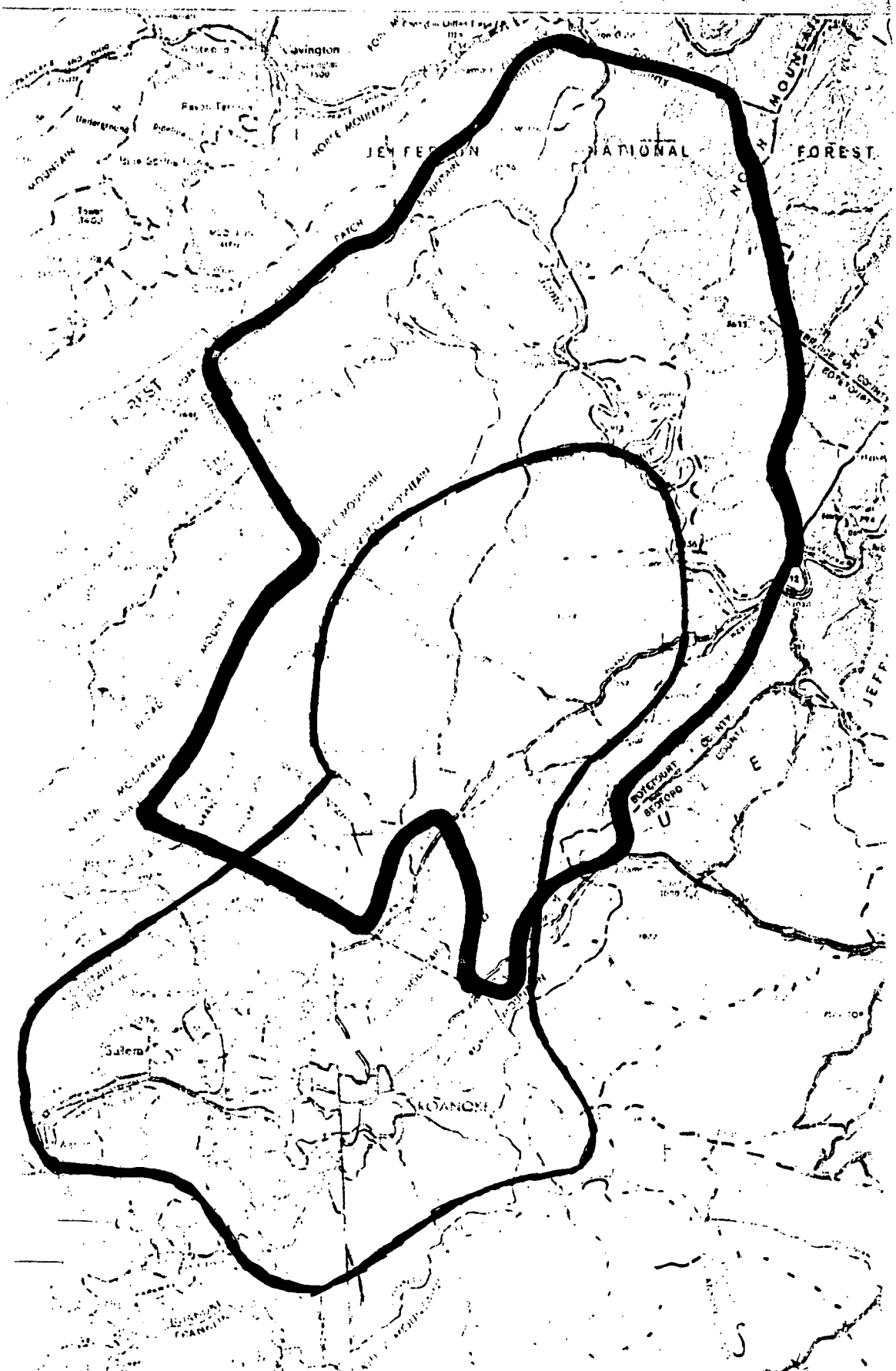
In the instant case, Roanoke & Botetourt Telephone Company may no longer offer or provide radio paging service to customers outside its certificated area shown on the map attached to Certificate No. T-120e dated August 2, 1974.

Very truly yours,

Thomas P. Harwood, Jr.
Chairman

Junie L. Bradshaw
Commissioner

Preston C. Shannon
Commissioner



SERVICE AREA FILED WITH FCC

TELEPHONE CERTIFICATED AREA (APPOX)

224 PROTESTANTS EXHIBIT NO. 2

RECEIVED

Form 401
1973

Form Approved
OMB No. 52-R0043

DO NOT WRITE IN THIS BLOCK

File No. Call Sign

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APPLICATION FOR NEW OR MODIFIED COMMON CARRIER RADIO STATION CONSTRUCTION PERMIT UNDER PARTS 21 AND 25

1. Name and Post Office address of Applicant (Give street, city, state and Zip Code) (See Instruction No. 6)

Roanoke & Botetourt Telephone Co.
Daleville, Va. 24083

2. Name of radio service in which authorization is applied for: DPLMRS (1-Way Signalling)

Class of station Base

3. Application for:
[X] New facility
and/or
[ ] Change in existing authorization:
File No. ..... Call .....

4. Nature of Proposed Changes/Modifications: DNA

- [ ] Change antenna system
- [ ] Change antenna location
- [ ] Change frequency
- [ ] Add frequency
- [ ] Other changes (specify)
- [ ] Add points of communication
- [ ] Change points of communication
- [ ] Replace transmitter
- [ ] Add transmitter
- [ ] Change power
- [ ] Add control point
- [ ] Change control point location
- [ ] Change alarm center location

ENGINEERING DATA (See Instruction 9.)

5. Location of transmitting antenna

City or Town	County	State
Daleville	Botetourt	Va.

Exact antenna location (street address) (If in area not designated by street, give distance and direction from, and name of nearest town)

2.6 Miles At 198° From Daleville.

Geographic coordinates (to be determined in nearest second)

North Latitude ° ' "	West Longitude ° ' "
37 22 23	79 55 40

6. If application is for individual mobile user unit, or for mobile units other than those associated with a single permanently installed base station, or for any other class of station at temporary locations, show area of operation. (See instruction 9-A(b)).

DNA

Station Will Not Be Located On Land Under The Jurisdiction of the U.S. Forest Service or the Bureau of Land Management.

7. Particulars of operation of the proposed station (See Instruction 9(a) & (d)) See Exhibit No. 1

(a) Frequency (Mc/s)	(b) Emission Designator	(c) Transmitter Power (Watts) Input	Output	(d) Maximum Modulating Frequency (cycles/sec.)	(e) (For Telegraph Type Emissions) Maximum Transmission Speed (bauds)	(f) (Check One) Polarization Plane of Radiated Signal Vertical	Horizontal	(g) Azimuth of Radio Path (True Bearing)	(h) Length of Radio Path	(i) Points of Communication
158.100	15F2	*	50	3000	DNA	X		210° 00'	DNA km	To Associated
	16F3							° '	km	Paging Re-
								° '	km	ceivers.
								° '	km	
								° '	km	
								° '	km	
								° '	km	
								° '	km	

8. Transmitters

(a) No. of Transmitters	(b) Make of transmitters	(c) Transmitter Type or Model No	(d) Frequency Stability	(e) Emission Designator	(f) Class of Station
1	Motorola	CC3181	0.0005 %	15F2, 16F3	Base
			%		
			%		
			%		
			%		

means will the transmitter(s) be rendered inaccessible to unauthorized persons?

By Means of Locked Cabinet. 225 PROTESTANTS

* Input Power To Be Determined At Time Of Tests. EXHIBIT 3

New Channel (158.100 MHz) At Daleville, Va.

FCC FORM 401

10. Location of Control Point(s) 1/ 2/

Number and Street: Sunset Ave.

City or Town: Troutville | State: Virginia

Can transmitter(s) be placed in an inoperative condition from this control point?
[X] Yes [ ] No

Specify hours control point will be staffed by operating personnel See Exhibit No. 2
[ ] Continuous [X] Limited hours (specify)

11. Describe the means by which personnel at the control point can determine when there is a deviation from the terms of the station authorization or when operation is not in accordance with the Commission's rules governing the class of station involved. 1/ 2/

See Exhibit No. 2
Waiver of Sections 21.205 (h) (3)
And 21.208 (g) (2) Requested

12. Location of Alarm Center 1/ 2/ 3/ DNA

Number and Street

City or Town | State

Can transmitter(s) be placed in an inoperative condition from this alarm center?
[ ] Yes [ ] No

Specify hours alarm center will be staffed by operating personnel
[ ] Continuous [ ] Limited hours (specify)

13. Describe the means by which personnel at the alarm center can determine when there is a deviation from the terms of the station authorization or when operation is not in accordance with the Commission's rules governing the class of station involved. A brief description of each automatic alarm proposed to be used should be included 1/ 2/ 3/

DNA

14. Will radio facilities be used to connect either control point(s) or alarm center(s) to transmitter(s)? 1/ 2/
[ ] Yes [X] No
If "Yes", identify radio facilities:

15. Applicants for individual user units should attach as Exhibit _____ the showing required by Section 21.15(i) of Part 21 (See Instruction 9(i)). 2/ 3/

DNA

16. Do Proposed radio facilities contemplate multiplex type of transmission? 1/ DNA
[ ] Yes [ ] No
If authorization for the channelizing equipment has previously been granted by the Commission, or is being requested under separate application, specific reference thereto should be made herein

17. Transmitting antenna 1/

Make	Type No.
Motorola	TDD6023A

Maximum antenna power gain over reference half-wave dipole antenna: 5.0 decibels

18. Radiation characteristics of installed antenna system 1/
[ ] Non directional in horizontal plane
[X] Directional in horizontal plane with center of main lobe of radiation directed 210 degrees 00 minutes clockwise from true North

Directional antenna pattern (polar diagram) showing power distribution (expressed in decibels of power gain over a reference half-wave dipole antenna) of signal radiated in the horizontal plane is attached hereto as Exhibit No. 3

19. Antenna transmission line data 1/ 2/

Make	Type No.	Length (feet)	Total Loss (decibels)
Andrew Corp.	7/8" Foam Heliax	60'	2.04 DB See Exhibit No. 4

20. Description of transmitting antenna structure (Heights given should include obstruction light, if required, and any other surmounting appurtenance) 1/ 2/

Overall height in feet above ground	Overall height in feet above mean sea level
80	2308

Submit, as Exhibit No. 5, a vertical profile sketch of total structure (including supporting building, if any) giving heights in feet above ground for all significant features. Clearly indicate existing portion, noting particulars of aviation obstruction lighting already prescribed.

21. Will proposed transmitting antenna be supported by the antenna structure of any other radio station? 1/ 2/
KWW525 [X] Yes [ ] No

22. Distance from transmitting antenna structure to nearest runway of nearest aircraft landing area 19,000 feet. 1/ 2/

23. List any natural formation or existing man made structure (hills, trees, water tanks, tower, etc.) which applicant believes would tend to shield the antenna structure from aircraft and thereby minimize the aeronautical hazard of the antenna structure 1/ 2/ None Known

226

1/ If application is for individual user mobile unit, or for mobile units other than those associated with a single permanently installed base station, this item need NOT be answered.
2/ If application is for ten[illegible]-fixed station facilities pursuant to Sections 21.610 and 21.611 or 21.707 and 21.708, this item need NOT be answered.
3/ If application is filed under Part 25 this question need NOT be answered.

New Channel (158.100 MHz) At Daleville, Va.

24. Topographic data for fixed stations 1/ 2/ DNA

Attach, in duplicate as Exhibit No. _____, a topographic map (U.S. Geological Survey quadrangle or map of comparable detail and accuracy) with the exact location of the proposed station drawn and identified thereon. In cases where FCC Form 401-A, is required to be filed, such map must be furnished in triplicate and should be attached to such Form.

25. Topographic data for base and aeronautical ground stations 1/ 2/

(a) Attach, in duplicate as Exhibit No. 6, topographic Map(s) (U.S. Geological Survey quadrangles or maps of comparable detail and accuracy) for the area within 10 miles of the proposed transmitter location and draw thereon the following:

(1) Proposed transmitting antenna location plotted accurately to the nearest second of Latitude and Longitude.

(2) Eight uniformly spaced radials each extending to a distance of ten or more miles from the proposed transmitting antenna location in addition to radials in direct line with each co-channel station within 75 miles.

(b) Attach, as Exhibit No. 7 ✓, profile graphs with reasonably large scales for the radials in (a) (2) above. Each graph shall show the ground elevation along the radial and the elevation of the antenna radiation center. Identify each graph by its azimuth bearing from the proposed antenna location. Direction of True North shall be zero azimuth; azimuths of other radials shall be measured clockwise from True North. Show source of topographical data on each graph.

26. (a) From the profile graphs in 25(b) for the eight mile distance between two and ten miles from the proposed transmitting antenna location, and in accordance with the procedure prescribed in the Commission's rules, supply the following tabulation of data: 1/ 2/ 3/

Radial Bearing (Degrees True)	Average Elevation of Radial (2-10 mi.) in Feet Above Mean Sea Level	Height of Antenna Radiation Center in Feet Above Average Elevation of Radial (2-10 miles)	Effective Radiated Power in Radial Direction (watts)
0°	1316	953.5	11.9
45°	1307	962.5	62.4
90°	1523	746.5	73.3
135°	1419	850.5	65.3
180°	1028	1241.5	84.1
225°	1098	1171.5	92.3
270°	1473	796.5	22.6
315°	1730	539.5	6.4

Average Terrain Elev. 1361.8 ft. Antenna Radiation Center Height in Feet Above Average Terrain 907.8

(*) Radials in direction of each co-channel station within 75 miles. Do not include in determination of average terrain elevation.

26. (b) For any antenna associated with a communication satellite earth station, show the minimum elevation proposed to be used: _____ degrees. DNA

27. Location of Fixed Antennas Receiving Signal of This Station 1/ 2/ DNA

(a) City or Town | County | State

Geographic coordinates (to be determined to nearest second)

North Latitude ° ' " | West Longitude ° ' "

(b) City or Town | County | State

North Latitude ° ' " | West Longitude ° ' "

(c) List frequencies, call letters, and location of stations to be regularly received by station described in item

28. Frequency measurements.

(a) What provision will be made for measurement and periodic checking of the station frequency?

Contract Frequency Checking Agency

(b) If a frequency measuring device is not to be provided, give name and address of frequency checking agency to be employed by applicant

Radio Communications Company, Inc.
311 Shenandoah Ave. N.W., Roanoke, Va.

(If frequency checking agency is shown above, the succeeding subparagraphs of this question are not to be answered)

(c) What type of frequency measurement or calibration apparatus will be used? DNA

(d) Within how many cycles or within what percentage will this apparatus measure the frequency?

DNA

(e) What methods will be used to check calibration of this precision instrument?

DNA

(f) How often will calibration of this instrument be checked?

