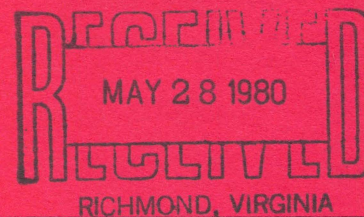


221 Va 704

CLERK  
SUPREME COURT OF VIRGINIA



IN THE  
**Supreme Court of Virginia**  
AT RICHMOND

RECORD NO. 800484

PAGING, INC.,

Appellant,

v.

AFTON COMMUNICATIONS CORPORATION and  
STATE CORPORATION COMMISSION,

Appellees.

APPENDIX

Angus H. Macaulay  
Stephen W. Brewer  
**MAYS, VALENTINE, DAVENPORT  
AND MOORE**  
Post Office Box 1122  
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Counsel for Appellant, Paging, Inc.

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Corporation

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Commission

J. Marshall Coleman  
Attorney General of Virginia  
1101 East Broad Street  
Richmond, Virginia 23219



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APPLICATION FOR CERTIFICATE OF CONVENIENCE AND  
NECESSITY, RADIO COMMON CARRIER



- A. 1) The name of Applicant is: PAGING INC.
- 2) the address of the applicant:
- a) Registered Office is 147 Jackson Street, P.O. Box 889  
Blacksburg, Virginia 24060
- b) The address of the applicant's initial base station is:  
Paging Inc.  
High Knob, 4 miles south of Norton, Virginia
- 3) The applicant is a public service corporation organized  
and qualified under Title 56 of the Code of Virginia 1950  
as amended. Charter was issued May 14, 1971.
- 4) The names and addresses of the officers and directors of  
Paging Inc. are as follows:
- President, Vernon H. Baker 1012 Allendale Court  
P.O. Box 889  
Blacksburg, Virginia 24060
- Vice-President, Edward A. Baker 400 Alleghany Street  
Blacksburg, Virginia 24060
- Secretary-Treasurer, Virginia L. Baker 1012 Allendale Court  
P.O. Box 889  
Blacksburg, Virginia 24060
- B. 1) Initially it is proposed to serve the requested certificated area from  
High Knob. The antenna height will be about 4250 ft. above sea level and  
the proposed station will have the maximum coverage allowed by the FCC  
and will file for this station within sixty days after a Certificate is  
obtained or before, pending SCC approval as allowed by the FCC rules.
- 2) A map, in duplicate, is attached with outline in red of the  
certificate area and the location of the base station is indicated.

MAP

PRINTERS NOTE:

The above mentioned map is too large to reasonably reproduce. A copy of said map may be found filed with the record in the Clerk's office, Supreme Court of Virginia.



Paging, Inc.

P.O. Box 889  
Blacksburg, Virginia 24060



Phone  
703-552-4252

March 6, 1979

Office of the Clerk  
STATE CORPORATION COMMISSION  
Richmond, Virginia


Dear Sir:

Ref: Case #19016  
Application of Paging Inc. for  
a Certificate of Convenience and  
Necessity to serve the Far Southwest  
of Virginia.

An application was filed by Paging Inc, a public service corporation, with the SCC, dated October 12, 1978, for a Radio Common Carrier Certificate of Convenience and Necessity to serve the far Southwestern part of Virginia with initial transmitter on High Knob near Norton, Virginia.

This application is hereby amended to specify additional proposed transmitter sites within the area specified at the following locations: Brumley Mountain between Abingdon and Lebanon, Virginia; on Branch Mt. Grundy, Virginia, and at Pennington Gap, Virginia.

Respectfully submitted,

  
By: Vernon H. Baker, President

APPLICATION FOR CERTIFICATE OF CONVENIENCE  
AND NECESSITY, RADIO COMMON CARRIER

February 6, 1979

A. 1) The name of the applicant: Afton Communications Corporation

2) The address of the applicant:

a) Registered Office: 354 W. Campbell Avenue  
Roanoke, VA 24016

b) Initial base station: High Knob, four miles south of  
Norton, VA

3) The applicant is a public service corporation organized and qualified under Title 56 of the Code of Virginia, 1950, as amended. Applicant's charter was issued February 6, 1979.

4) The names and addressed of the officers and directors of Afton Communications Corporation is as follows:

President & Director: Edward W. Clark, Jr.  
2137 Wesvan Drive, N.E.  
Roanoke, Virginia 24019

Vice-President: Kathleen H. Clark  
2137 Wesvan Drive, N.E.  
Roanoke, Virginia 24019


Secretary & Director: Raymond E. Hilton, Jr.  
854 Dillon Drive  
Vinton, Virginia 24179

Treasurer: Brenda W. Hilton  
854 Dillon Drive  
Vinton, Virginia 24179

B. 1) Initially it is proposed to serve the requested certificated area from High Knob with repeaters as needed. The antenna height will be about 4250 ft. above sea level and the proposed station will have the maximum coverage allowed by the FCC and will filed for this station within sixty days after a certificate is obtained or before, pending SCC approval as allowed by the FCC rules.

2) A map, in duplicate, is attached with outline in red and the certificate area and the location of the base station is indicated. Additionally, for your convenience, we have included a suggested written boundary description of the area requested.

Counsel for the Applicant



C. Richard Cranwell



The area applied for is described by the following boundary:

Beginning at a point where the Virginia, Kentucky and Tennessee border's come to a point, thence in a northeasterly direction along the Virginia and Kentucky border to a point where the border intersects with the West Virginia state border, thence in a southerly direction along the Virginia and West Virginia border to a point where said border intersects with highway 83, thence along existing franchised area's to a point where highway 19 intersects said area, thence in a straight line to Holston, Virginia, thence along highway 802 to Mendota, Virginia, where highway 802 intersects with highway 421, thence along highway 421 to a point where it intersects with the Virginia border, thence along the Virginia border to the point of beginning.

MAP

PRINTERS NOTE:

The above mentioned map is too large to reasonably reproduce. A copy of said map may be found filed with the record in the Clerk's office, Supreme Court of Virginia.



### FINDINGS AND FINAL ORDER

The four applicants filed separate applications, each requesting authority to provide radio common carrier service in a designated geographical area of Southwest Virginia. Three of the applicants - Afton, Paging, and Radio Telephone - sought separate certificates to serve basically the same territory and, in each case, the proposed primary base station was to be located on High Knob Mountain in Wise County, Virginia. The fourth applicant, Southwest Virginia Professional Services, sought a certificate to serve a territory which overlaps portions of that applied for by the other three applicants, but its base station would not be located on High Knob Mountain.

