

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the matter of the application of ) Application No. C-491  
Keystone-Arthur Telephone Company, )  
Keystone, Nebraska, for authority to ) GRANTED  
operate a land mobile radio communica- )  
tions service and paging service. ) Entered: July 2, 1985

APPEARANCES: For the applicant  
Paul M. Schudel, Esq.  
1500 American Charter Center  
Lincoln, Nebraska 68508

For the protestant, Central Radio  
Phone Company  
Larry Otterstein  
412 10th Street  
Gothenburg, Nebraska 69131

OPINION AND FINDING

BY THE COMMISSION:

By its application filed February 2, 1984, Keystone-Arthur Telephone Company seeks the issuance of a certificate of Convenience and Necessity with respect to authority to operate a land mobile radio communications service and paging service.

Notice of the filing of the application was published pursuant to the provisions of the Commission's Rules and Regulations. A protest to the application was filed by Central Radio Phone Company.

Pursuant to notice required by law, public hearing on this matter was held on May 30, 1985 in the Commission Hearing Room, Lincoln, Nebraska, with appearances as set forth above.

Upon consideration of the application, the evidence adduced at the hearing and being fully advised, the Commission is of the opinion and finds that:

1. Applicant is a Nebraska corporation doing business as Keystone-Arthur Telephone Company. Applicant's principal place of business is Keystone, Nebraska. Applicant is presently engaged in furnishing telephone communications services at Keystone and Lemoyne, Nebraska, pursuant to certification granted by this Commission and under Commission regulation.

2. Protestant is engaged in the communications business as a radio common carrier, furnishing mobile radio and paging service. Protestant's principal place of business is in Gothenburg, Nebraska. It also operates under the jurisdiction of this Commission.

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3. Applicant seeks to offer mobile radio communications business as a radio common carrier, furnishing mobile radio and paging service. Protestant's principal place of business is in Gothenburg, Nebraska. It also operates under the jurisdiction of this Commission.

4. In Radio-Fone, Inc., v. A.T.S. Mobile Telephone, Inc., 187 Neb. 637, 646 (1972), the Court held that mobile telephone service is a form of telephone service and subject to all statutes and regulations pertaining to telephone service. Section 75-604 R.R.S. 1943 sets forth the criteria for granting a Certificate of Convenience and Necessity which is to be followed in this application.

5. The Applicant currently holds authority issued by the FCC (Exhibits 5 and 6) to commence construction of a radio transmitting station. Further, the Applicant has received approval of its proposed radio frequencies from the Nebraska Mobile Radio Frequency Coordination Committee on March 5, 1985 (Exhibits 3 and 4).

6. The evidence discloses that Applicant is financially fit to acquire the necessary facilities and provide the service proposed.

7. The evidence further discloses that Applicant possesses the necessary managerial and technical capabilities to provide the IMTS and paging services to the proposed areas.

8. Applicant presented a market survey and other evidence demonstrating the need for mobile telephone and paging service in the proposed service area. The results of this survey indicate a potential of approximately 49 subscribers to IMTS and 78 subscribers to the paging service. Subscriptions by only about 50% of these potential users will be necessary to support the costs of the proposed services. Based upon this evidence of public need, we conclude that Applicant's proposed services should be authorized in order to provide reasonably adequate service to the public in Applicant's proposed service area.

9. Considerable testimony was presented by Applicant as to the need for service on wire line telephone company IMTS frequencies in the Ogallala, Nebraska, vicinity. No telephone company currently serves this area over VHF frequencies; consequently, a roamer passing through this area with an IMTS unit operating on VHF frequencies will experience a coverage "hole" in mobile telephone service in the Ogallala area of the Interstate 80 corridor.

10. Approval of this application will not result in a duplication of facilities for provision of such services and is in accordance with the desires of the subscribers to be served.

11. Considering all of the evidence, the Commission is of the opinion and finds that the application is fair and reasonable, is in the public interest and should be granted, effective as of the date of this Order.

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ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-491 be and it is hereby granted and Keystone-Arthur Telephone Company be and it is hereby authorized to operate a land mobile radio communication service and paging service in the Grant, Keystone, Lemoyne and Ogallala, Nebraska areas, serving subscribers having businesses or residences located within the service area as defined on maps submitted in evidence in this matter as Exhibits 7 through 9, to become effective as of the date of this Order.

IT IS FURTHER ORDERED that the proposed tariff submitted by Applicant to the Commission and placed in evidence in this matter is hereby approved.

IT IS FURTHER ORDERED that this Order be and it is hereby made the Commission's Official Certificate of Convenience and Necessity to provide the service authorized herein.

MADE AND ENTERED in Lincoln, Nebraska, this 2nd day of July, 1985.

NEBRASKA PUBLIC SERVICE COMMISSION

*Harold D. Simpson*  
Chairman

COMMISSIONERS CONCURRING:

*Duane D. Gay*

ATTEST:

*Donald Adams*  
Executive Secretary