DNA

CERTIFICATION OF PERSON RESPONSIBLE FOR PREPARING 1/
Engineering Information Submitted in this Application

I hereby certify that I am the technically qualified person responsible for preparation of the engineering information contained in this application; that I am familiar with Parts 21 or 25 of the Commission's Rules; that I have either prepared or reviewed the engineering information submitted in this application; and, that it is complete and accurate to the best of my knowledge.

By John G. Gaiser (signed) John Gaiser (printed) Dated this 31 day of October 1974

Address: 1301 E. Algonquin Road (Number Street) Schaumburg, (City) Illinois (State) 60172

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND IMPRISONMENT. U.S. CODE, TITLE 18, SECTION 1001

1/ If application is for individual user mobile unit, or for mobile units other than those associated with a single permanently installed base station, this item need NOT be answered.

2/ If application is for temporary-fixed station facilities pursuant to Sections 21.610 and 21.611 or 21.707 and 21.708, this item need NOT be answered.

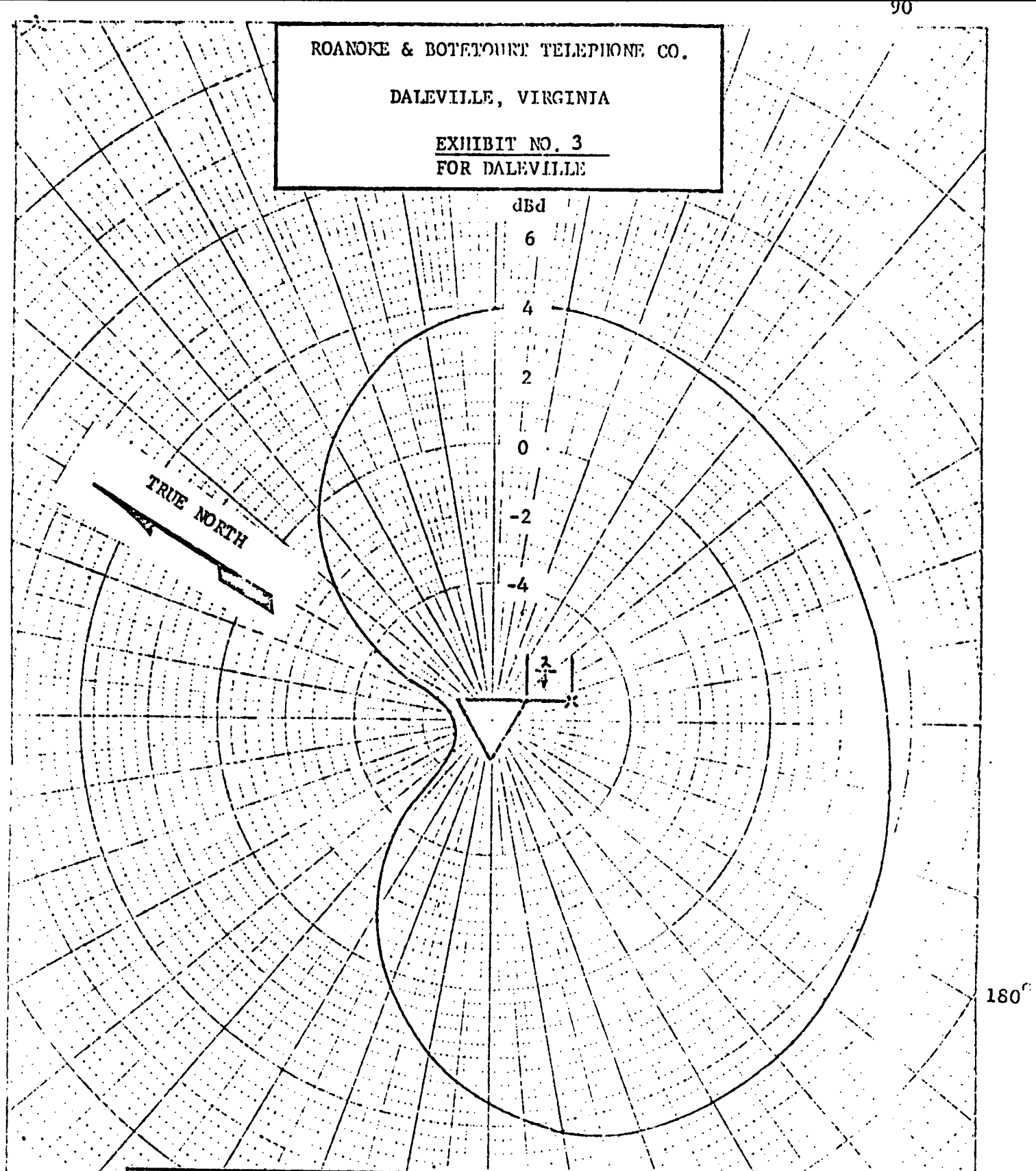
3/ If application is filed under Part 25 this question need NOT be answered.

4/ If communication with one or more foreign countries is proposed, identify the country(ies) and complete applicable parts of Item 27.

ROANOKE & BOTETOURT TELEPHONE CO.

DALEVILLE, VIRGINIA

EXHIBIT NO. 3
FOR DALEVILLE



CALCULATED HORIZONTAL RADIATION PATTERN

X = ANTENNA

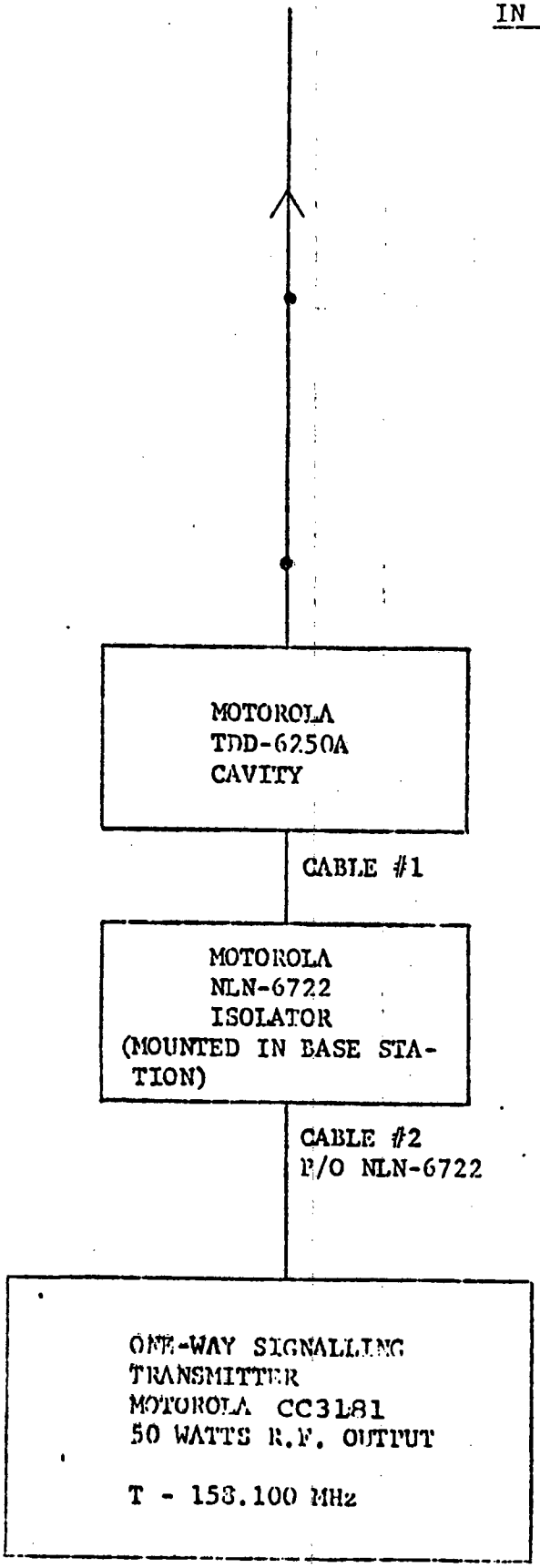
ANTENNA MODEL NO. TDD6023A FREQUENCY 158.100 MHz

MAXIMUM GAIN 5.0 dBd AT 210°

OCTOBER 29, 1974

EXHIBIT NO. 4
FOR DALEVILLE

IN RESPONSE TO ITEM 19



Proposed Antenna Motorola TDD-6023A		
Top Jumper 6' of 1/2" Foam Heliax @ 1.06 dB/100'	=	-0.06 dB
Transmission Line 60' of 7/8" Foam Heliax @ 0.58 dB/100'	=	-0.35 dB
Bottom Jumper 8' RG9/U @ 2.8 dB/100'	=	-0.22 dB
Cavity Loss	=	-0.50 dB
Cable #1 4' of RG9/U @ 2.8 dB/100'	=	-0.11 dB
Isolator Loss	=	-0.50 dB
Connector Loss	=	-0.30 dB
Total Losses	=	-2.04 dB
Antenna Gain	=	5.00 dB
System Gain	=	2.96 dB
Transmitter Output 50 Watts	=	16.99 dBW
	=	19.95 dBW
Maximum Effective Radiated Power	=	98.80 Watts

ROANOKE & BOTETOURT TELEPHONE CO.

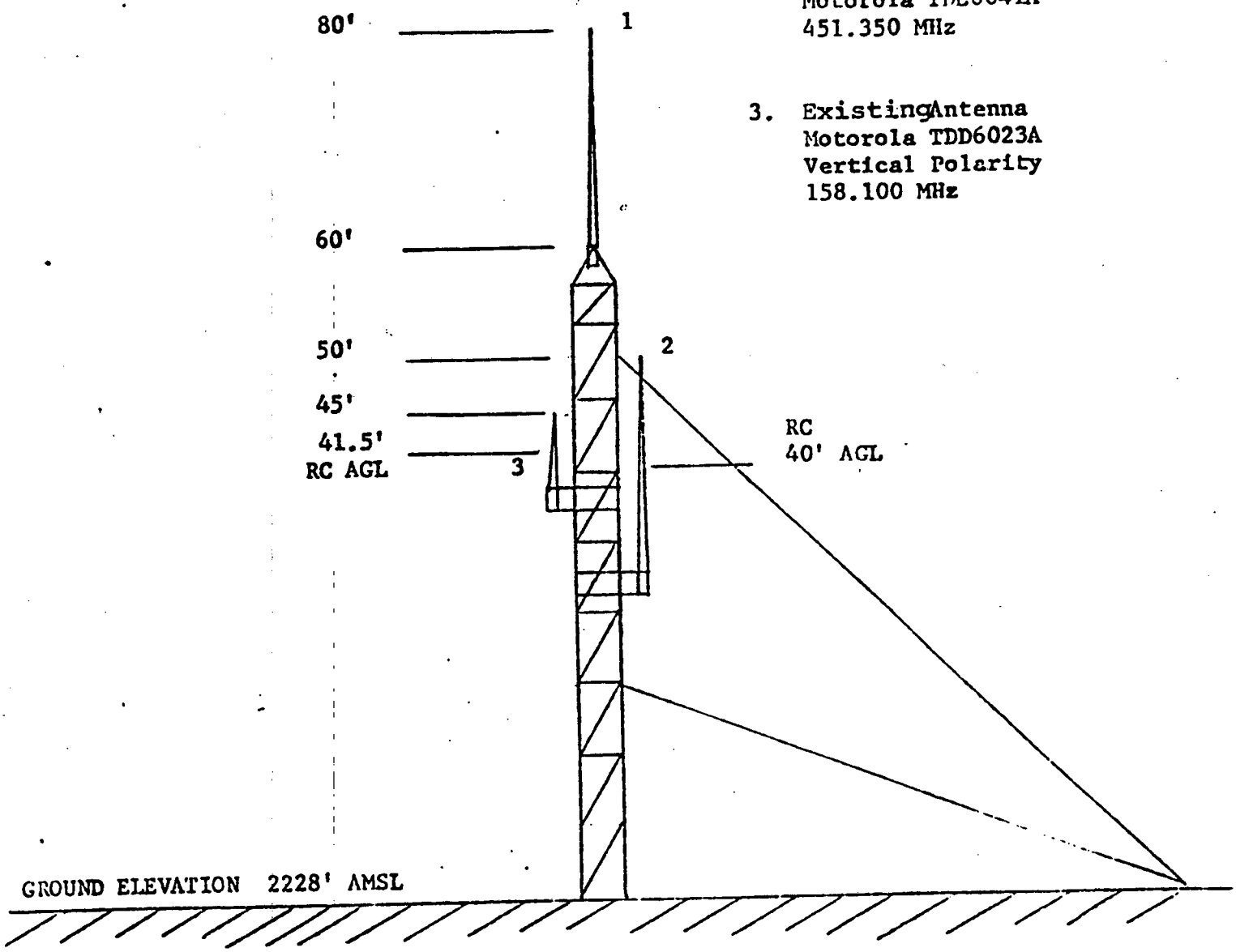
DALEVILLE, VIRGINIA

EXHIBIT NO. 5
FOR DALEVILLE

1. Existing Antenna
Motorola TDE6041A
463.525 MHz

2. Proposed Antenna
Motorola TDE6041A
451.350 MHz

3. Existing Antenna
Motorola TDD6023A
Vertical Polarity
158.100 MHz



TOWER LOCATION:
37° 22' 23" N. LATITUDE
79° 55' 40" W. LONGITUDE

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DOCUMENT CONTROL CENTER

TESTIMONY OF W. E. HUDSON
on behalf of
THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY OF VIRGINIA

SCC Case No. PUC800017

DEC 31 1 56 PM '80

1. Q. PLEASE STATE YOUR NAME, POSITION, AND JOB RESPONSIBILITY.

A. I am William E. Hudson. I am the Product Manager for the Chesapeake and Potomac Telephone Company of Virginia's mobile radio paging service called Bellboy® Service. In this position, I have responsibility for marketing C&P's Bellboy service and assuring that it is profitable service. I worked on the planning and introduction of C&P's Bellboy service in Roanoke and have continuing responsibility over that service.

CASE NO. PUC-800017
EXHIBIT NO. WEH-9
FILED JAN 9 1981
William E. Hudson
Witness

2. Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to demonstrate that the public in the Roanoke and Salem areas proposed to be served by the Roanoke and Botetourt Telephone Company have available to them more than adequate paging services. I conclude, therefore, that there is no public need for Roanoke and Botetourt's application to be granted. Moreover, I will show that in the event the application were to be granted, C&P customers would be adversely affected.

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JAN 12 11 29 AM '81

3. Q. WHAT IS MOBILE RADIO PAGING SERVICE?

A. Mobile radio paging service is a one-way communication which alerts a person who is away from his telephone that someone is trying to contact him. The customer subscribing to paging service carries a radio receiver while away from his telephone.