By order dated June 28, 1979, a consolidated hearing was scheduled for July 30, 1979 to receive evidence pertaining to the four applications. At the hearing, C. Richard Cranwell, Esquire, appeared for Afton Communications Corporation; Angus H. Macauley, Esquire, appeared for Paging, Inc.; Dennis O. Laing, Esquire, appeared for Radio Telephone, Inc. and Southwest Virginia Professional Services Association, Inc.; Richard D. Rogers, Jr., Esquire, appeared for the Commission's Staff.

At the beginning of the hearing Radio Telephone withdrew its application, and Southwest Virginia Professional Services likewise withdrew from the hearing after stating its intention to amend its application to delete any of the area sought by Afton and Paging. Public hearing on Southwest's amended

application was continued to a later date and the hearing on July 30, therefore, was devoted to the applications of Afton and Paging. The proposed service areas sought by those two are approximately the same and include the counties of Lee, Wise, and Dickenson, and parts of the counties of Scott, Russell, and Buchanan.

Paging was issued a certificate of incorporation by the SCC on May 1, 1971. It was incorporated as a public service corporation to provide radio common carrier service. Paging has already been issued two certificates of public convenience and necessity authorizing it to provide radio common carrier service in substantial areas of western Virginia. While Paging's application herein was pending, the Commission had before it a further application of Paging to amend one of its existing certificates to add several counties to its service area. By order dated September 13, 1979, entered in Case No. 19016, Paging was authorized to add the latter requested area to its service territory. This additional grant roughly doubled the Company's service territory.

Afton was issued a certificate of incorporation on February 6, 1979. It also was incorporated as a public service corporation to operate as a radio common carrier; however it has not yet been authorized to provide common carrier service in any area of Virginia. The present application constitutes the only request for territory that has been made by Afton.



Afton and Paging each presented three witnesses in support of their respective applications. The evidence was intended to show the need for radio common carrier service in the territory, the financial and management ability of each applicant, the tariffs to be applied by each applicant, the equipment to be installed, the proposed service to be provided by each applicant, together with other facts intended to demonstrate that each applicant would provide service of a better quality than would the other.

The Commission's concern is one of public interest. We grant certificates to the applicant which will provide the best service at the most reasonable rate. Based upon this record, we cannot declare unequivocally that approval of either application would not be in the public interest. Nevertheless, we must accept one applicant and deny the other.

Radio common carrier service is in its formative stages, particularly when compared with telephone service. Radio common carrier service is still considered by many to be more of a convenience than an essential - as telephone service is generally regarded.

However, the flexibility, efficiency and energy savings to be realized by subscribers through the use of radio common carrier service is evident. It offers many advantages to businesses such as sales or health care that need virtually unbroken contact with personnel. It is evident from the record, however, that the number of subscribers to radio

common carrier service cannot be predicted with great certainty. Any radio common carrier investing in facilities to serve a particular territory is submitting that investment to risk - risk that there will be enough customers to produce sufficient revenue to cover debts and cost of financing plant.

As appears to be typical of other radio common carriers who have appeared before the Commission, the present applicants intend for the owner-investors, with the aid of limited full-time and some part-time employees, to install and maintain facilities, and to develop the market for their services. It is obvious that either applicant would find it necessary to make limited commitments in personnel and resources in developing any territory it is authorized to service.

Paging now holds two certificates from the Commission to serve two areas of the State. It appears that it has substantial investment yet to be made in facilities in order to serve and develop the full potential of its presently certificated market. The Commission can certainly take notice of its order dated September 13, 1979, by which Paging was granted an amended certificate which approximately doubled its authorized service area. This additional territory, if properly and timely served, will require substantial commitment in additional capital resources and personnel.

It is our opinion, based on the evidence, that as between these two competent applicants, a certificate of public convenience and necessity should be granted to Afton



for the High Knob Mountain site and surrounding area. Afton should be able to concentrate its capital resources and personnel to provide service in this area, to the better advantage of the public. Accordingly,

IT IS ORDERED:

That certificate of public convenience and necessity No. RCC-36 shall be issued to Afton Communications Corporation authorizing it to provide radio common carrier service from the site, and in the territory shown on the maps filed as a part of its application, in accordance with its proposed rates and charges, rules and regulations. The application of Paging, Inc. is denied.

AN ATTESTED COPY of this Order shall be sent to C. Richard Cranwell, Esquire, 220 East Washington Avenue, Vinton, Virginia 24179, to Dennis O. Laing, Esquire, and HULLIHEN W. MOORE, Esquire, Christian, Barton, Epps, Brent & Chappell, 1200 Mutual Building, Richmond, Virginia 23219; Angus H. McCauley, Esquire, Mays, Valentine, Davenport & Moore, F&M Center, P. O. Box 1122, Richmond, Virginia 23208; and attested copies shall be sent to the Commission's Divisions of Communications, Accounting and Finance, and Economic Research and Development.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

Applications of

November 30, 1979

AFTON COMMUNICATIONS CORPORATION

CASE NO. 20136

and

RADIO TELEPHONE, INC.

CASE NO. 20114

and

PAGING, INC.

CASE NO. 19016

and

SOUTHWEST VIRGINIA PROFESSIONAL SERVICES  
ASSOCIATION, INC.

CASE NO. 20011

For a Certificate of Public Convenience  
and Necessity authorizing the Certificate  
Holder to provide radio common carrier  
service from a base station to be located  
on High Knob Mountain in Wise County,  
Virginia.

SHANNON, Commissioner, dissenting:

By application filed with the Commission on November 21, 1978, Paging, Inc., a certificated radio common carrier operating out of Blacksburg, Virginia, seeks a certificate of public convenience and necessity to serve Lee, Wise, Scott, Dickenson and a portion of Russell Counties, with a transmitter proposed to be located on High Knob Mountain in Wise County near Norton, Virginia. By supplemental application filed with the Commission on March 8, 1979, Paging specifies additional proposed transmitter sites within the Brumley Mountain area between Abingdon and Lebanon, Virginia, on Branch Mountain near Grundy, Virginia, and near Pennington Gap in Lee County, Virginia.

On February 12, 1979, Afton Communications Corporation, a newly organized company, applied for a certificate of public convenience and necessity to serve

substantially the same area, with a transmitter also to be located on High Knob Mountain.