The subscriber is alerted by a tone or "beep" emitted by the receiver (tone only paging) or by a tone followed by a voice message (tone plus voice paging). In order to activate the receiver, the signalling party dials a telephone number that is unique to the receiver. This call is transferred by the public switched network to the paging control terminal of the paging company. The control terminal then activates a radio transmitter which, in turn, transmits a radio signal that is receivable only by that receiver that is assigned the called telephone number. When the receiver is thus activated, the subscriber takes some responsive action. This action typically is to go to the nearest telephone and call a designated location.

Tone plus voice paging allows only one-way communication, that is, the called party cannot orally respond to the page over the pocket receiver. Tone-only paging service makes more efficient use of the assigned radio frequency than a tone plus voice service thereby making it possible to serve more customers with the tone-only service. This is because of the much greater time required to transmit a voice message.

Both landline telephone companies and nonlandline carriers provide radio paging service. Companies which provide voice communications and other forms of telephone communication by wire or other means (e.g., the C&P and Roanoke and Botetourt Telephone Companies) are referred to as landline companies. Nonlandline carriers providing one-way paging are designated by the Federal Communications Commission as Miscellaneous

Common Carriers, which are generally referred to as Radio Common Carriers ("RCC's"). Radio frequencies for the provision of radio paging service are assigned to telephone companies and to RCC's by the FCC and are limited in number.

4. Q. WHAT PAGING SERVICES ARE CURRENTLY OFFERED IN THE ROANOKE AND SALEM AREAS?

A. RCC of Virginia, Inc., provides tone only plus voice paging and C&P provides tone-only paging service. C&P presently has the ability to accommodate many additional customers on its Bellboy service. Although I do not have any direct information regarding the ability of RCC of Virginia to add additional paging customers to its service, I believe that it has that ability since RCC is soliciting additional customers for its service.

5. Q. ARE YOU AWARE OF ANY PUBLIC DEMAND FOR PAGING SERVICE IN THE ROANOKE AND SALEM AREAS WHICH COULD NOT BE MET BY THE PAGING SERVICES CURRENTLY OFFERED BY RCC OF VIRGINIA AND C&P?

A. No, I am not. As I stated, I believe both companies have available today the capacity to provide paging services to many additional customers.

6. Q. EARLIER YOU STATED THAT IF ROANOKE AND BOTETOURT'S APPLICATION TO PROVIDE PAGING SERVICE IN C&P'S SERVICE TERRITORY WERE TO BE GRANTED, IT WOULD ADVERSELY AFFECT C&P'S CUSTOMERS. PLEASE EXPLAIN.

A. C&P introduced Bellboy service in the Roanoke Area in April, 1979 following an intensive analysis of whether there was a market need for the service and whether we could meet that need without burdening our general ratepayers. We first analyzed the market demand by commissioning a market study by the George Fine Market Research Company. This study, consisting of telephone interviews with randomly selected C&P business accounts in the Roanoke area, concluded that a market existed for our service. We next had to determine whether we could enter this market and make a profit. An incremental cost analysis was performed by our Service Costs staff to determine the additional costs which would be imposed on C&P if it provided the service. We then determined whether the additional revenues we might reasonably expect for the service would exceed these costs.

We concluded that C&P could expect to reach the breakeven profit point near the end of the third year of service and that over our five year planning period we could expect revenues to exceed costs by $58,000. Our study was based on the then current facts, namely, that C&P and RCC of Virginia were the only common carriers in the Roanoke market. We, therefore, assumed that the unfilled market need would be distributed between C&P and RCC of Virginia.

Subsequent to the filing of Roanoke and Botetourt's application to serve the Roanoke market, we have undertaken a review of our studies to determine the effect of that Company's participation in the market. Our conclusion, based on the assumption that

the market not served by RCC of Virginia would be se equally by C&P and Roanoke and Botetourt, is that C&P's service would not reach the economic breakeven point. Further analysis shows that even if the unfilled market is served equally by all three participants, C&P's service will not be profitable. This means that if Roanoke and Botetourt's application is granted, the costs C&P has incurred in providing paging service will not be supported by the revenues from that service. Accordingly, our general ratepayers will then be burdened by these costs.

7. Q. WHAT ARE YOUR CONCLUSIONS WITH RESPECT TO THE REQUEST OF ROANOKE AND BOTETOURT TO BE GIVEN PERMISSION TO PROVIDE PAGING SERVICE IN C&P'S SERVICE AREA?

A. This request is not in the public interest and should not be granted. RCC of Virginia and C&P have the present ability to meet the existing and reasonably anticipated market need for paging service in the Roanoke and Salem areas. Because there is a limited market demand for paging services in that area, the addition of another provider of service is unnecessary and will dilute the number of customers which might reasonably be expected to subscribe to existing paging systems in the area. In that event, the general ratepayers will have to bear the revenue deficiency of C&P's service which will not likely be profitable.

HOUSE BILL NO. 384

Offered January 25, 1980

A BILL to amend and reenact § 56-265.2 of the Code of Virginia, requiring a public utility to obtain certificate of necessity and convenience before constructing or acquiring facility.

Patron—Wilson

Referred to the Committee on Corporations, Insurance and Banking

---

Be it enacted by the General Assembly of Virginia:

1. That § 56-265.2 of the Code of Virginia is amended and reenacted as follows:

§ 56-265.2. Certificate of convenience and necessity required for acquisition, etc., of new facilities; exceptions.—It shall be unlawful for any public utility to construct, enlarge or acquire, by lease or otherwise, any facilities for use in public utility service, except ordinary extensions or improvements in the usual course of business within the territory in which it is lawfully authorized to operate, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege *; provided, however, that no such certificate shall be required for, nor shall any other provision of this chapter be applicable to, the offering of mobile radio or radio paging service by a telephone company duly licensed by the Federal Communications Commission to provide such services, and provided further, that no transmitter site for the purpose of providing mobile radio or radio paging system shall be constructed outside the certificated area of a telephone company unless approved by the State Corporation Commission* . Such certificate shall be issued by the Commission only after formal or informal hearing and after due notice to interested parties.

Official Use By Clerks	
Passed By The House of Delegates	Passed By The Senate
without amendment ☐	without amendment ☐
with amendment ☐	with amendment ☐
substitute ☐	substitute ☐
substitute w/amdt ☐	substitute w/amdt ☐
Date: _____	Date: _____
_____	_____
Clerk of the House of Delegates	Clerk of the Senate

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SCC-59 DOCUMENT CONTROL CENTER

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
RICHMOND

FEB 24 1 45 PM '81

Case No. PUC800017 - Application of Roanoke and Botetourt Telephone Company For a certificate of public convenience and necessity authorizing the certificate holder to provide one-way mobile radio paging service in the Cities of Roanoke and Salem, Virginia, and the County of Roanoke

REPORT OF CHARLES W. HUNDLEY, HEARING EXAMINER

February 24, 1981

Pursuant to orders of the Commission dated August 19, 1980 and December 1, 1980, this matter came for a hearing before the undersigned Examiner on January 9, 1981 upon the application of Roanoke and Botetourt Telephone Company filed on July 11, 1980. A transcript of the hearing is filed with this report. All Exhibits have been previously filed with the Commission.

In addition to evidence presented at the hearing, the record contains a letter filed January 16, 1981 by the Applicant, and post-hearing briefs filed February 11, 1981 by the Applicant and the Protestants.[1]

Proof of proper notice was received as Exhibit A (Tr., p. 58).

Counsel appearing were George E. Honts, III, Esquire, and Tommy L. Moore, Esquire, for the Applicant (R&B); Warner F. Brundage, Jr., Esquire, for the Protestant Chesapeake and Potomac Telephone Company (C&P); Henry C. Clark, Esquire, for the Protestant RCC of Virginia (RCC); and Glenn P. Richardson, Esquire, for the Commission's Staff. Mr. William T. Wilson appeared as an Intervenor.

The Applicant telephone company is requesting that its existing certificate of public convenience and necessity be amended for the limited purpose of authorizing it to provide one-way mobile radio paging service in the County of Roanoke, and the Cities of Roanoke and Salem, Virginia.

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[1] Letter from Thomas A. Gibson, General Manager of Roanoke and Botetourt Telephone Company to Mr. Don T. Peary, dated March 21, 1979 (filed January 16, 1981, SCC Doc. Cont. No. 81012 0178); see Tr., pp. 83-84, 214.

The Applicant is currently certificated to provide telephone and mobile radio paging service in Botetourt County.

The Protestant C&P Telephone Company is certificated to provide mobile radio paging service in the area in which the Applicant desires to be certificated. The Protestant RCC is certificated as a radio common carrier to provide mobile radio paging service in the area in which the Applicant desires to be certificated, as well as in a portion of the area in which the Applicant is presently certificated.

The application is filed pursuant to an Act of the 1980 General Assembly codified at §56-265.4:3 of the Virginia Code:

> Mobile telephone service or radio paging service in certificated territory of another company. Nothing contained in this chapter shall prevent the Commission, upon application from a telephone company from permitting the applicant to provide mobile telephone service or radio paging service in the certificated territory of another telephone company if, upon a hearing, either formal or informal as may be determined by the Commission, after written notice to all affected parties, the applicant demonstrates to the satisfaction of the Commission that:
>
> (i) the applicant is duly licensed by the Federal Communications Commission to provide mobile telephone service or radio paging service in its own certificated territory;
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> (ii) the applicant's mobile telephone or radio paging service as licensed was designed to serve customers within the applicant's existing certificated area, but the reliable service area of the applicant's system incidentally extends into a contiguous area certificated to another telephone company;

> (iii) the applicant's proposed service does not, by reason of harmful electrical interference or other practical reason, interfere or conflict with any like service; and
>
> (iv) it is in the public interest to grant the request. (1980, c. 294)

This is the first case involving this Act.

HISTORY OF THE CASE

Motorola, Inc., a manufacturer of communications equipment, proposed to R&B during 1972 that the company should construct, using Motorola equipment, a paging service in Botetourt County (Tr., p. 65). Commission certificate No. T-120E authorizing R&B to provide telephone service was issued on August 2, 1974 (1979 S.C.C. 251, at 252). An antenna was constructed on Tinker Mountain for R&B by Motorola during 1974-1975 (Tr., p. 62). R&B has provided paging service in its certificated area since December 1, 1977 (Tr., p. 44, 63). During December, 1977 and January, 1978, R&B began offering paging service to customers living and working outside of its certificated area (Tr., p. 82). During June, 1978, upon complaint by the Protestant RCC, the Commission held a meeting attended by the Commission, its Staff, RCC, C&P, and R&B. After the meeting, the Commission forwarded a letter to each party attending which advised that R&B could not "offer or provide radio paging service" outside of its certificated area (1979 S.C.C. 251, at 252). R&B filed an application for an amended certificate of public convenience and necessity to provide service similar to that requested in this case. The Commission, by order issued April 3, 1979 (1979 S.C.C. 251) denied the application because

> [t]he plan of regulation within the State of Virginia does not provide for competition between telephone utilities either in the provision of landline service or radio common carrier service. The scheme of regulation within Virginia does not provide for one telephone company to move into

> the certificated area of a second telephone utility to provide service unless it moves under the provisions of §56-26[5].4 of the Code of Virginia. Roanoke expressly states that it does not seek to proceed under §56-26[5].4. (1979 S.C.C. 251, at 256).[2]

Section 56-265.4 provides that

> [n]o certificate shall be granted to an applicant proposing to operate in the territory of any holder of a certificate unless and until it shall be proved to the satisfaction of the Commission that the service rendered by such certificate holder in such territory is inadequate to the requirements of the public necessity and convenience; and if the Commission shall be of the opinion that the service rendered by such certificate holder in such territory is in any respect inadequate to the requirements of the public necessity and convenience, such certificate holder shall be given reasonable time and opportunity to remedy such inadequacy before any certificate shall be granted to an applicant proposing to operate in such territory. (1950, p. 600.)

R&B supported legislation in the General Assembly which would alter the requirements of §56-265.4. The 1980 Assembly passed §56-265.4:3. Ten days after the new statute became effective on July 1, 1980, R&B filed the application in this case.

R&B admits that RCC has the capability to provide mobile radio tone and voice paging service in the area in which R&B seeks certification (Tr., pp. 72, 105).

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[2] And see letter dated March 21, 1979 (S.C.C. Doc. Cont. No. 81012 0178); and Tr., pp. 83-84.

The fact that R&B was previously ordered to cease serving customers outside of its certificated area should have no effect on this application.[3]

The plan of regulation within this state now provides for competition between telephone companies offering mobile radio paging service. If the Applicant carries its burden to show that it meets the requirements set out by the Act of the 1980 General Assembly, then the requested amended certificate should be issued.

ISSUES AND DISCUSSION

There is no controversy concerning statutory requirements (i) and (iii) of §56-265.4:3. There is sufficient unrebutted testimony in the record to support preliminary findings that the Applicant has demonstrated that (i) R&B is duly licensed by the FCC to provide mobile telephone service or radio paging service in its own certificated territory (Tr., pp. 41, 61); and (iii) that R&B's proposed service does not, by reason of harmful electrical interference or other practical reason, interfere or conflict with any like service (Tr., p. 45).

Most of the evidence presented at the hearing and most of the discussion in the post-hearing briefs concerns statutory requirements (ii) and (iv). Whether the Applicant has carried his burden to show that these two requirements are met are the issues dispositive of this case.

(ii) Has the Applicant demonstrated that its mobile telephone or radio paging service as licensed was designed to serve customers within the Applicant's existing certificated area, but the reliable service area of the Applicant's system incidentally extends into a contiguous area certificated to another telephone company?

There is no controversy concerning the fact that the reliable service area of the Applicant's system extends into a contiguous area certificated to C&P Telephone Company.

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[3] "The illegality of past wilful operations does not ipso facto bar the granting of a certificate . . ." (St. Johnsburg Trucking Co., et al. v. United States and I.C.C., 326 F. Supp. 938 at 942 [6, 7] (D. Vt. 1971)); cited in North American Van Lines v. I.C.C., 386 F. Supp. 665 at 677 [3, 4] (N.D. Ind. 1974). And see Slay Transportation Co. v. United States and I.C.C., 353 F. Supp. 555 at 559 [4] (E.D. Mi. 1973).

The keys to proper resolution of issue (ii) lie in interpretation of the Assembly's use of the words "designed" and "incidentally". These words carefully chosen by the Legislature are plain and are not ambiguous. (See School Board of Chesterfield County v. State Board, et al., 219 Va. 244 at 250 [1] (1978)).

I interpret "designed" as used by the General Assembly in the statute to mean "contrived or taken to be employed for a particular purpose" (Black's Law Dictionary, p. 403 (5th Ed., 1979)). "Designed" to serve customers within an area does not mean designed to the exclusion of all other areas. Evidence which may tend to show that the Applicant's system may also be capable of serving other areas does not preclude satisfaction of the statute.

I interpret "incidentally" as used by the General Assembly in the statute to mean "depending upon or appertaining to something else as primary" (Black's Law Dictionary, p. 686 (5th Ed., 1979)). "Incidentally" does not mean "accidentally".

The Applicant testifies that R&B intended to serve customers in the most populous areas if they lived or had a place of business in its certificated territory, and that such customers could be paged while they were traveling outside R&B's certificated area (Tr., pp. 64-66).

The Protestants seek to show that the application should be denied because R&B may have designed its system to also serve customers living and working outside R&B's certificated area.

I think it appropriate here to draw a distinction between customers living and working outside of R&B's certificated area, and customers traveling outside of R&B's certificated area.

In the 1978 case, R&B was providing service to customers having residences and places of business outside of its area. It was not necessary for the Commission in that case to decide whether a paging customer of R&B having a residence or place of business within R&B's certificated area could lawfully receive a radio signal broadcast from R&B's Tinker Mountain transmitter while the customer is outside of R&B's area. I take notice that, if it is unlawful for a customer to receive such signals, traveling customers desiring paging service and wishing to fully comply with the law would have to subscribe to more than one paging service even in situations where the reliable range of

a transmitter goes beyond the boundaries of a certificated area. Requiring such duplicity in the name of responsible regulation would require customers to incur unnecessary expense and would under-utilize radio frequencies authorized by the Federal Communications Commission. I also take notice of that phenomenon of physics which does not permit radio waves such as those used by the Applicant to abruptly halt solely because a line has been drawn on a map. The FCC has the regulatory authority to assign frequencies and maximum broadcast wattages. The Virginia State Corporation Commission has the regulatory authority to issue certificates of public convenience and necessity. Such certificates mandate the boundaries of a utility's service area. I respectfully submit and find that "territory of another certificate holder" and "certificated territory of another", within the meaning of Chapter 10.1 of the Virginia Code, does not include that area in which a mobile paging service customer may be traveling while away from his residence or place of business.

A customer may lawfully receive a radio signal broadcast from R&B's Tinker Mountain transmitter while the customer is traveling outside of R&B's certificated area. Certificates of public convenience and necessity for mobile radio paging service issued by the Commission merely define a service area in which customers must live or have a place of business. Evidence which may tend to show that the Tinker Mountain transmitter's reliable range extends or may have been designed to extend into areas contiguous to R&B's certificated territory is not ipso facto evidence that R&B was or is fostering or engaging in any unlawful activity.

An acceptable method for "demonstrating" that a system was "designed" to serve an Applicant's certificiated area would be to show that the system is actually and adequately serving its area. If R&B has shown that its Tinker Mountain antenna provides adequate service within its certificated area, then the Applicant has demonstrated that its service was designed to serve its customers within that area.

Since the evidence shows that only small portions of the Applicant's existing certificated territory which are sparsely populated are beyond the effective range of its antenna, that there is little potential customer interest in those portions, that the reliable dbu contour extends over the rest of the area, and that customer complaints have been insignificant, I find that the Applicant's service provided in its existing certificated territory is adequate (Tr., pp. 62-64; Exhibit TAG-1).

Another acceptable method would be satisfying the lesser burden of "demonstrating" that the system was technically "designed" to serve the Applicant's area unaccompanied by an offer of proof concerning the overall success of the design or that reliable service actually is available throughout the entire certificated area. It is significant to note that nowhere in the statute is a requirement for an applicant to show that its "reliable service area" includes all or most of the Applicant's existing certificated area.

According to the Applicant, Tinker Mountain was chosen as the antenna site because the site could best serve its customers and had convenient access to roads and utility support (Tr., pp. 67, 115-116). Other technically feasible locations within the certificated territory presented many practical obstacles, such as remoteness, non-existing roads and utility lines, and the presence of an FCC "quiet zone" (Tr. pp. 67, 152-157, 174-175, 184-185). The FCC-assigned frequencies and wattages are sufficient to cover most of R&B's area with a 90 percent dbu reliability (Tr., pp. 66-71). Since the evidence shows that Tinker Mountain is a technically reasonable location to provide reliable service in the Applicant's certificated area using the FCC-assigned frequencies and wattages, I find that the system was designed to serve customers within its area.

As discussed previously, "incidentally" does not mean "accidentally". There is nothing illegal about designing a system so that radio signals can be received outside of a certificated area. The "incidental" portion of the statutory requirement precludes entry into the certificated territory of another telephone company by an applicant with a system designed primarily to serve customers living and working in the area certificated to that other telephone company. If the R&B system's reliable service area extends into C&P's territory for any reason other than the primary reason for the system's existence, then I must find that the extension is incidental.

As also discussed previously, the evidence shows that the Applicant's Tinker Mountain site was chosen and the system designed to best serve customers living or working within R&B's certificated area. I therefore respectfully find that service of R&B's customers within its certificated area is the primary reason for the system's existence, and that all other capabilities of R&B's system are incidental.

Therefore, the Applicant has demonstrated that its mobile telephone or radio paging service as licensed was

designed to serve customers within the Applicant's existing certificated area, but the reliable service area of the Applicant's system incidentally extends into a contiguous area certificated to another telephone company.

(iv) Has the Applicant demonstrated that it is in the public interest to grant the request?

The key to resolution of this issue lies in the Commission's interpretation of the concept "public interest". Section 56-265.4:3 does not change the concept of "public interest". That section carves out an exception to the restrictive provisions of §56-265.4.[4]

If a telephone company applies under §56-265.4:3 for permission to provide mobile telephone or radio paging service in the certificated territory of another telephone company, §56-265.4 does not apply. It is not necessary in this case for the Applicant to "prove" that the service provided by RCC or C&P in the area applied for is "inadequate to the requirements of the public necessity and convenience". In this case, the Applicant has the lesser burden to "demonstrate" that it is in the "public interest" for it to provide service in addition to and not in lieu of existing certificate holders.

Fostering competition may be considered by some to satisfy the public interest requirement (Tr., pp. 31-32, 46). Even though competition may in many cases be a factor affecting the public interest, competition alone is not enough. The concept of "public interest" remains unchanged by the 1980 Act, and the law in Virginia still precludes entry of one telephone company in the certificated area of another telephone company solely to foster competition among such providers of mobile telephone or radio paging service (See 1 A.J.G. Priest, Principles of Public Utility Regulation 347-349 (1969)).

C&P offers "tone only" paging service within its certificated territory in which R&B seeks entry (Tr., p. 198). C&P's witness testifies that it has only approximately 20 tone only customers after one year's operation (Tr., p. 198).

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[4] Va. Code §56-265.4:3: "Nothing contained in this chapter [the Utility Facilities Act] shall prevent" the Commission from permitting one telephone company to provide mobile radio paging service in the certificated territory of another telephone company if the requirements of this section are met.

C&P neither offers nor plans to offer comparable tone and voice service which is presently available by R&B. Notwithstanding arguments to the contrary, there is definitely a public demand for tone and voice paging service (Tr., pp. 46-47, 52, 82, 116-117, 182-183). There is no question that as between R&B and C&P, R&B is in a better position to presently meet the public demand for tone and voice paging in the area sought by R&B.

Issue (iv) also includes the position of RCC. There is no controversy that RCC is capable of continuing to provide adequate tone and voice service within the area R&B seeks to gain entry (Tr., pp. 72, 105). Whether the public interest would be served if another entity was permitted to compete with RCC depends upon the Legislature's plan for regulation of radio common carriers and telephone companies.

The General Assembly has chosen to place radio common carriers such as RCC under a separate plan of regulation.[5] Radio common carriers are not discussed anywhere in Chapter 10.1 (Utility Facilities Act) of the Code of Virginia. If the Legislature intended for the Commission to consider the potential impact of telephone company competition on a radio common carrier, the matter would have been included within the 1980 amendment or elsewhere within Chapter 10.1.[6] The statute plainly and unambiguously is confined to telephone companies only.[7] Since R&B is in a better position to

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[5] Va. Code §56-508.2 "Application of chapter. - the provisions of this chapter relate only to "radio common carriers" as defined herein and are distinguishable from mobile radio telephone service offered by landline telephone or telegraph utilities regulated by the Commission. (1970 c. 276)" (Emphasis suplied). "[T]his chapter" refers to Chapter 16.1 (Radio Common Carriers).

[6] "There may be competition between a telephone company and radio common carrier only in areas which are certificated to both parties;" Letter from the Commission to R&B, C&P, and RCC dated June 15, 1978 quoted in Application of R&B, etc., 1979 S.C.C. 251, at 252.

[7] Va. Code §56-265.4:3: ". . . to provide mobile . . . radio paging service in the certificated territory of another telephone company . . . ."

meet public demand for tone and voice paging than C&P, I find that it is in the public interest for R&B to be permitted to provide mobile radio paging service in the certificated territory of C&P.

GENERAL SUMMARY

Here we have a telephone company which desired to provide mobile radio paging service in the certificated territory of another telephone company contrary to law. The General Assembly amended the law, and now comes the Applicant who has demonstrated that his request meets the requirements of the amended law.

FINDINGS AND RECOMMENDATIONS

After considering all of the evidence in this case, I find that:

(1) "Territory of another certificate holder" and "certificated territory of another", within the meaning of Chapter 10.1 of the Virginia Code, does not include that area in which a mobile paging service customer may be traveling while away from his residence or place of business.

(2) The Applicant is a telephone company requesting authority to provide mobile telephone service or radio paging service in the certificated territory of the Chesapeake and Potomac Telephone Company.

(3) A formal hearing was held after written notice was given to all affected parties.

(4) The Applicant is duly licensed by the Federal Communications Commission to provide mobile telephone service or radio paging service in its own certificated territory.

(5) The Applicant's mobile telephone or radio paging service as licensed was designed to serve customers within the Applicant's existing certificated area, but the reliable service area of the Applicant's system incidentally extends into a contiguous area certificated to another telephone company.

(6) The Applicant's proposed service does not, by reason of harmful electrical interference or other practical reason, interfere or conflict with any like service.

(7) It is in the public interest to grant the request.

WHEREFORE, IT IS RESPECTFULLY RECOMMENDED that the Commission should enter an order that APPROVES the application of Roanoke and Botetourt Telephone Company as filed.

RESPONSES

The parties are advised that any response they may wish to make to this report must be filed with the Clerk of the Commission in writing, in an original and four copies, within 15 days after the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23219. Any party filing a response shall attach a certificate to the foot of such document that copies have been mailed or delivered to all other counsel of record and to any party not represented by counsel.

I certify that copies of this report were mailed or delivered on February 24, 1981, to:

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Respectfully submitted,

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Hearing Examiner

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
RICHMOND

AT RICHMOND, APRIL 3, 1979

APPLICATION OF

ROANOKE & BOTETOURT TELEPHONE COMPANY CASE NO. 20017

For an amended certificate of
public convenience and necessity

Roanoke and Botetourt Telephone Company (Roanoke) is a Virginia public utility that holds a certificate authorizing it to furnish telephone service in Botetourt County, Virginia. By application filed herein Roanoke requests that its existing certificate be amended for the limited purpose of authorizing it to furnish one-way mobile radio paging service in the Roanoke-Salem area. The proposed additional area is specifically delineated on a map attached to the application.

It appears that Roanoke's application was motivated by the Commission's ruling on a letter of complaint, dated April 14, 1978, in which RCC of Virginia, Inc. (RCC) contended that Roanoke was providing radio common carrier service outside the latter's certificated area. The Commission, the Commission's Staff, Roanoke, RCC, and The Chesapeake and Potomac Telephone Company of Virginia (C&P) attended a meeting on June 12, 1978, for the purpose of reviewing RCC's complaint. In a letter dated June 15, 1978, addressed to the three utilities, the Commission stated that:

> . . . a telephone company or a radio common carrier can only serve customers having a residence or place of business within the certificated area of that particular utility. There may be competition between a telephone company and radio common carrier only in areas which are certificated to both parties. However, in no case can a utility serve outside of its own certificated area.

Also, in that letter the Commission advised the parties that:

> . . . Roanoke and Botetourt Telephone Company may no longer offer or provide radio paging service to customers outside certificated area shown on the map attached to Certificate No. T-120E dated August 2, 1974.

Roanoke's Certificate No. T-120E, dated August 2, 1974, shows the territory in which it is presently authorized to provide telephone service in Virginia. The additional territory in which Roanoke seeks to provide one-way mobile radio paging service is territory in which C&P is authorized to provide telephone service. In this same territory, RCC is authorized to provide radio common carrier service.

In support of its application Roanoke states, among other things, that:

1. Roanoke is a public utility as defined in Code Section 56-265.1(b). It is authorized to furnish telephone service within its existing certificated area.

2. Roanoke has installed and is operating, pursuant to FCC license, a radio paging base station located on Tinker Mountain, Botetourt County, Virginia. It is presently providing service to approximately 100 mobile paging units.

3. The Roanoke and Salem areas are well within the effective coverage of its paging base station.

4. It is serving over 50 customers in the Roanoke-Salem area (customers located outside of its presently certificated area).

5. Roanoke does not seek to prove that the telephone service offered by C&P Telephone Company in the Roanoke-Salem area is inadequate, pursuant to §56-265.4 of the Code, but contends that this issue is not presented by its application. It does not seek a certificate authorizing it to provide telephone service in the Roanoke-Salem area but, instead, seeks to provide radio paging service which is presently not offered by C&P. The question is not one of adequacy of existing telephone service but whether Roanoke should be authorized to provide a needed service that C&P has not provided and does not provide.

As stated earlier, the additional area, the Roanoke-Salem area, in which Roanoke seeks authority to provide one-way mobile radio common carrier service is already certificated to two communications utilities. RCC is certificated to provide radio common carrier service while C&P is certificated to provide telephone service in the Roanoke-Salem area.

On August 17, 1978, RCC of Virginia, Inc. filed herein "Objections to Application." In its objections RCC contends, among other things, that:

1. Only one telephone company can be certificated to serve in a single geographic area under the law of Virginia.

2. There is no provision under the law for dividing telephone service between two or more telephone companies within a single area.

3. Two telephone companies operating in the same territory would be contrary to public interest because excessive costs would result to customers and it would be difficult to regulate the activities of both companies.

4. RCC has been granted authority to provide radio common carrier service in the area, and RCC is ready, willing and able to supply service of a quality and diversity equal to or better than that proposed to be offered by Roanoke.

On August 21, 1978, C&P filed herein "Protest of The Chesapeake and Potomac Telephone Company of Virginia." In its protest C&P states, among other things, that:

1. Section 56-265.4 of the Code of Virginia stipulates that an applicant will not be permitted to operate in the territory of an existing certificate holder "unless and until it shall be proved to the satisfaction of the Commission that the service rendered by such certificate holder in such territory is inadequate to the requirements of the public convenience and necessity." Not only does Roanoke fail to allege any inadequacy on the part of C&P, it states that it "does not question the adequacy of the existing telephone service furnished by C&P."

2. Roanoke cannot claim that it is seeking to be certificated for a service other than telephone service. Radio common carrier service has been considered for

many years to be a form of telephone service. In fact, the Virginia State Corporation Commission has regulated paging service as telephone service for many years. C&P has had such tariffs on file with the Commission since 1946. Courts and Commissions have held that telephone companies have the right to provide paging service because these services are telephone service and are thus included within telephone companies' certificated rights.