Also, on March 13, 1979, Southwest Virginia Professional Services Association, Inc., applied for a certificate amending its present certificate as a radio common carrier to permit service to a small portion of Buchanan County, for which it had not previously been certificated. It subsequently requested that its application be separated from the hearing on the Afton and Paging applications and be continued until August 6, 1979. This request was granted.

On March 15, 1979, Radio Telephone, Inc., applied for a certificate of public convenience and necessity to serve the area from a tower site located on High Knob Mountain in Wise County; however, at the outset of the July 30, 1979, hearing, it withdrew its application and will not be further considered.

We are, therefore, concerned in this proceeding only with the merits of the applications of Afton and Paging.

Section 56-508.3 of Chapter 16.1, Title 56, of the Code of Virginia provides as follows:

"Certificate of public convenience and necessity required; rules and regulations. — No radio common carrier shall begin, or continue, the construction or operation of any radio common carrier system, or any extension thereof, or acquire ownership or control thereof, either directly or indirectly, without first obtaining from the Commission a certificate that the public convenience and necessity requires such construction, operation or acquisition; provided this chapter shall not require, nor shall it be so construed as to require, any such carrier to secure a certificate for an extension within any authorized service area within which such person has heretofore lawfully commenced operations, or for any extension within or to territory already served by such carrier, necessary in the ordinary course of business, or for substitute facilities within or to any authorized service area of territory already served by such carrier, or for the acquisition and operation of any plant or system heretofore constructed under authority of a certificate of convenience and necessity hereafter issued. The commissioners are hereby authorized to prescribe appropriate and reasonable rules and regulations governing the issuance of such certificates. (1970, c. 276.)"

And § 56-508.6 provides:

"Issuance of certificate for operation in established service area of another carrier. — The Commission shall not grant a certificate for a proposed radio common carrier operation or extension thereof into the established service area which will be in competition with or duplication of any other certificated radio common carrier unless it shall first determine that the existing service is inadequate to meet the reasonable needs of the public and that the corporation operating the same is unable to or refuses or neglects after hearing on reasonable notice to provide reasonably adequate service. (1970, c. 276.)"

From the foregoing, it is clear that the Commission can only certificate one radio common carrier in an established service area. Accordingly, since there were two applications to serve substantially the same area in Southwest Virginia, the Commission entered its order of June 28, 1979, providing for Notice to the Public and setting the matter for hearing before the Commission in Richmond on July 30, 1979. In its June 28, 1979, order, the Commission directed each applicant to address the following matters:

- A. The need for the service in the area for which the certificate is sought;
- B. The extent to which the applicants' proposed facilities will provide proper and adequate service for the area;
- C. The applicants' proposed rules, regulations, rates, fees and charges for the service to be rendered; and
- D. Each company's financial and managerial ability to install properly, maintain and operate the proposed facilities and render the required service.

Since there is no dispute regarding the evidence concerning service in the area and no issue was raised regarding the rates and charges proposed by the two applicants, we must examine the evidence relating to which of the applicants

is best able to provide proper and adequate service for the area and determine which company's financial and managerial ability to install, maintain and operate the proposed facilities will best serve the public.

As scheduled, the matter came on for hearing before Commissioner Harwood and me on July 30, 1979. The following appearances were entered: Mr. Richard D. Rogers, Jr., for the Commission; Mr. C. Richard Cranwell, Counsel for Afton Communications Corporation; Mr. Dennis O. Laing, Counsel for Radio Telephone, Inc., and Southwest Virginia Professional Services Association, Inc.; and Mr. Angus H. Macaulay, Counsel for Paging, Inc.

As previously indicated, Radio Telephone, Inc., withdrew its application and Southwest Virginia Professional Services Association, Inc., was separated from this proceeding and set for another time. Each of the two remaining applicants presented three witnesses whose testimony consumed an entire day. At the conclusion of the testimony, Counsel for the parties were afforded an opportunity to file briefs in support of their position. Both Paging and Afton filed briefs.\*

Since the two Commissioners sitting could not agree on the decision, the third Commissioner has reviewed the record and the majority has entered an order granting the application of Afton Communications Corporation and denying the application of Paging, Inc. Based on the evidence of record, I respectfully dissent to this ruling.

Paging was incorporated as a public service corporation on May 14, 1971, and authorized by this Commission to provide radio common carrier service in the Martinsville area in 1973 and in the area west of Blacksburg in 1974. Its President, Dr. Vernon H. Baker, holds Bachelor's, Master's, and Doctor's Degrees in Engineering, and is recognized as an expert in the fields of electronics and

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\*At the hearing Paging moved to dismiss Afton's application, contending that the service proposed by Afton is not adequate under the definitions provided in § 56-508.1, Code of Virginia, as amended. This Motion was not argued in Paging's Brief and, therefore, must be considered abandoned.

radio communications. Dr. Baker holds a First Class Radio Telephone License from the Federal Communications Commission, which authorizes him to adjust, maintain, repair and install any radio transmitter licensed by the FCC. The testimony of record indicates that the total cost of installing the transmitters, antennae, buildings, interconnect links, and other necessary equipment would amount to \$95,000 and that Paging, Inc., has available to it in the form of cash, loans from banks and other lines of credit \$255,000 which is more than adequate to obtain and maintain the facilities required to provide the necessary service. Paging proposes to offer both two-way and one-way service. As Dr. Baker stated, it would be two-way for mobile telephones and one-way for paging only. He testified to the effect that they have signed orders for thirty-seven mobile telephones and forty-eight pages. Arrangements have been made to occupy space in an office building in Wise, Virginia, from which technical service would be available to customers in the service area.