3. Roanoke is in violation of §56-265.2 of the Code of Virginia because it is providing public utility services beyond its certificated area without first having obtained a certificate from the Commission.

4. C&P would not oppose "grandfathering" Roanoke's service to the existing 50 customers in C&P certificated area.

5. C&P plans to file tariffs with the Commission offering one-way paging service throughout its entire certificated area in Roanoke and Salem.

6. C&P can provide a better quality service than Roanoke.

On August 29, 1978, Roanoke filed a "Motion to Dismiss" C&P's "Protest of The Chesapeake and Potomac Telephone Company of Virginia" and the "Objections to Application" by RCC. Among other reasons given for the motion Roanoke states:

1. That RCC's objection is not valid because under Chapters 10.1 and 16.1 of Title 56 of the Code of Virginia a dual regulatory scheme is established and a telephone company (Roanoke) and a radio common carrier (RCC) can compete within a given area.

2. That C&P has not and does not propose to offer the radio common carrier service which Roanoke will provide in the Roanoke-Salem area.

Roanoke argues that RCC should not object to the grant of a certificate authorizing Roanoke to provide radio common carrier service in the Roanoke-Salem area because the law of Virginia provides that a telephone utility and a radio common carrier can be certificated to serve the same territory. It argues that Chapters 10.1 and 16.1 of the Code permit competition between a telephone utility and a radio common carrier utility in the area of radio common carrier service.

Roanoke argues that C&P's objection should not be considered because Roanoke is not asking for authority to provide telephone service in the Roanoke-Salem area. It argues that it is seeking instead a limited certificate which would authorize it to provide one-way mobile radio common carrier service. Roanoke states that C&P does not presently offer this service in its territory.

For the purpose of competing against RCC, Roanoke wants to be identified as a telephone company while for the purpose of competing against C&P, Roanoke wants to be judged not as a telephone company but as an applicant for a limited certificate authorizing it to provide something less than telephone service - radio common carrier service.

After consideration of the motions filed herein, together with pertinent sections of the Code of Virginia,

filed tariffs, and certificates issued to utilities, it is the opinion of the Commission that the application of Roanoke for a certificate authorizing it to provide one-way paging service in the additional territory should be denied.

This Commission operates under a definite plan for designating the area in which each utility shall provide service. This plan is fully compatible with the Utility Facilities Act, Chapter 10.1, Title 56 of the Code of Virginia. Pursuant to this Chapter, each utility is authorized to provide service in a designated area. When the chapter was enacted in 1950 each utility was given the opportunity to seek certification within the territory it served at that time. Telephone, electric, gas and other utilities were given the right to offer services within given areas without competition from utilities offering like services.

Today, the designated service territories of the investor-owned electric utilities and electric cooperatives operating in Virginia encompass all, or virtually all, of the state. The same is true of investor-owned telephone utilities and telephone cooperatives. No electric utility is authorized to provide service in the territory of a second electric utility, nor is one telephone utility authorized to provide service in the territory of a second telephone utility.

The service territories of the gas utilities operating in Virginia cover a substantial portion of the state. Water and sewerage utilities have been designated certain service areas within the state. Again, no gas, water or sewerage utility has been issued a certificate authorizing it to provide utility service in the area assigned to a utility offering a like service.

When the Utility Facilities Act was enacted in 1950 there were no "radio common carrier" utilities under Virginia law. Telephone utilities provided radio common carrier service within their respective territories. Among the telephone tariffs on file with the Commission were tariffs providing for radio common carrier service. No telephone utility was authorized to provide communications service - either landline service or radio service - in the territory of another telephone utility. It is obvious from language used in Chapter 10.1 of the Utility Facilities Act that certificate holders are not to operate in the territories of utilities offering like services. Code §56-265.4 provides:

> Certificate to operate in territory of another certificate holder. - No certificate shall be granted to an applicant proposing to operate in the territory of any holder of a certificate unless and until it shall be proved to the satisfaction of the Commission that the service rendered by such certificate holder in such territory is inadequate

> to the requirements of the public necessity and convenience; and if the Commission shall be of opinion that the service rendered by such certificate holder in such territory is in any respect inadequate to the requirements of the public necessity and convenience, such certificate holder shall be given reasonable time and opportunity to remedy such inadequacy before any certificate shall be granted to an applicant proposing to operate in such territory.

The "Radio Common Carrier's Act" was enacted by the 1970 session of the General Assembly. The General Assembly, while creating a class of public utilities designated as radio common carriers, did not direct telephone utilities to cease providing such service. In fact it appears that the General Assembly contemplated that telephone companies would continue to provide radio common carrier service. Section 56-508.1 of the Radio Common Carrier's Act defines a radio common carrier as:

> . . . every public service corporation or any other person or organization owning, operating, controlling or managing a mobile radio telephone utility system except a public landline message telephone service or a public message telegraph service. The terms "telephone or telegraph utilities," "telephone or telegraph company," or a "person operating telegraph or telephone lines" when used in this chapter, shall not be construed as including radio common carriers.

Section 56-508.2 of the Code of Virginia gives further insight into the intent of the General Assembly; it provides that:

> . . . The provisions of this chapter relate only to "radio common carriers" as defined herein and are distinguishable from mobile radio telephone service offered by landline telephone or telegraph utilities regulated by the Commission.

A radio common carrier utility is a public service corporation providing one-way or two-way communications and licensed as a miscellaneous common carrier by the FCC. A radio common carrier utility under Virginia law does not provide landline communications.

A telephone utility under Virginia law is a public service corporation providing communications service - both by landline and radio wave in its certificated area. The service areas of radio common carrier utilities overlay areas served by telephone companies. Therefore radio common carriers and telephone utilities compete for mobile service customers. Their competition is tempered to some degree by availability of channels (allocated by the FCC) and other factors.

The plan of regulation within the State of Virginia does not provide for competition between telephone utilities either in the provision of landline service or radio common carrier service. The scheme of regulation within Virginia does not provide for one telephone company to move into the certificated area of a second telephone utility to provide service unless it moves under the provisions of §56-264.4 of

the Code of Virginia. Roanoke expressly states that it does not seek to proceed under §56-264.4.

C&P is certificated to provide telephone service in the Roanoke-Salem area which Roanoke wants added to its authorized service area. RCC is certificated to provide radio common carrier service in the same territory. C&P and RCC may both offer radio common carrier service in that territory. We will not issue a certificate to Roanoke authorizing it to also provide radio common carrier service.

Accordingly, IT IS ORDERED:

(1) That the application of Roanoke is hereby denied;

(2) That, inasmuch as Roanoke presently serves 50 or more customers outside of its certificated area, Roanoke, C&P, RCC, and the Commission's Staff shall arrange a meeting, to be scheduled by the Commission's Director of Communications, to formulate and propose to the Commission a plan for resolving the problem of the customers presently served by Roanoke.

AND, IT APPEARING that nothing further remains to be done in this proceeding the same shall be dismissed from the Commission's docket of active cases and the record developed herein placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent to Henry C. Clark, Esquire, Counsel to RCC of Virginia, Inc., Clark, Bradshaw, Smith & Harrison, P.O. Box 71, Harrisonburg, Virginia 22801; to Warner F. Brundage, Jr., Esquire, Counsel

to The Chesapeake and Potomac Telephone Company of Virginia, 703 East Grace Street, Richmond, Virginia 23219; and, to Thomas J. O'Reilly, Esquire, Chadbourne, Parke, Whiteside & Wolff, 1150 - 17th Street, N.W., Washington, D.C. 20036; and attested copies shall be delivered to the Commission's Divisions of Communications, Accounting and Finance, and Economic Research and Development.

A True Copy

Teste: William C. Young

Clerk of State Corporation Commission.

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

RICHMOND

CASE NO. PUC800017 - Application of Roanoke and Botetourt Telephone Company for a Certificate of Public Convenience and Necessity authorizing the certificate holder to provide one-way mobile radio paging service in the Cities of Roanoke and Salem, Virginia, and the County of Roanoke

EXCEPTION TO REPORT OF CHARLES W. HUNDLEY, HEARING EXAMINER

March 10, 1981

Protestant, RCC of Virginia (RCC) excepts to the Report of Charles W. Hundley, Hearing Examiner, dated February 24, 1981, in the above matter on the following grounds:

1. The Hearing Examiner erred in finding that the Applicant, Roanoke and Botetourt Telephone Company (R&B), has demonstrated that its mobile telephone or radio paging service as licensed was designed to serve customers within its existing certificated area, but the reliable service area of Applicant's system incidentally extends into a contiguous area certified to another telephone company.

2. The Hearing Examiner erred in finding that the Applicant has demonstrated that it is in the public interest to grant R&B's request for amended certificate to provide one-way mobile radio paging service outside its presently certificated area.

The history of the case and issues as set forth in the Hearing Examiner's Report are not in controversy.

ISSUES AND DISCUSSION

I. Has the Applicant demonstrated that its mobile telephone or radio paging services license was designed to serve customers in the Applicant's existing certificated area, but the reliable service area of the Applicant's system incidentally extends into a contiguous area certificated to another telephone company?

The Hearing Examiner has completely disregarded the testimony and exhibits filed by Jan David Jubon, which were unrefuted by any evidence of R&B that the R&B system was designed for better service outside of its certificated area than within its certificated area and could have been designed for better service within its certificated area were it not for the fact that service outside its certificated area was its primary interest.

There is no creditable evidence in the record to indicate as stated by the Hearing Examiner that R&B's intent was to serve its own customers while outside of its area. The finding of the Examiner on this point was based on testimony of Thomas A. Gibson, General Manager of R&B, when in fact Mr. Gibson did not participate in the initial design of the system (Tr., p. 92), and any intent which he may now testify to would be based on his own subsequent determinations to fit later developments.

We must then look to the legislation and to the actions of the various parties to determine the intent at the time of the initial design and concept of R&B's system.

The testimony of William T. Wilson, a member of the General Assembly who introduced the legislation which became Section 56-265.4:3 on behalf of the Applicant, is very helpful in construing the intent of the legislature in clause (ii) of the statute. At page 38 of the Transcript, Mr. Wilson testifies:

"Q. Would you agree that the legislation was not intended to cover an area where the telephone company designed its system to serve outside its area?

A. I think that was the spirit of the legislation.

Q. That it shouldn't be allowed in that case?

A. That is correct."

Webster's New Collegiate Dictionary defines "INCIDENTAL" as "1: occurring merely by chance or without intention or calculation 2: being likely to ensue as a chance or minor consequence."

The design of, for, and the operation of Applicant's radio paging service in the Roanoke-Salem area has no elements of "incidental," "chance," "without intention," "without calculation, or "minor consequence," rather there has been from the inception of the program a calculated, planned, intentional and illegal intent and effort on behalf of Applicant to provide radio paging service in the Roanoke-Salem area.

The overwhelming evidence is that Applicant's radio paging system was designed to serve the Roanoke-Salem area lying outside its certificated area. While Applicant has the burden of demonstrating to the satisfaction of the Commission the fact that its system was designed to serve customers within its area, and

incidentally serves an area outside, Applicant has not introduced any evidence or offered any testimony in support of its meeting the statutory requirements.

The undisputed and uncontradicted evidence of Applicant's actions in the intentional design for and pursuit of the Roanoke-Salem market is overwhelming and consists of:

(a) The presentation and sales brochure prepared by Motorola prior to October, 1974. (Exhibit TAG-2)

(b) The FCC application prepared by Motorola dated October 31, 1974. (Exhibit EWD-8)

(c) The ignoring of telephone call from E. Warren Denton, Jr., advising Applicant that it is illegal to serve customers outside a certificated area.

(d) The refusal to use REA funds for construction as REA required commitment not to serve outside certificated territory.

(e) The letter to C & P Telephone Company soliciting assistance in obtaining customers in the Roanoke-Salem area prior to commencement of operations in 1977. (Exhibit TAG-3)

(f) Providing of paging services in Roanoke-Salem area without authority and contrary to law and extended proceedings before the Commission and in the courts while so doing.

(g) Actions before the Federal Communications

Commission in opposition to RCC of Virginia's application for antenna site made by RCC of Virginia, Inc., to improve service within RCC of Virginia's certificated area.

(h) The location of Applicant's antenna where inadequate service is provided to its own certificated area and best service is designed and provided outside its certificated area.

(i) The initial tariff filing with the State Corporation Commission showing intention of serving outside certificated area filed August 12, 1977. (Transcript, Page 45)

(a) Motorola prepared and presented to Roanoke-Botetourt Telephone Company prior to October 19, 1974, a brochure entitled "METRO-PAGING" (Exhibit TAG-2), which described a proposed paging service for the Roanoke Valley area. Mr. Gibson, the General Manager of Applicant, on re-direct examination tried to pass off the descriptive phrase of Roanoke Valley area" used by Motorola in its presentation as being designed for Applicant's certificated area, however, there can be little question as to what Mr. Gibson's concept of the Roanoke Valley is and that it includes for the most part the Roanoke-Salem area as in his testimony at page 46 he referred to people who live in his certificated area "but work in the Roanoke Valley."

Attached to the Motorola proposal is a map showing the expected paging area. This is the identical map which Applicant submitted to the State Corporation Commission on August 12, 1977, with its proposed tariffs. While this brochure is not dated, it was obviously prepared prior to the FCC application which was dated October 19, 1974. (Exhibit EWD-8)

(b) The FCC application prepared by Motorola dated October 31, 1974 (Exhibit EWD-8), shows the location of the antenna site of Applicant at the extreme southern end of Applicant's certificated area, with Exhibit No. 3 attached thereto showing the calculated horizontal radiation pattern being designed to project a greater portion of the radio signal to the south and outside of Applicant's certificated area as opposed to being designed and directed in such fashion as to cover a larger portion of Applicant's certificated area.

(c) It is uncontradicted that in 1977 prior to the commencement of service by Applicant and while its application was pending to the Federal Communications Commission for a paging channel, that E. Warren Denton, Jr., called Mr. Gibson, the General Manager of Applicant, and advised him that he had become aware of their application through the Federal Register and further advised that it appeared from the location of Applicant's antenna that their main thrust for service was into an area for which they were not certificated. Mr. Gibson testifies that he does not recall this conversation, but he does not deny that it took place. Mr. Gibson

further testifies that no inquiry was made by he or Applicant as to the propriety of Applicant offering radio paging service in the Roanoke-Salem area. Mr. Denton's conveyance to Applicant of his concerns regarding their proposal had no effect on Applicant in proceeding to establish a system that offered better service outside its certificated area than was offered inside its certificated area.