Afton Communications Corporation filed its application on February 12, 1979, six days after it was incorporated. Afton presented the testimony of three witnesses: Mr. Edward W. Clark, Jr., Mr. Raymond E. Hilton, and Mr. Frederick G. Griffin. Mr. Clark, his wife, and Mr. Hilton are the principal stockholders of the Corporation. Mr. Clark is a real estate broker, who formerly worked for the C & P Telephone Company of Virginia. Neither Mr. Clark nor Mr. Hilton has had any experience in the radio common carrier field. Mr. Hilton is the President and owner of Electralarm Systems, Incorporated, which is engaged in the business of selling and installing alarm systems. Mr. Griffin is a professional consulting engineer engaged by Afton to render technical assistance in developing a system and obtaining the necessary license from the Federal Communications Commission. Afton's witnesses testified to the effect that their



proposed system would be constructed in three phases. The first phase would include a station on High Knob Mountain in Wise County which would not cover Lebanon or Pennington Gap areas. It is expected that the first phase would be completed within eight to ten months after Afton receives its approval from the Federal Communications Commission. The second phase covering the eastern part of the territory sought to be served would be completed one year to eighteen months after FCC approval is granted; and the third phase covering the area west of High Knob in and around Pound, Virginia, and down to Ewing in Lee County would be completed within eighteen months to two years after FCC approval. Afton's headquarters would be located in Roanoke; however, Mr. Hilton indicated that he would be in the territory every week for one or two days. Significantly, Afton does not propose to provide two-way service under the instant application. Admittedly, neither Mr. Clark nor Mr. Hilton has had any prior experience with radio common carrier service. The record does not show what funds the Corporation would have available to cover the estimated \$18,719 cost of equipment to provide the proposed service; however, the individual financial statements of both Mr. Hilton and Mr. Clark appear to support their individual ability to purchase for the Corporation the necessary equipment.

Upon considering the evidence carefully, I have concluded that Paging is the better qualified applicant. In addition to providing the necessary executive, administrative, and technical support for its proposed system, Paging brings before the Commission six years of satisfactory experience and its President, Dr. Vernon H. Baker, is exceptionally qualified in the fields of electronics and radio communication. Paging's application was filed approximately three months prior to the filing by Afton Communications

Corporation. Neither of the principals of Afton Communications Corporation has had any experience or training related to radio common carrier service. Neither holds any radio license issued by the Federal Communications Commission. Importantly, Paging proposes to offer two-way service in the territory, whereas Afton's initial proposal is for one-way beeper service only. Accordingly, I am satisfied that an objective analysis of the evidence of record demonstrates that Paging's proposed service would better serve the public in providing a service superior to that proposed by Afton Communications Corporation. For the reasons stated, I would have granted Paging's application and denied the subsequent application filed by Afton Communications Corporation.

NOTICE OF APPEAL

Notice is hereby given of an appeal by Applicant, Paging, Inc., from the Findings and Final Order of the State Corporation Commission dated December 4, 1979, granting a certificate of public convenience and necessity, No. RCC-36, to Applicant, Afton Communications Corporation, authorizing it to provide radio common carrier service from a certain site and in certain territory.

PAGING, INC., Applicant

By Angus H. Macaulay  
Angus H. Macaulay  
Of Counsel for Applicant

Angus H. Macaulay  
Anthony F. Troy  
Mays, Valentine, Davenport & Moore  
F & M Center  
P. O. Box 1122  
Richmond, Virginia 23208

Counsel for Applicant

CERTIFICATE

The undersigned hereby certifies that a copy of the foregoing Notice of Appeal was mailed on December 28, 1979, to Honorable J. Marshall Coleman, Attorney General of Virginia, Supreme Court Building, 1101 East Broad Street, Richmond, Virginia 23219; Lewis S. Minter, Esq., General Counsel, State Corporation Commission, P. O. Box 1197, Richmond, Virginia 23209; C. Richard Cranwell, Esq., 220 East Washington Avenue, Vinton, Virginia 24179; and Dennis O. Laing, Esq., and Hullihen W. Moore, Esq., 1200 Mutual Building, Richmond, Virginia 23219.

Angus H. Macaulay  
Angus H. Macaulay

### ASSIGNMENTS OF ERROR

Appellant, Paging, Inc., sets forth the following as its assignments of error to the findings and final order of the State Corporation Commission entered on December 4, 1979:

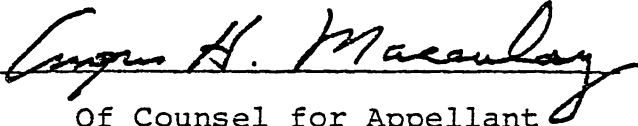
(1) The State Corporation Commission committed legal error in awarding a certificate of convenience and necessity for a radio common carrier service in Southwest Virginia to Afton Communications Corporation, instead of the competing applicant, Paging, Inc., without articulating or otherwise indicating the factual basis for or the reasoning in support of its decision that Afton Communications Corporation would better serve the public interest.

(2) The State Corporation Commission committed legal error in relying upon evidence which was not part of the record in this proceeding and in failing to afford Paging, Inc. an opportunity to rebut the factual inferences improperly derived from such evidence.

(3) The decision of the State Corporation Commission granting the application of Afton Communications Corporation and denying that of Paging, Inc., was contrary to the evidence before the Commission.

PAGING, INC.

By

  
Of Counsel for Appellant

Angus H. Macaulay  
Stephen W. Brewer  
Mays, Valentine, Davenport & Moore  
F&M Center  
Post Office Box 1122  
Richmond, Virginia 23208

Counsel for Appellant

CERTIFICATE

The undersigned hereby certifies that a copy of the foregoing Assignments of Error was mailed on April 16, 1980, to Lewis S. Minter, Esquire, General Counsel, State Corporation Commission, Blanton Building, P. O. Box 1197,

1  
2  
3 NOTE: The matter is called to  
4 be heard at 10:01 o'clock A.M. on  
5 July 30, 1979 and begins as follows,  
6 viz:

7 COMMISSIONER SHANNON: I believe  
8 you-all have agreed on the order of  
9 opening statements.

10 Mr. Cranwell, I believe you go  
11 first?

12 MR. CRANWELL: That's correct,  
13 Your Honor.

14 Let me say to the Commission  
15 that I have been practicing law for a  
16 long time out in the sticks of Southwest  
17 Virginia. And this is the first time  
18 I have had an opportunity to appear  
19 before this august body. And if I step  
20 on my tongue occasionally, I just ask  
21 ya'll to write that off as a country  
22 boy's first visit to the City and take  
23 that into account.

24 COMMISSIONER SHANNON: Well, we  
are very glad to have you appear before



us for the first time. We hope it won't be the last.

MR. CRANWELL: Your Honors, I would prefer to -- Your Honors, this is a group of cases that, of course, will provide the radio common carrier service to the western portions of the State of Virginia, Scott, Lee, Wise, Dickenson, and portions of Dickenson and Russell County.

It's my understanding that the context we find ourselves in this morning, the two contestants for the area will be Afton Communications and Paging, Inc. of the Southwest, which has an overlapping area. There has been an agreement as far as Southwest and the Staff of the Commission is concerned, is to the public convenience and necessity in that area.

And it's also my understanding that Radio Telephone will withdraw their request for certification in the proposed area.

What we intend to prove and put before the Commission is simply that

1  
2 there is a need for this type of com-  
3 munications because of the rapid growth  
4 that will be expected in the area over  
5 the next few years, the present need,  
6 the present industrial, as well as  
7 emergency service, medical service,  
8 the need for this type of public com-  
9 munication.

10 We will show to the Commission  
11 that we have, although being the first  
12 time an Applicant, that we do have  
13 substantial management background and  
14 wherewithal in which to provide the  
15 coordinated effort to provide a good  
16 communication system, that we've taken  
17 the steps to hire the technical expertise  
18 to develop a system that will serve the  
19 entire area, and that through interviews  
20 with local officials, local businesses,  
21 have established a present existing  
22 need for the service in that area.

23 I intend to have three witnesses,  
24 Mr. Clarke, who is President of Afton  
Communications; Mr. Hylton, who is a  
stockholder; and, Mr. Fred Griffin,  
who is a professional engineer who has

1  
2 coordinated with the principals in  
3 reviewing the proposed equipment  
4 available for a system, and giving  
5 an expert opinion as to what is  
6 needed.

7 You will find that the system  
8 Afton proposes is simply a three-phase  
9 development with the first system to  
10 be developed in the High Knob area  
11 which will get to the primary population  
12 centers as they presently exist, in the  
13 areas immediately, Norton, Wise, Coeburn,  
14 Big Stone Gap, Appalachia, and these  
15 areas.

16 The phases of the system are  
17 designed to develop, then, an additional  
18 transmittal facility in the eastern  
19 portion of the proposed area, in the  
20 Clinchport/Lebanon area, to within  
21 hopefully ten to twelve months to provide  
22 service in that area with the additional  
23 development of an additional facility,  
24 transmittal facility, in the western  
portion, and hopefully twenty-four  
months to serve that area with the

1  
2 market -- as the market is feasible and  
3 to provide a service as is needed,  
4 based on what is economically feasible.  
5 We hope to present that evidence, if it  
6 please the Commission.

7 I have concluded opening statement.

8 COMMISSIONER SHANNON: Mr. Macaulay.

9 MR. MACAULAY: Thank you. I'm  
10 just not going to let Mr. Cranwell get  
11 by with this country boy routine, because  
12 I'm a country boy myself. And I, like he,  
13 moved from the country to the city, and  
14 I don't know that that did me any good or  
15 not. But, in any event, it's a pleasure  
16 to be appearing before the Commission in  
17 opposition to Mr. Cranwell.

18 COMMISSIONER SHANNON: It's a  
19 pleasure to have you, too.

20 MR. MACAULAY: With respect to  
21 the four questions addressed in the  
22 Commission's Order, I don't think there  
23 is any question about the need. Everyone  
24 found it was a need and that is documented,  
I think, in both Applicant's proposals.

The thing that I think is crucial

1  
2 in this particular case is the adequacy  
3 of proposed facilities of each Applicant.  
4 I believe the evidence will show that  
5 there is a serious deficiency in Afton's  
6 proposed system, a very serious deficiency.

7 And I also expect the evidence  
8 to show that, as Mr. Cranwell has alluded  
9 to, there will be some delay in providing  
10 a service to the entire area, which would  
11 not be the case in the situation of my  
12 client.

13 I might add that, of course, the  
14 rules and regulations and rates will be  
15 before you. As far as the financial and  
16 managerial ability, there is no speculation  
17 as far as my client, Paging, Inc., is con-  
18 cerned. It's principal organizers -- it  
19 was incorporated by this Commission in  
20 May of 1971. It is providing radio  
21 common carrier service in two areas of  
22 the Southwest Virginia at the present  
23 time. It has been for some time.

24 We will go into that further  
shortly. As I said, it was incorporated  
in May of '71. It filed its application

1  
2 for this particular area, November of  
3 1978 and just now is being heard.

4 Compared to that, Afton was  
5 incorporated February 6th, '79, and  
6 made application to this Commission  
7 for a Certificate six days later. I  
8 believe whatever conclusion may be  
9 drawn from that, may it please the  
Commission.

10 And that's all I have.

11 COMMISSIONER SHANNON: Thank  
12 you, Mr. Macaulay. Mr. Laing.

13 MR. LAING: Your Honors, I have  
14 a written statement I would like to  
15 file, I would like to read in the  
record.

16 COMMISSIONER SHANNON: All  
17 right. You may read it in the record.

18 MR. LAING: My name is Dennis  
19 Laing, and I am appearing this morning  
20 on behalf of Radio Telephone, Inc., and  
21 Southwest Virginia Professional Services  
Association, Inc.

22 With reference to Radio Telephone,  
23 Inc., I have been authorized to represent  
24



1  
2  
3 ALAN R. WICKHAM, a witness called  
4 by and on behalf of the Commission Staff, having first  
5 been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. ROGERS:

8 Q Your name, address and position with  
9 the Commission?

10 A My name is Alan R. Wickham. And I'm  
11 an engineer with the Division of Communications of this  
12 Commission. I reside here in Richmond.

13 Q All right. Would you describe the  
14 document that you prefiled?

15 A What I have here is a summary of  
16 the applications as filed with the statements that have  
17 just been entered. Of course, some of the things that  
18 I say here have changed substantially.

19 However, this was the original  
20 filing with maps attached. And at that time we could not  
21 we had not reached any conclusions on withdrawals of the  
22 Applicants.

23 Q And this, I think, shows the  
24 territories in contest and those that have been applied  
for?

MR. ROGERS: I would like to have this introduced and accepted as an exhibit.

COMMISSIONER SHANNON: All right. Why don't we receive the statement of Mr. Wickham as ARW-1.

MR. ROGERS: Mr. Wickham is available for questions.

COMMISSIONER SHANNON: All right. Mr. Cranwell.

MR. CRANWELL: I have no questions of Mr. Wickham, Your Honor.

COMMISSIONER SHANNON: Mr. Macaulay.

MR. MACAULAY: No questions.

COMMISSIONER SHANNON: All right. Let me just take a look at this and see if I have any questions.

Mr. Laing just requested that the application of Southwest Virginia Professional Services Association, Inc. be continued to August the 6th.