(d) By letter dated April 27, 1977, Applicant committed to the Rural Electrification Association that it would not provide service outside of its territorial service boundaries as issued by the Virginia State Corporation Commission. (Testimony, page 86) Mr. Gibson testified (Testimony, page 86) that "we decided to abandon the REA concept and not sell within our territory strictly." This conclusively shows that even prior to commencing service it was the intention of Applicant to serve customers outside of its certificated territory. It is interesting to note Mr. Gibson's protestations that REA funds were not used and for this reason they were not limited to service within their certificated territory. It is of further significance and particularly as it applies to the credibility of Mr. Gibson, that he swears under oath before this Commission at pages 86 and 114 of the Transcript, that no REA funds were used in establishing Applicant' paging service, yet, under a sworn affidavit dated February 8, 1978, executed by Thomas A. Gibson, as General Manager of Roanoke and Botetourt Telephone Company, filed with the Federal Communications Commission after completion of Applicant's paging

facilities and after commencement of operation of such paging facilities, Mr. Gibson stated:

> "The Roanoke and Botetourt system was financed by a loan from the Rural Electrification Administration, on the basis of a study showing loan feasibility with twenty-five customers. Should Roanoke and Botetourt lose even five customers by reason of the pending RCC proposal the feasibility of the REA loan would be in jeopardy." (Exhibit TAG-5)

It is important to note that as stated by Mr. Gibson in this exhibit, Applicant was already serving customers in the Roanoke Valley. It is difficult to ascertain whether Mr. Gibson is being truthful with this Commission or the Federal Communicatio Commission. In any event, the record conclusively shows he has made diametrically opposite statements under oath to the two Commissions.

(e) By letter dated September 26, 1977, Applicant solicited C & P Telephone Company for its assistance in obtaining customers in the Roanoke-Salem area. (Exhibit TAG-3) This request for assistance and advising of intent to offer paging services in the Roanoke-Salem area was made long prior to the installation of the equipment, as the letter points out Applicant was at that time receiving the equipment and pagers.

(f) Over a period of two years extending from 1977 to September, 1979, Applicant followed a course of conduct showing a determination of providing paging services in the Roanoke-Salem area without authority and contrary to law. It defied the advice given by Mr. Denton, it breached its commitment to REA, it refused to follow the rulings of the State Corporation

Commission of Virginia, it protracted and drug out proceedings through the Commission and the Courts while at the same time continuing to advertise for and obtain customers in an area outside its certificated area.

(g) Applicant's "Petition to Deny" filed with the Federal Communications Commission on February 8, 1978 (Exhibit TAG-5), opposed the application of RCC of Virginia, Inc., for the construction of a transmitter site on Tinker Mountain on the grounds that it would be to the economic detriment of Roanoke and Botetourt Telephone Company to allow RCC of Virginia, Inc., to construct an antenna at this site even though the proposed location was within RCC of Virginia's certificated area. Applicant further stated in the foregoing Petition to Deny that the new antenna location for RCC of Virginia, Inc., would allow the invasion of Applicant's territory even though RCC of Virginia Inc., had a perfect right to do so under its Certificate of Convenience from the State Corporation Commission. Applicant is opposed to competition where such competition might take place in its certificated area, however, on its application in this proceeding, Applicant has become an advocate of competition where it is limited to paging services outside of its certificated area.

(h) Mr. Gibson, at Page 69 of the Transcript, makes a statement which substantiates that from the very beginning the providi of radio paging services in the Roanoke-Salem area is not inciden but the primary purpose of their radio paging operations. Mr.

Gibson states "the antenna has a directional lead on it now which blocks out the northwest portion of it." As shown by the record and maps, Applicant's antenna site is located at the extreme southern end of their certificated area. Applicant's certificated area lies to the northwest of the antenna site, yet, the antenna used by Applicant directs its main power to the southeast away from its certificated area. The unrefuted and uncontradicted testimony of Jan David Jubon, a highly qualified telecommunication engineer (Exhibit JDJ-7) states:

> "First, the greatest radiated power, and thus the greatest level of service, is concentrated toward the southerly quadrant from the Tinker Mountain site - an orientation generally toward the Roanoke and Salem urban area. Significantly lesser power is concentrated toward the R & B Telco franchise area which lies generally north of the transmitter site.
>
> Second, apparently no effort was made to provide service to R & B Telco's two northerly wire center locations (Oriskany and Eagle Rock) within the initial design; the radio power distribution favored the southerly direction for greatest 'reach' and service."
>
> "Alternative locations could have afforded a noticeably better overall grade of service within, and essentially total coverage of the R & B Telco franchise area."
>
> "An overview of the Tinker Mountain site and facilities indicates that service to the R & B Telco franchise area could be significantly improved if additional radio-frequency energy were directed over the area... Since the R & B Telco franchise area lies almost wholly north of the site, a two-element yagi antenna similar to Decibel Products Model DB-225 aimed in a northerly direction could provide this power concentration. Little "overlap" of the signal to non-franchised areas would result."
>
> "The point to be made is that the R & B Telco franchise area is receiving a lesser level of paging service than

is practical and feasible using readily available equipment operating wholly within the FCC Rules while the 'maximum' service authorized from Tinker Mountain for KDS709 has been directed toward the southerly quadrant, away from the area of principal influence of the licensee ...."

According to this testimony, again which is uncontradicted, Applicant had two courses open to it to provide better service for its present certificated area, that is, a better location of its antenna within its certificated area and the use of a directional antenna to provide better service to its certificated area.

The evidence of Mr. Jubon is uncontradicted that Applicant does not provide adequate service to its existing certificated area and could provide such service by either antenna modification or a change in the antenna site. It is obvious that Applicant does not want to provide service to its own certificated area if it thereby lessens its capability of providing paging service in the Roanoke-Salem area.

(i) On August 12, 1977, Applicant filed with the State Corporation Commission proposed tariffs for its paging services, and attached thereto without reference to the purpose thereof, a copy of the reliable service area as contained in the proposal for "Metro-Paging" prepared by Motorola (Exhibit TAG-2, Page 10). Mr. Gibson would have us believe that he thought this was all that was required for Applicant to be able to serve outside of its certificated territory. This in spite of the fact that Mr. Gibson holds the position of General Manager of a certificated

telephone company, has available to him counsel and the Commission Staff for advice, and was advised by Mr. Denton that he could not serve outside his certificated territory. At least Mr. Denton's advice should have put him on inquiry long before the service was commenced, however, Mr. Gibson says that he inquired of no one and made no investigation before proceeding to design, install and operate the facility.

II. Applicant has failed to bear the burden of showing that the provision of radio-paging service in the Roanoke-Salem area by Applicant is in the public interest.

Applicant in its presenta ion has confused public need with public interest. Letters, petitions and testimony have been introduced which show that there is a public need for paging service in the Roanoke-Salem area. This is undisputed. The Commission has previously made a determination of public need in the granting to RCC of Virginia, Inc., of a Certificate of Convenience and Necessity for the Roanoke-Salem area.

Public need is a far different requirement from a requirement of showing the proposed service is in the public interest.

All of the Applicant's evidence and testimony relate to public need and Applicant has totally failed to produce evidence or testimony relative to the public interest. The record as a whole, on the contrary, shows that it is not in the public

interest to certificate a third paging service in the Roanoke-Salem area. The evidence is undisputed that the public in the Roanoke-Salem area is well served and that the two certificated carriers, C & P Telephone Company and RCC of Virginia, Inc., can and do serve the area with the latest in equipment and technology, and have the capability of serving the potential growth for this area. (Transcript, Page 72)

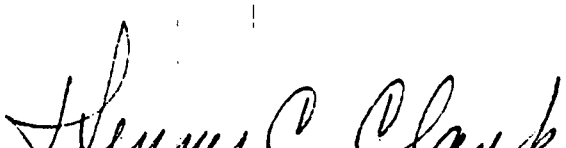
It is certainly not in the public interest to drain off business from the two certificated carriers to a third carrier who says that their present operation within their existing certificated area is profitable (Transcript, Page 53). There is no testimony showing that there is no room for further expansion of service to the public within their existing certificated area and thereby make use of the existing equipment.

The record is completely bereft of any showing of how the public will benefit from a third carrier in a single territory. The rates proposed by Applicant are basically the same as charged by the two existing carriers and there is no proposal for reduction in rates or showing that the service could be performed cheaper or better. The State Corporation Commission has the present capability under existing statutes to require either of the two existing carriers to provide better or cheaper service if the public interest so dictated. The paramount public interest is in providing efficient service at reasonable rates and providing for the continued good economic health of the utilities providing services.

For the reasons stated, this Protestant respectfully requests that the full Commission review the findings of the Hearing Examiner in the record and enter an order determining that R&B has not borne the burden required by statute to substantiate its application.

Respectfully submitted,

RCC OF VIRGINIA, INC.
By Counsel



Of CLARK, BRADSHAW, HARRISON
& LAYMAN, P.C.
92 North Liberty Street
Harrisonburg, Virginia 22801
Counsel

CERTIFICATE

I, Henry C. Clark, Counsel for RCC of Virginia, Inc., do hereby certify that I mailed a true copy of the foregoing Exception to Report of Charles W. Hundley, Hearing Examiner to: George E. Honts, III, Esquire, Carter, Roe, Emick & Honts, P. O. Box 158, Fincastle, VA 24090; Warner F. Brundage, Jr., Esquire, C & P Telephone Company, 703 E. Grace Street, Richmond, VA 23219; and G. P. Richardson, Esquire, State

Corporation Commission, Office of General Counsel, P. O. Box 1197, Richmond, VA 23209, this 10th day of March, 1981.

Henry C. Clark

BEFORE THE

STATE CORPORATION COMMISSION

OF VIRGINIA

APPLICATION of ROANOKE AND BOTETOURT TELEPHONE COMPANY For A Certificate Of Public Convenience And Necessity Authorizing The Certificate Holder To Provide One-Way Mobile Radio Paging Service In The Cities of Roanoke and Salem, Virginia, And The County of Roanoke	)	CASE NO. PUC800017

EXCEPTIONS OF
THE CHESAPEAKE AND POTOMAC
TELEPHONE COMPANY OF VIRGINIA
TO REPORT OF HEARING EXAMINER

In his Report of February 24, 1981, the Hearing Examiner recommends approval of the application of the Roanoke and Botetourt Telephone Company ("R&B") to extend the provision of its mobile paging service into territory certificated to The Chesapeake and Potomac Telephone Company of Virginia ("C&P"). This recommendation is contrary to the evidence presented in the case. C&P respectfully excepts to the Report and urges the Commission to deny R&B's application.

In reaching his recommendation the Examiner has ignored the persuasive evidence presented by C&P showing that to grant the application would be contrary to the public interest. Moreover, the Examiner improperly

concluded that R&B has met another essential condition of the governing statute, namely, that R&B's paging service "incidentally extends" into C&P's territory.

C&P urges the Commission to review C&P's post-hearing Brief which extensively addresses the principles of law governing this case and the evidence which was presented at the hearing. C&P further urges the Commission's consideration of the following specific exceptions to the Examiner's Report:

(1) At pages 3 to 4 of the Report, the Examiner outlines the history of R&B's development of its mobile paging service. This recitation is incomplete in that it omits mention of documentary evidence showing that R&B's primary purpose and intention at the time it first introduced its paging service was to solicit customers from C&P's territory. (Exs. TAG-3; TAG-4; Tr. 86; see also C&P's Brief at pp. 5, 14). The sine qua non behind R&B's development of paging service was that the service was to blanket the Roanoke Valley giving R&B the ability to solicit customers in the much larger market area lying outside of R&B's territory. That R&B looked to C&P's territory as the primary market for its paging service is not only proven by documentary evidence but by the fact that R&B immediately began soliciting customers in C&P's territory upon initiation of its service and has

expended much effort to try to obtain the legal right to provide service in C&P's territory. (See C&P's Brief at p. 14).

(2) At the top of page 5, the Examiner concludes that the Commission's previous order prohibiting R&B from serving outside its territory should have no effect on the present application. C&P disagrees. R&B's previous attempt to provide service in C&P's territory, which originated with the inception of R&B's paging service, is relevant and persuasive evidence regarding whether R&B meets the statutory requirement to show that its service was designed to primarily serve its customers and only incidentally extends into C&P's territory. Code of Virginia, §56-265.4:3(ii).

(3) At page 5 of the Report, the Examiner states that "[t]he plan of regulation within this State now provides for competition between telephone companies offering mobile radio paging service." This is an overstatement. R&B sought, unsuccessfully, legislation to provide for open competition in the provision of mobile radio paging service. (See C&P's Brief at p. 13 n. 8). The legislation which passed, §56-265.4:3 of the Code, merely creates a limited exception to the general rule that competition is prohibited.

(4) At pages 5 to 9 of the Report, the Examiner discusses the requirement for R&B to show that its mobile paging

service was "designed" to serve customers within R&B's territory and that the reliable service area "incidentally extends" into C&P's territory. The Examiner's conclusion that R&B meets these requirements ignores the fact that R&B's intention in developing its service was just the opposite of what is contemplated by the statute. R&B's service was "designed" to serve the "Roanoke Valley Area" (Ex. TAG-2, §1), i.e. C&P's territory, and the incidental aspect of the service is the fact that it also served some, but not all, of R&B's territory.

The Examiner's conclusion at p. 6 of the Report as to the proper definition for the statutory term "designed" requires that R&B prove that its mobile system was developed to be employed for the particular purpose of serving R&B's customers. The Examiner's conclusion that R&B has met this burden defies the weight of the evidence showing that R&B's purpose was to design a system to serve the larger Roanoke Valley market. (Exs. TAG-2, §1; TAG-3 and TAG-4).

(5) C&P excepts to the Examiner's definition at page 6 of his Report of the statutory word "incidentally" as meaning "depending upon or appertaining to something else as primary." The Examiner's definition overlooks the fact that the word "incidental" carries with it a connotation of "occurring merely by chance or without

intention or calculation." (Webster's Seventh New Collegiate Dictionary). That is, the word incorporates the requirement that the "incidental" fact or event occur as a normal or natural result of some other fact and not as a result of a purposeful plan.

This latter interpretation of the term "incidentally" is perfectly consistent with the statutory history of the development of §56-265.4:3. The Utility Facilities Act provides that telephone companies are restricted to providing service within their certificated territory. Because of the ostensible argument by R&B that radio telephone services cannot be physically restricted to geographical boundaries, the General Assembly modified the Act to create an exception for those cases where the radio service unavoidably extended into other areas. This modification to the Act, as is recognized by its legislative sponsor, was not designed to cover a situation where a company designed the radio telephone system to serve outside of its area. (Tr. 37-38).

The Examiner concludes at page 6 of the Report that R&B "may have" designed its system to serve customers outside its territory. But there can be no doubt that R&B not only "may have" so designed its system, but that, in fact, it purposefully did so. The Examiner, by adopting an incomplete definition of the term "incidentally," restricted himself from looking at R&B's intention in

developing its paging service and thus ignored the fact that the primary reason for development of R&B's paging service was to serve customers in C&P's territory.