Now, does your statement have a map showing the service area that that Applicant seeks?

WITNESS WICKHAM: Yes, sir. It's ARW Attachment Number 3.

1 Wickham - Direct

17

2 COMMISSIONER SHANNON: Attachment 3?

3 WITNESS WICKHAM: Yes, sir.

4 COMMISSIONER SHANNON: And that's  
5 that little kind of a finger that juts  
6 down from the -- looks like the Kentucky  
7 border down into Russell County?

8 WITNESS WICKHAM: Yes, sir. That  
9 is contiguous to the area that is presently  
10 served by Southwest.

11 COMMISSIONER SHANNON: Now, do I  
12 understand, Mr. Cranwell, Mr. Macaulay,  
13 that you-all are willing to concede that  
14 it is not involved in this case?

15 MR. MACAULAY: That's correct.

16 MR. CRANWELL: Your Honor, if it  
17 would assist the Court, Mr. Macaulay and  
18 I have a map that has been initiated by  
19 counsel and the parties that defines the  
20 exact territory that the contestants are  
21 going to be wrestling over today, if you  
22 would like to submit that as an exhibit  
23 at this point in time.

24 COMMISSIONER SHANNON: All right.  
You can go ahead and put that map in.  
But I am correct, that you-all concede  
this?

MR. CRANWELL: That is correct.

There is no contest over Mr. Laing's piece --

MR. LAING: Your Honor, so there wouldn't be any confusion -- I haven't gotten the map Mr. Wickham drew in front of me, but I believe the portion that is not contested now only relates to that portion that is in Buchanan County.

COMMISSIONER SHANNON: You would have to see this? Hand him a copy; I want to make sure.

It's Attachment Number 3. Here, pass that.

MR. LAING: Your Honor, you will see that the bottom portion -- I don't know how to describe it, but this is in Russell County, and that is no longer sought by Southwest. Southwest only seeks that portion of Buchanan County for which it has not been previously certificated.

COMMISSIONER HARWOOD: It's that little piece of Russell there. Does anybody want to serve it?

MR. LAING: That is between Afton and Paging Service.

Wickham - Direct

19

COMMISSIONER HARWOOD: All right.

COMMISSIONER SHANNON: All right.

MR. LAING: I did not want the  
Commission to be confused.

COMMISSIONER HARWOOD: I have to  
ask that. My secretary is a Russell  
County girl, and she is down in Russell  
County now. So I guess I'd better ask  
about Russell County.

COMMISSIONER SHANNON: All right.  
Thank you very much.

MR. CRANWELL: Do you want the maps  
tendered now?

COMMISSIONER SHANNON: Yes. Thank  
you, Mr. Wickham.

Your exhibit will be received.

\* \* \* \* \*

WITNESS STOOD ASIDE

1  
2  
3 EDWARD W. CLARKE, JR., a witness called  
4 by and on behalf of Afton Communications Corporation,  
5 having first been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. CRANWELL:

8  
9 Q You have been sworn in, haven't you?

10 A Yes, sir.

11 Q You can relax a little bit and don't  
12 be so palish.

13 A Dó I look that bad?

14 Q You do. Would you state your full  
15 name and give us your address, please?

16 A My name is Edward W. Clarke, Jr. I  
17 reside at 2137 Wesvan Drive, Roanoke, Virginia 24012.

18 Q I believe we have filed as an exhibit  
19 a biographical sketch indicating your background, did we  
20 not?

21 A Yes, sir.

22 Q Would you give us a little information  
23 about your family life?

24 A I was born March 28th, 1942 in



Bedford, Virginia. I am married to Kathleen Hartland of Minneapolis, Minnesota. I have three children, three sons; Eddie, eleven, Paul is eight, and David, four.

I belong to the Thrasher Memorial Methodist Church in Vinton, Virginia.

MR. MACAULAY: This is all very interesting, but I don't see it has very much to do with radio common carrier service.

I will acknowledge Mr. Clarke is a citizen of standing and position in his community.

COMMISSIONER SHANNON: Well, Mr. Cranwell, he doesn't have to read his prefiled.

MR. CRANWELL: I know that. I'm trying to get a little bit of history here. And I appreciate Mr. Macaulay. If he wants to go ahead and stipulate it, we can have the stipulation and completely dispense with our evidence and go on back to Roanoke, if that will make him happy. I don't have any problems with any of that.

COMMISSIONER SHANNON: Well, go ahead and ask your preliminary questions. But I don't think it's necessary to have your witness read --

MR. CRANWELL: He's not reading. He didn't read all of it. He just gave you a little brief of it.

COMMISSIONER SHANNON: All right.

BY MR. CRANWELL: (Continuing)

Q Tell us a little bit about your educational background.

A I attended high school and graduated from William Fleming in Roanoke, Virginia. I attended Roanoke College for two years, served in the Air Force for four years in which I obtained extensive training in teletype and crypto-maintenance.

Q Now, after you finished your military service, what did you do?

A Went to work for the C&P Telephone Company of Virginia in Roanoke as a teletype and data maintenance person.

Q How long were you in the employ of C&P?

1  
2 A I was employed by the C&P Telephone  
3 Company for a period of four years, two of which I served  
4 as a maintenance person, and the following two years I  
5 served as a supervisor of the Central Office in charge  
6 of microwave and land based carrier, mobile telephone,  
7 things of this nature.

8 Q Did you have a management responsibility  
9 while you were at C&P?

10 A Yes, I did.

11 Q How many people were working under  
12 you when you were at C&P?

13 A Anywhere from eight to ten people  
14 at various times.

15 Q And what management responsibilities  
16 did you have at C&P?

17 A Primarily, I over saw the maintenance  
18 of the equipment that was assigned to the group that I had.  
19 We did periodic maintenance and provided service to the  
20 customer. I was in charge of budgeting, purchasing,  
21 direct maintenance of the people that were dealing with  
22 the union we had at that time, things of that nature.

23 Q And you were in this position for how  
24 long?

1  
2 A I was -- I served as a supervisor  
3 for two years for the C&P, at which time I resigned.

4 Q When you resigned at C&P, what did you  
5 do?

6 A I started selling real estate and  
7 for the next four years I was a salesman for Howell and  
8 Shirley, Incorporated, which is a realtor in the Roanoke  
9 Valley area.