(6) At pages 9-11 of the Report, the Examiner concludes that it would be in the public interest to grant R&B's application. C&P respectfully excepts to this conclusion which is not supported by a proper analysis of the public interest. In its Brief, C&P pointed out that courts, in cases similar to the instant one, have consistently construed the "public interest" requirement as requiring either a showing of "necessity" or, at a minimum, the presence of sufficient business to warrant the entrance of an additional company. (C&P's Brief at p. 11).

The Examiner, ignoring this precedent, concludes at page 9 that the "public interest" requirement of §56-265.4:3 does not require a showing of "necessity." But absent any such showing, what is the public interest in granting R&B's request?

The Examiner's conclusion that the public interest will be served by granting R&B's application appears to be premised on his discussion at pages 9-10 of the Report where he draws the conclusion that because C&P only provides tone-only paging and not tone-plus voice paging service as R&B does, then R&B would meet a public demand for paging

service. This reasoning is flawed for several reasons.

First, it should be noted that R&B seeks not only permission to provide tone-plus voice paging but also tone-only paging. If the Examiner is going to premise his decision on the fact that R&B offers a service not provided by C&P, then the recommended grant of authority could logically extend no further than to only allow R&B to provide tone-plus voice paging.

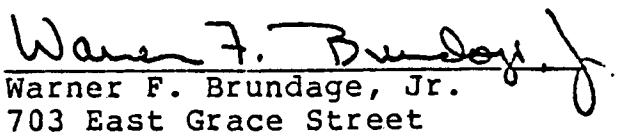
Second, the Examiner's conclusion that there is an unmet demand for tone-plus voice paging is not supported by the weight of the evidence. The conclusion is largely buttressed on self-serving petitions and statements filed by R&B. (See C&P's Brief at p. 7). It is rebutted by C&P's evidence of the market size (Ex. WEH-9, pp. 4-5) and the fact that both C&P and RCC have more than adequate capacity on their existing paging systems to accommodate the public demand for paging services.

Third, C&P offered evidence that the demand for tone-plus voice paging is less than that for tone-only paging. (Tr. 202). What the Examiner would have this Commission conclude is that R&B should be permitted to provide tone-plus voice paging to this small group of customers, whose needs for paging can be met either through C&P's tone-only paging or RCC's service, at the expense of making unprofitable C&P's development of its paging service.

C&P presented unrebutted and uncontradicted evidence that the market for paging service in C&P's territory is not large enough to profitably support an additional paging service and that the outcome of allowing R&B to provide its service to C&P customers would be to assure that C&P's service would be unprofitable. (See C&P's Brief at pp. 9-10, 12). The consequence, therefore, of allowing R&B to provide paging service in C&P's territory is either to impose additional costs on innocent bystanders (i.e., on C&P's other customers, who would bear those costs of C&P's paging service which would be unrecoverable from customers of that service) or to force C&P to withdraw its offering of paging service. Neither alternative is in the public interest.

WHEREFORE, FOR THE REASONS STATED ABOVE AND IN C&P'S BRIEF, it is respectfully requested that the Commission reject the recommendation of the Hearing Examiner to approve R&B's application.

Respectfully submitted,



Warner F. Brundage, Jr.
703 East Grace Street
Richmond, Virginia 23219

Attorney for
The Chesapeake and Potomac
Telephone Company of Virginia

CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of March, 1981, mailed a copy of the foregoing Exceptions of The Chesapeake and Potomac Telephone Company of Virginia To Report Of Hearing Examiner to: George E. Honts, III, Esquire, Carter, Roe, Emick & Honts, P.O. Box 158, Fincastle, Virginia 24090; and Henry C. Clark, Esquire, Clark, Bradshaw, Harrison & Layman, P.O. Box 71, 92 North Liberty Street, Harrisonburg, Virginia 22801.

Warner F. Brundage, Jr.

Warner F. Brundage, Jr.

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AT RICHMOND, May 5, 1981

MAY 5 10 59 AM '81

APPLICATION OF

ROANOKE AND BOTETOURT TELEPHONE COMPANY

CASE NO. PUC800017

For a Certificate of Public Convenience and Necessity authorizing the certificate holder to provide one-way mobile radio paging service in the Cities of Roanoke and Salem, Virginia, and the the County of Roanoke

Pursuant to orders of the Commission dated August 19, 1980 and December 1, 1980 the Commission scheduled this application for hearing on January 9, 1981, and directed public notice be given. On the appointed day, the hearing was held before Charles W. Hundley, the Commission's duly appointed Hearing Examiner. George E. Honts, III, Esquire, appeared as counsel to Roanoke and Botetourt Telephone Company ("R&B"); Henry C. Clark, Esquire, appeared as counsel to protestant RCC of Virginia, Inc. ("RCC"); Warner F. Brundage Jr., Esquire, appeared as counsel to protestant Chesapeake and Potomac Telephone Company ("C&P"); and Glenn P. Richardson, Esquire, appeared as counsel to the Commission. Mr. William T. Wilson appeared as an intervenor in support of R&B's application.

At the conclusion of the hearing each party requested, and timely filed, on or before February 11, 1981, post hearing briefs. On February 24, 1981, the Hearing Examiner filed his report with the Clerk of the Commission. After summarizing the evidence, the Hearing Examiner found, among other things, that:

(1) The applicant is duly licensed by the Federal Communications Commission to provide mobile telephone service or radio paging service in its own certificated territory;

(2) The applicant's mobile telephone or radio paging service as licensed was designed to serve customers within the applicant's existing certificated area, but the reliable service area of the applicant's system incidentally extends into a contiguous area certificated to another telephone company;

(3) The applicant's proposed service does not, by reason of harmful electrical interference or other practical reason, interfere or conflict with any like service; and

(4) It is in the public interest to grant the request.

Wherefore, the Hearing Examiner recommended that the Commission enter an order which approved the application of Roanoke and Botetourt Telephone Company as filed.

On March 11, 1981, both RCC and C&P filed exceptions to the Hearing Examiner's Report. In addition, RCC filed a petition for oral argument requesting a hearing before the full Commission for the purpose of presenting oral argument in support of its exceptions to the Hearing Examiner's Report. By order dated April 6, 1981, the Commission granted RCC's petition for oral argument and scheduled a public hearing on April 27, 1981.

On the appointed day, the aforesaid hearing was held, Commissioners Harwood, Shannon and Bradshaw present, Commissioner Shannon presiding. Henry C. Clark, Esquire, appeared as

counsel to the protestant RCC; Warner F. Brundage, Jr., Esquire, appeared as Counsel to the protestant C&P; George E. Honts, III, Esquire, appeared as counsel to the applicant, and Glenn P. Richardson, Esquire, appeared as counsel to the Commission.

NOW, THE COMMISSION, having considered the record, the Hearing Examiner's Report and the arguments of Counsel is of the opinion that the findings of the Hearing Examiner should be adopted and that the application should be granted; accordingly,

IT IS ORDERED:

(1) That the findings contained in the Hearing Examiner's Report herein, dated February 24, 1981, be, and the same are hereby, adopted; and

(2) That Roanoke and Botetourt Telephone Company's certificate of public convenience and necessity No. T-120e be, and the same is hereby, amended for the limited purpose of authorizing applicant to provide one-way mobile radio paging service in the Cities of Roanoke and Salem, and County of Roanoke.

Commissioner, BRADSHAW, dissents

Attested copies hereof shall be sent to George E. Honts, III, Esquire, P.O. Box 158 Fincastle, Virginia 24090; Warner F. Brundage, Jr., Esquire, 703 East Grace Street, Richmond, Virginia 23219; RCC of Virginia, Inc., 84 West Water Street, P.O. Box 1086, Harrisonburg, Virginia 22801; Henry C.

Clark, Esquire, P.O. Box 71, Harrisonburg, Virginia 22801; William T. Wilson, Esquire, Route 4, Potts Creek, Covington, Virginia 24426; and to the Commission's Divisions of Communications and Accounting and Finance.

A True Copy

Teste: William B. Young

Clerk of State Corporation Commission.

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BEFORE THE

STATE CORPORATION COMMISSION
COMMONWEALTH OF VIRGINIA
RICHMOND, VIRGINIA

MAY 27 11 28 AM '81

Application of ROANOKE & BOTETOURT TELEPHONE COMPANY For a certificate of public convenience and necessity authorizing the certificate holder to provide one-way mobile radio paging service in the cities of Roanoke and Salem, Virginia, and the County of Roanoke.	)	Case No. PUC800017

NOTICE OF APPEAL

Pursuant to Rule 5:18(c) of the Rules of the Supreme Court of Virginia, RCC of Virginia, Inc., hereby files its Notice of Appeal from the May 5, 1981 order of the Commission adopting the findings of the hearing examiner's report herein, dated February 24, 1981, and amending the certificate of public convenience and necessity of Roanoke & Botetourt Telephone Company to authorize that company to provide one-way mobile radio paging services in the cities of Roanoke and Salem and the County of Roanoke.

Respectfully submitted,

RCC OF VIRGINIA, INC.
By Counsel

Holmes C. Harrison
OF CLARK, BRADSHAW, HARRISON & LAYMAN, P.C.
92 North Liberty Street
Harrisonburg, Virginia 22801

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Appeal on behalf of RCC of Virginia, Inc., has been forwarded by U. S. First Class Mail, postage prepaid, to the following parties:

J. Marshall Coleman, Esquire
Attorney General
Commonwealth of Virginia
Richmond, Virginia 23209

George E. Honts, III, Esquire
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Counsel for State Corporation Commission
P. O. Box 1197
Richmond, Virginia 23209

Holmes C. Harrison

Dated: 5/26/81

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COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
RICHMOND

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AT RICHMOND, SEPTEMBER 8, 1981

APPLICATION OF

ROANOKE AND BOTETOURT TELEPHONE COMPANY CASE NO. PUC800017

For a certificate of public convenience and necessity authorizing the certificate holder to provide radio paging service in the cities of Roanoke and Salem, Virginia, and the county of Roanoke, Virginia

OPINION: Shannon, Commissioner

Applicant Roanoke and Botetourt Telephone Company (hereinafter "R&B"), which offers landline telephone service to parts of Botetourt County, is requesting that its certificate of public convenience and necessity as a telephone company, which was first issued in 1951, be amended for the purpose of authorizing it to provide radio paging service in the County of Roanoke and the Cities of Roanoke and Salem.

In addition to its landline telephone service, R&B currently provides radio paging service, commonly known as "beeper" service, to its certificated areas in Botetourt County (Ex. TAG-1, p. 1).

A Protest to the application was filed by the Chesapeake & Potomac Telephone Comany (hereinafter "C&P") which provides landline telephone service in various areas of the State, including the aforenamed County of Roanoke and the Cities of Roanoke and Salem. C&P provides radio paging service

in areas R&B proposes to serve. Historically, the offering of radio paging service by landline telephone companies within their certificated areas has been considered to be a part of their authorized utility services.

Also protesting R&B's application was RCC of Virginia, Inc. (hereinafter "RCC") which provides radio paging service (to the extent here pertinent) in portions of Botetourt County, in Roanoke County, and in the Cities of Roanoke and Salem. RCC offers this service pursuant to authority issued by the Commission under Chapter 16.1 of Title 56 of the Code of Virginia (1950) (§56-508.1, et seq.) (Tr. pp. 171-172, 188).

Pursuant to orders of the Commission dated August 19, 1980, and December 1, 1980, this matter came on for hearing before a Hearing Examiner on January 9, 1981. After the hearing, each party filed a post-hearing brief.

On February 24, 1981, the Hearing Examiner filed his report with the Clerk of the Commission. After summarizing the evidence, the Hearing Examiner found:

(1) "Territory of another certificate holder" and "certificated territory of another", within the meaning of Chapter 10.1 of the Virginia Code, does not include that area in which a mobile paging service customer may be travelling while away from his residence or place of business.

(2) The Applicant is a telephone company requesting authority to provide mobile telephone service or radio paging service in the certificated territory of the Chesapeake and Potomac Telephone Company.

(3) A formal hearing was held after written notice was given to all affected parties.

(4) The Applicant is duly licensed by the Federal Communications Commission to provide mobile telephone service or radio paging service in its own certificated territory;

(5) The Applicant's mobile telephone or radio paging service as licensed was designed to serve customers within the Applicant's existing certificated area, but the reliable service area of the Applicant's system incidentally extends into a contiguous area certificated to another telephone company;

(6) The Applicant's proposed service does not, by reason of harmful electrical interference or other practical reasons, interfere or conflict with any like service.

(7) It is in the public's interest to grant the request.

The Hearing Examiner recommended that the Commission approve the application as filed.

On March 11, 1981, C&P and RCC filed exceptions to the report of the Hearing Examiner. RCC further petitioned

for oral argument before the Commission which was granted by order dated April 6, 1981, and heard on April 27, 1981. By Commission order dated May 5, 1981, the findings contained in the Hearing Examiner's report were adopted and R&B's certificate of public convenience and necessity number T-120e was ordered amended for the limited purpose of authorizing the company to provide radio paging service in the Cities of Roanoke and Salem and the County of Roanoke. Commissioner Bradshaw dissented.

This application was filed and considered pursuant to §56-265.4:3 of the Code of Virginia, adopted in 1980. The section reads as follows:

> Mobile telephone service or radio paging service in certificated territory of another company. Nothing contained in this chapter shall prevent the Commission, upon application from a telephone company from permitting the applicant to provide mobile telephone service or radio paging service in the certificated territory of another telephone company if, upon a hearing, either formal or informal as may be determined by the Commission, after written notice to all affected parties, the applicant demonstrates to the satisfaction of the Commission that:
>
> (i) The applicant is duly licensed by the Federal Communications Commission to provide mobile telephone service or radio paging service in its own certificated territory;
>
> (ii) The applicant's mobile telephone or radio paging service as licensed was designed to serve customers within

> the applicant's existing certificated area, but the reliable service area of the applicant's system incidentally extends into a contiguous area certificated to another telephone company;
>
> (iii) The applicant's proposed service does not, by reason of harmful electrical interference or other practical reason, interfere or conflict with any like service; and
>
> (iv) It is in the public interest to grant the request.

This is the first case to arise under this section.

HISTORY OF THE CASE

Motorola, Inc., a manufacturer of communications equipment, presented a proposal to R&B during 1972 outlining how R&B could offer, using Motorola equipment, a paging service in the Roanoke Valley area. (Tr. p. 65, TAG-2). An antenna was constructed on Tinker Mountain for R&B by Motorola during 1974 and 1975 (Tr. pp. 62-63). R&B has provided paging service in its certificated area since December 1, 1977 (Tr. p. 63).

During December of 1977 and January of 1978, R&B began offering paging services to customers living and working outside its certificated area (Tr. p. 82). During June of 1978, upon complaint of RCC, the Commission held a meeting

attended by the Commissioners, members of the Staff, RCC, C&P and R&B. After the meeting, the Commission advised all of the parties attending the meeting that R&B could not "offer or provide radio paging service" outside of its certificated area (1979 SCC Report 251 at 252).