10 Q And you stayed with them how long?

11 A Four years.

12 Q After that?

13 A At that time I became a broker and  
14 established my own brokerage in Roanoke, which is called  
15 Realty Associates, Incorporated, in 1973 and have remained  
16 in that business up to this time.

17 Q How many employees do you have in  
18 Realty Associates?

19 A That has varied over the years also,  
20 from a low of three to a high of ten, I suppose.

21 Q How about the management and re-  
22 sponsibilities at Realty Associates, who provides them?

23 Who provides management for the  
24 corporation?

1  
2 A Well, I have kind of been the  
3 manager, the supervisor, the --

4 Q Janitor?

5 A -- janitor, chief cook and bottle  
6 washer. Anything needed done, I did.

7 Q Are you a major stockholder in the  
8 corporation?

9 A Yes.

10 Q President of the corporation?

11 A Yes.

12 Q Now, tell us a little bit about your  
13 management functions; what type of management functions  
14 do you provide?

15 A I oversee that personnel -- the  
16 personnel that are assigned to me manage the various funds  
17 that I have coming into my escrow account. I have set up  
18 a system of control with the monthly income statements,  
19 balance sheets, things of this nature.

20 Q And why do you set those things up?

21 A I need to know how I'm doing, and  
22 if I need to do additional marketing, or if I need to  
23 cut back on expenditures and increase expenditures in  
24 another, and things of that nature.

Q And you do this on a monthly basis?

A Yes, sir.

Q How about personnel problems? Who deals with those?

A I do. I haven't had that much of a personnel problem since I've been in the real estate business. However, when I was employed by the Telephone Company the personnel problems were numerous due to the union/company relationship we had in the area where I was assigned.

Q Did you handle those there?

A Yes, sir. That included answering grievances, things of this nature.

Q You, then, in effect, provide the sole management for Realty Associates, Incorporated; is that correct?

A Yes, sir.

Q Has it been a successful business?

A Yes, it has been very successful from my standpoint.

Q Now, I think we have filed as an exhibit your current financial statement. Does that indicate or reflect your successful operation of the

business?

A Yes, sir, I feel it does.

Q Now, I think also that you have prefiled as exhibits letters that you have received from various banking institutions. Will you tell us who they were received from?

A The first one is from Mr. Umberger who is Vice-President of Colonial American. Would you like me to read this?

Q No.

COMMISSIONER SHANNON: Let me do this so we can keep the record in order. Let's go ahead and make Mr. Clarke's prefiled testimony Exhibit EWC-3, and I will -- his Resume will be Attachment 1 to that exhibit. His map here will be Attachment 2. His financial statement will be Attachment 3. So we can identify it properly as we go through this record.

BY MR. CRANWELL: (Continuing)

Q Who is the other letter from?

1  
2           A           The other letter is from Harry  
3 Whiteside, who is President of First Federal Savings and  
4 Loan, which is the largest savings and loan we have in  
5 our part of the State.

6           Q           The corporation was incorporated  
7 in January of this year, I believe. Is that correct?

8           A           Yes, that is correct.

9           Q           What was the purpose for which it was  
10 incorporated?

11          A           It was incorporated to provide a  
12 vehicle by which we could provide RCC coverage through  
13 the Southwestern part of the State, for the area that  
14 we have asked to be certificated.

15          Q           Now, who are the principal stockholders  
16 and directors of the Corporation?

17          A           Myself and my wife, R. E. Hylton and  
18 his wife.

19          Q           The Corporation itself, who will  
20 provide the management functions of the Corporation?

21          A           Mr. Hylton and myself, we will both  
22 jointly share in those responsibilities.

23          Q           Where is your principal office going  
24 to be located?



1  
2 A Our current principal office is  
3 at 2823 Williamson Road in Roanoke, Virginia.

4 Q Okay. Now, with an office in  
5 Roanoke how do you propose to provide a system, a  
6 communication system, and maintain it in Southwest  
7 Virginia?

8 A Well, I think the Judges will see  
9 in our packet a letter from Two-Way Radio, Incorporated  
10 which covers how we anticipate maintaining and installing  
11 and locating our equipment.

12 As far as the management of the system,  
13 here again, Mr. Hylton and I will share in those  
14 responsibilities. I might add that Mr. Hylton is already  
15 a businessman in the area who provides burglar alarm  
16 equipment throughout Southwest Virginia and has for some  
17 time, and he does have various customers throughout the  
18 area that we've asked to be certificated in, and he is  
19 in the area quite frequently.

20 Q You said as far as the service goes,  
21 who had indicated they would assist with the service?

22 A I think we have a letter here from  
23 Two-Way Radio, Incorporated signed by Mr. Fred W. Cox.

24 Q Are they a certified Motorola dealer

1  
2 out there?

3 A Yes, sir. They are kind of the  
4 maintenance shop for the Motorolo equipment throughout  
5 the Southwestern Virginia area.

6 Q How about the location of -- do you  
7 have a letter on file? How about the location of the  
8 tower on High Knob? What arrangement have you made on  
9 that?

10 A I think the arrangements, the Judges  
11 will also find a letter from Motorolo out of  
12 Charlotte, North Carolina indicating they have space  
13 available for us on the top of High Knob Mountain in  
14 Norton, Virginia which would -- which we can put our  
15 transmitter and antenna up. And they also indicate the  
16 fee that would be required to furnish this site and  
17 antenna mount for us.

18 Q Where were you raised, down in Southside  
19 Virginia?

20 A No, sir. I was raised in Bedford  
21 County, Virginia.

22 Q That antenna. I just wondered if  
23 that was Southside Virginia for antenna. I just wanted  
24 to be sure.

A I suppose.

COMMISSIONER SHANNON: Is there  
an antenna farm up on High Knob?

WITNESS CLARKE: Yes, it certainly  
is. The U. S. Forest Service has a rather  
extensive antenna farm up there with electricity  
available. Motorolo has one, I think possibly  
two, sites along with -- I think the educational  
t.v. station is up there. F.A.A. has a site  
up there.

COMMISSIONER SHANNON: I see.

BY MR. CRANWELL: (Continuing)

Q How about your interconnect with C&P?  
Have you made arrangements for that?

A Yes, sir. We have discussed inter-  
connect. I think the Judges will find a letter in our  
packet indicating that the land line facilities along  
with the central office facilities are available in  
the office in Wise. So there is no problem. There is  
no problem from the standpoint of providing access to  
the terminal equipment by the Telephone Company, and also

1  
2 providing a link from the terminal equipment to the  
3 transmitter on top of High Knob.