R&B subsequently filed an application for an amended certificate of public convenience and necessity to provide service similar to that requested in the present case. The Commission, by order issued April 3, 1979, (1979 SCC Report 251) denied the application because:

> "[t]he plan of regulation within the State of Virginia does not provide for competition between telephone utilities either in the provision of landline service or radio common carrier service. The scheme of regulation within Virginia does not provide for one telephone company to move into the certificated area of a second telephone utility to provide service unless it moves under the provisions of §56-26[5].4 of the Code of Virginia. Roanoke expressly states that it does not seek to proceed under §56-260[5].4 (1979 SCC Report 251 at 256).[1]

An appeal was taken from the order of April 3, 1979, but later dismissed by the Supreme Court. Record No. 791247 (Va. Sup.Ct., Sept.14,1979).

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[1] And see letter dated March 21, 1979 (SCC Docket Control No. 81012 0178) and Tr. pp. 83-84).

R&B supported legislation in the 1980 General Assembly to alter the regulation of telephone companies seeking to offer paging services (Tr. pp. 26,106, TAG-1, p.3) and §56-265.4:3 was enacted. Ten days after the new statute became effective on July 1, 1980, R&B filed this application.

The regulatory framework within this Commonwealth now provides for limited competition among telephone companies seeking to offer radio paging service beyond their respective areas of landline telephone services. If R&B shoulders its burden of showing that it meets the requirements of §56-265.4:3, the authority requested should issue.

The testimony is uncontroversed that R&B meets the requirements of subsections (i) and (iii) of §56-265.4:3 (Tr. pp. 13, 21). Therefore, we find that (i) R&B is duly licensed by the FCC to provide mobile telephone service or radio paging service in its own certificated territory (Tr. pp. 44, 61, Exhibit TAG-1) and that R&B's proposed service does not, by reason of harmful electrical interference or other practical reason, interfere or conflict with any like service (Tr. pp. 45, 71, 121-122, 124 Exhibit TAG-1, p. 3,).

The bulk of the evidence received, together with the briefs and arguments of counsel, concerns statutory requirements

(ii) and (iv) of §56-265.4:3. We now consider whether R&B has met those two prerequisites.

Statutory Requirement (ii): has the applicant demonstrated that its mobile telephone or radio paging service as licensed was designed to serve customers within the applicant's existing certificated area, but the reliable service area of the applicant's system incidentally extends in a contiguous area certificated to another telephone company?

The protestants argue that R&B has not satisfied this requirement because (1) R&B's paging service was not designed to serve, and does not serve, its entire telephone certificated area; and, (2) R&B's paging system was designed with the intent to serve customers located outside R&B's aforesaid certificated area and, therefore, R&B's service to Roanoke-Salem cannot be "incidental". The protestants particularly challenge R&B's selection of Tinker Mountain, located in the southern end of Botetourt County, near Roanoke and Salem, as a proper site for its radio transmitter.

The level of paging service within R&B's present certificated territory was in dispute and evidence on both sides of the issue was introduced.

The record indicates that not all of the area certificated to R&B is served by its present paging service with 100% reliability. However, the record shows that the majority of R&B's potential market falls within the area in which that service has 90% reliability (Tr. pp. 65, 68, 69, 114, TAG-1). The evidence was, that while portions of R&B's existing territory lie beyond the 90% reliability areas, there is little potential customer interest from such areas, and customer complaints have been insignificant (Tr. pp. 63-66, 68-69, 90-91, 114, TAG-1).

Indeed, the testimony of RCC's witness Jubon was that ". . . it . . . does not appear feasible, without requesting a waiver of FCC Rule Section 22.505, as regards power limits imposed upon Tinker Mountain, DPLMRS operations due to site elevation, to have engineered a paging system transmitting from Tinker Mountain which would provide a reliable service contour wholly encompassing the R&B TELCO franchise area." (Tr. pp. 147-148).

RCC Witness Jubon further indicated that even modifications to the Tinker Mountain site would not result in reliable service in 100% of R&B's certificated area and that only the selection of another site could be expected to attain such coverage (Tr. pp. 149-150). The same witness testified on cross examination that the principal population of R&B's service territory, in terms of main station numbers, lies

in the southern half of the county, the very area which is covered to a degree of 90% reliability by the Tinker Mountain facilities (Tr. p. 160).[2]

Witness Jubon indicated that his suggestion of Switzer Mountain, Crawford Mountain or Mays Mountain as an alternate antenna site was made without taking into account cost-effectiveness. (Tr. pp. 152, 156). On cross examination he admitted that ". . . the Tinker Mountain site development could have been economically based, at least in part . . ." (Tr. p. 156).

R&B's Witness Gibson testified that although the area of 90% reliability would not extend as far north in its service territory as the Eagle Rock area, that within the area around Eagle Rock itself (which he described as being in " . . . a deep mountainous hole along the James River . . . ") that there was a reliability of at least 50% to 70%, and that he felt that this degree of reliability would be practical for paging service (Tr. pp. 63-64). Witness Gibson testified that "a good portion" of the area not covered up to 90% reliability lies in a national forest which is very mountainous and sparsely populated (Tr. pp. 68, 69). He said that there had been no requests for service from people located

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[2] RCC Witness Denton agreed that the Botetourt County population base lies to the south. (Tr. p. 189)

in the northern part of the R&B service territory (Tr. pp. 90-91). He indicated the company's willingness to provide the equipment required to serve the northern area, given a number of customers sufficient to substantiate the additional investment (Tr. pp. 90, 91).

By way of comparison, RCC Witness Denton stated that there are also areas within his company's certificated area which that company does not serve, but that 80% or 90% of the area is covered. He indicated that "(t)here are always some pockets that you don't cover" (Tr. p. 174). Thus, while it is clear that R&B does not provide 100% reliable coverage over 100% of its certificated territory, it is equally clear that neither does Protestant RCC serve 100% of its territory with 100% reliable service.

Section 56-265.4:3 does not, in our opinion, require an applicant to demonstrate that its paging service facilities were designed with the capability to serve each and every person living within its existing certificated telephone service area. It has not been shown that such would even be possible in every instance because of power and other limitations imposed by the Federal Communications Commission.

Regarding the motivation and rationale behind R&B's location of its transmitter on Tinker Mountain, the record reveals a number of references to other mountainous areas

which were suggested by the protestants as potential locations, from which, they assert, R&B could have rendered "more" comprehensive service within its certificated area. In view of our interpretations of Code §56-265.4:3(ii) we find the argument irrelevant. However, R&B responds by saying that Tinker Mountain was chosen because that site could best serve its customers and was accessible to road and utility support (Tr. pp. 65-69, 115-116).[3] Other technically feasible locations within the certificated territory were said to have drawbacks such as the lack of roads, the absence of telephone and power lines, and the presence of an FCC "quiet zone" (Tr. pp. 67, 70, 152-157, 174, 175, 184, 185).

RCC Witness Denton conceded that if such alternate sites as Switzer Mountain and Crawford Mountain did not have access routes, electric power and telephone transmission lines, he would not construct a base station at either location when another mountain was available without such deficiencies (Tr. p. 175).

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[3] Quoting R&B Witness Gibson, ". . . the site was generally picked by Motorola, Inc., because they had the power and lines available, and we looked at other sites which would cover more territory, but we found that there was no physical access to these sites, no electrical power, no telephone facilities, and the construction costs would have been substantial." (Tr. p. 67).

The protestants have sought to demonstrate that R&B's system was designed primarily to serve customers having residences and places of business outside of R&B's certificated area.

Subsection (ii) of §56-265.4:3 permits the expansion of radio paging service into the certificated service area of another telephone company only to the extent that the applicant company's existing paging system "incidentally" can provide reliable service within such other company's territory.

The applicant testified that R&B intended to serve customers in the most populous areas if they lived or had a place of business in its certificated territory, and that such customers could be paged while they were travelling outside R&B's certificated area (Tr. pp. 64-66).

We quote with approval the following excerpt from the Hearing Examiner's report in this case:

> In the 1978 case, R&B was providing service to customers having residences and places of business outside of its area. It was not necessary for the Commission in that case to decide whether a paging customer of R&B having a residence or place of business within R&B's certificated area could lawfully receive a radio signal broadcast from R&B's Tinker Mountain transmitter while the customer

is outside of R&B's area. I take notice that, if it is unlawful for a customer to receive such signals, travelling customers desiring paging service and wishing to fully comply with the law would have to subscribe to more than one paging service even in situations where the reliable range of a transmitter goes beyond the boundaries of a certificated area. Requiring such duplicity in the name of responsible regulation would require customers to incur unnecessary expense and would under-utilize radio frequencies authorized by the Federal Communications Commission. I also take notice of that phenomenon of physics which does not permit radio waves such as those used by the applicant to abruptly halt solely because a line has been drawn on a map. The FCC has the regulatory authority to assign frequencies and maximum broadcast wattages. The Virginia State Corporation Commission has the regulatory authority to issue certificates of public convenience and necessity. ". . . mandate the boundaries of a utility's service area.

A customer may lawfully receive a radio signal broadcast from R&B's Tinker Mountain transmitter while the customer is travelling outside of R&B's certificated area. Certificates of public convenience and necessity for mobile radio paging service issued by the Commission merely define a service area in which customers must live or have a place of business. Evidence which may tend to show that the Tinker Mountain transmitter's reliable range extends or may have been designed to extend into areas contiguous to R&B's certificated territory is not <u>ipso facto</u> evidence that R&B was or is fostering or engaging in any unlawful activity.

***

". . . The "incidental" portion of the statutory requirement precludes entry into the certificated territory

> of another telephone company by an applicant with a system designed primarily to serve customers living and working in the area certificated to that other telephone company. If the R&B system's reliable service area extends into C&P's territory for any reason other than the primary reason for the system's existence, then I must find that the extension is incidental."

RCC Witness Denton, who is knowledgeable of the paging service business (EWD-8), testified that, considering the number of R&B customers who work in the Roanoke-Salem area, it was "logical" for R&B to consider their transmitter coverage in that area as well as in the R&B certificated area (Tr. pp. 177-178).

The record, taken as a whole, does not support a conclusion that the R&B system was designed primarily for any purpose other than to serve customers who live or work in its certificated area.

Statutory Requirement: Has the applicant demonstrated that it is in the public interest to grant the request?

The protestants argue that R&B has failed to show that granting this application would be in the public interest, asserting that there is no public need for paging services which cannot be met by RCC and C&P. C&P alleges that competition

from R&B would put its paging service operation into the red and that its paging operation's losses would have to be made good by its telephone service ratepayers.

The key to the proper resolution of this issue lies, of course, in the proper interpretation of the "public interest" concept.

Pursuant to the terms of §56-265.4:3, if a telephone company applies for authority to provide radio paging service in the certificated territory of another telephone company, the restrictive provisions of §56-265.4[4] do not apply. Therefore, it is not necessary for R&B to prove that the service provided by C&P in the area applied for is "inadequate to the requirements of the public necessity and convenience". R&B has a lesser burden to demonstrate that it is in the public interest for it to provide service in addition to, rather than in lieu of, the existing certificate holder, C&P.

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[4] §56-265.4. Certificate to operate in territory of another certificate holder. - No certificate shall be granted to an applicant proposing to operate in the territory of any holder of a certificate unless and until it shall be proved to the satisfaction of the Commission that the service rendered by such certificate holder in such territory is inadequate to the requirements of the public necessity and convenience; and if the Commission shall be of opinion that the service rendered by such certificate holder in such territory is in any respect inadequate to the requirements of the public necessity and convenience, such certificate holder shall be given reasonable time and opportunity to remedy such inadequacy before any certificate shall be granted to an applicant proposing to operate in such territory. (1950, p. 600.)

The record demonstrates that C&P offers "tone only" (as opposed to "tone and voice") paging service within its certificated territory, the area to which R&B seeks entry (Tr. pp. 47, 198). C&P's Witness Hudson testified that it has approximately twenty "tone only" customers after about 20 months of operations (Tr. p. 198). C&P neither offers nor plans to offer tone and voice service, which is one type of service R&B proposes to make available (Tr. pp. 195, 198, TAG-1). There was evidence that C&P's sales equal only 11% of R&B's, even though the latter operates within a smaller population base (TAG-1, Tr. pp. 47-48). Notwithstanding arguments to the contrary, there is evidence of a public demand for tone and voice paging service (Tr. pp. 46, 47, 52, 82, 116, 117, 182-183). R&B has shown that it can provide 90% reliable service within the area it seeks to serve (TAG-1, Tr. p. 62). We conclude that, between R&B and C&P, R&B is in the better position to meet present public demand for tone and voice paging in the territory in question.

The protestants point out that R&B's proposed rates are not lower than their own. While it appears that the rates which R&B proposes to use initially are similar to the current rates of C&P and RCC, rates are subject to change. It is in the nature of competition to tend to keep prices down. The legislature has approved limited competition in this area. It is not for this Commission to challenge this legislative policy.

There is no controversy that RCC is capable of continuing to provide adequate tone and voice service within the area in which R&B seeks entry (Tr. p. 72, 105). However, we note that the General Assembly provides for the regulation of radio common carriers such as RCC pursuant to the "Radio Common Carriers Act", §56-508.1, et seq. of the Code. Radio common carriers are not recognized by Chapter 10.1 of the Code (the Utility Facilities Act). The total separation with which the legislature has chosen to regulate radio common carriers such as RCC versus paging service offered by landline telephone companies such as C&P and R&B renders it apparent that the legislature did not intend for the Commission to consider the potential impact of telephone company competition on radio common carriers. Section 56-265.4:3, in our opinion, is not intended to protect radio common carriers from the competitive presence of telephone companies seeking to engage in radio paging service.

The protestants point out that, following the completion of R&B's paging system, R&B began to serve customers having residences and places of business outside of its certificated territory. (Tr. pp. 81-82). As noted earlier in this opinion, R&B was directed by the Commission to stop this activity. (see 1979 SCC Report 251 at 252). We find neither factual

nor statutory basis for denying R&B's present application because of proscribed operation in 1978 which led to the adoption in 1980 of Code §56-265.4:3 - the very section under which R&B has herein filed.

For all the above reasons, we conclude that the application should be granted.

Harwood, Commissioner, concurs.

Bradshaw, Commissioner, dissents.

ATTESTED COPIES hereof shall be sent to George E. Honts, III, Esquire, counsel for the applicant, P.O. Box 158, Fincastle, Virginia 24090; Warner F. Brundage, Jr., counsel for the protestant, C&P Telephone Company, 703 East Grace Street, Richmond, Virginia 23219; Henry C. Clark, Esquire, counsel for the protestant, RCC of Virginia, Inc., P.O. Box 71, Harrisonburg, Virginia 22801; and to William T. Wilson, Esquire, Route 4, Potts Creek, Covington, Virginia 24426.

A True Copy

Teste: William C. Young

Clerk of State Corporation Commission