4 Q And who are you going to purchase  
5 your equipment from?

6 A Motorolo.

7 Q Have you filed an exhibit that lists  
8 the equipment that you will purchase for the initial  
9 installation and development of the system?

10 A Yes, sir, we have. It's kind of  
11 an equipment list along with the pricing, the cost of it.  
12 This was suggested by Motorolo as an approach that we  
13 might take to cover the area.

14 I think you will find that exhibit  
15 also in your packet, dated July the 10th, from Motorolo.

16 Q Do you have some of the equipment  
17 or the types of paging that a -- a small pager that would  
18 be used as one of the receivers and transmitters of  
19 the communications system?

20 A Yes, sir. I think -- if the Judges  
21 will notice on the bottom of the pager, of the equipment  
22 list there, you will note Note II. And in that particular  
23 paragraph, they indicate a Pageboy II pager with 110  
24 volt A. C. desk top charger. If the Judges will notice,

1  
2 this is one such pager here that I have utilized in  
3 my business in Roanoke right now.  
4

5 COMMISSIONER SHANNON: Do you  
6 wish to make this part of the record? Want  
7 to make this an attachment?

8 Do you have any objection, Mr.  
9 Macaulay?

10 MR. MACAULAY: They are just pages  
11 removed from a Motorolo catalog. I have  
12 no objection.

13 COMMISSIONER SHANNON: I think it  
14 would be of some help to the Commission.

15 Let's make this Number 4 to Exhibit  
16 EWC-3.

17 WITNESS CLARKE: I think that  
18 primarily answers your question.  
19

20 BY MR. CRANWELL: (Continuing)

21 Q Would you explain just how this small  
22 piece of equipment works?

23 A Well, this is basically just a simple  
24 receiver that would receive a beeping tone from a

transmitter located at some distant area, followed by, I think, a fifteen second voice message. How it basically works is, this particular pager is assigned a telephone number, which in this instance is 992-8147. An individual can make a telephone call into the 992 exchange and it automatically sets off a beeping or paging signal in this little receiver which is usually strapped to your belt or in your pocket or something of that nature. And after the beeping stops, the person making the call has about fifteen seconds to make, or to transmit, a voice message indicating he should call such and such an area, things of this nature.

It's a very useful thing.

Q Your original proposal, is it -- or, that paging equipment right there, is that a one-way or two-way system?

A This is a one-way system primarily designed for paging. In other words, someone -- here again -- can transmit a message to a receiver at a distant point, and the individual having the receiver would have to utilize the telephone facilities to answer it.

Q How about two-way communications? Do you initially plan to provide two-way communications

1  
2 with your system?

3 A Not initially, no. Because some  
4 of the people that we have talked to, primarily the  
5 engineers at Clinchfield Coal Company, I believe, and  
6 some other people in the area -- and I think in Doctor  
7 Baker's testimony he also indicates that there is an awful  
8 lot of people in the area who already have their private  
9 telephone or private two-way systems in use. In addition  
10 to that, we have found in a market survey that we've done  
11 that mobile telephone, or two-way telephone, to a large  
12 degree is a luxury. The initial cost of it, the cost  
13 to the customer, is quite a bit higher than what the  
14 little paging system is.

15 And basically it can provide the  
16 same service. If in the future we find there is a  
17 market for it, obviously we would provide the service  
18 because it's additional revenue. The equipment that we  
19 propose to buy does have the capability of two-way  
20 service, by the way. So, I'm assuming that it can be  
21 adopted to mold to this use at some later date with  
22 modification. Now, this is as our engineer indicates  
23 to us.

24 Q Now, let's you and I talk a little

bit about the maps that have been filed.

COMMISSIONER SHANNON: Mr. Bailiff, would you put the map over there on the easel, on the board?

THE BAILIFF: Yes, sir.

COMMISSIONER SHANNON: If you would like to have your witness get up --

MR. CRANWELL: I know all this kind of gets elementary at some time, but we have to assume that everybody is like me, they don't know much about this, Mr. Clarke.

BY MR. CRANWELL: (Continuing)

Q Would you point to the area we are talking about for certification?

A I think primarily we are talking about a service in the area that we've got outlined in red here. Initially we are talking about a site here, in the Norton area, on top of High Knob. And this area has quite extensive coverage to the north and south, not quite as much to the east and the west.

My engineer will explain to you in



1  
2 detail a little bit later on in the testimony.

3 Q And you have proposed initial --  
4 would you point to the initial point of the transmitter?

5 A Initially, we propose to serve the  
6 certificated area, or the area to be certificated, from  
7 High Knob. And this is what we have termed as Phase I,  
8 which I think covers the majority of the population centers  
9 throughout the area; however, it does not cover all of  
10 them.

11 Q Now, you have conducted a survey  
12 of the various governmental officials and emergency/  
13 medical people in the area, have you not?

14 A Yes, sir, I have.

15 Q And did you conduct those interviews  
16 yourself?

17 A Yes, sir, I sure did.

18 Q Would you tell us of the people you  
19 interviewed?

20 A I think the -- you know, would you  
21 like me to go through and read the names? Okay. Member  
22 of the Board of Supervisors, Lee County, Assistant  
23 County Administrator in Wise County, Greg Perry.  
24 Assistant Administrator, Lee County Community Hospital,

1  
2 Mr. Sam Hall. Lonesome Pine Hospital Administrator,  
3 Tom Rice. The Administrator of Russell County Medical  
4 Center, Lucas Snipes. A gentleman by the name of Jeff  
5 Rowlett, which also I have a letter in here from, who  
6 has been working with the various fire and rescue squads  
7 in the area attempting to establish some emergency  
8 communications in the area. Member of the Board of  
9 Supervisors, Wise County, Mr. Edgar Mullins. Chairman of  
10 the Board of Supervisors, Lee County, Jess Newman. Jimmy  
11 Glenn Stewart, who is County Administrator of Lee County.  
12 Member of the Board of Supervisors, Wise County, Mr.  
13 Eugene Steward. Administrator Wise General Hospital,  
14 Mr. John Thompson. And, then, we've got various others  
15 here from various individuals and additional individuals  
16 that we will -- that we did not fill out a form on.

17 Q What was the general consensus of  
18 those governmental officials that you interviewed and  
19 those emergency/medical people as to the need for this  
20 type service in the area?

21 A All of them indicated that so far as  
22 emergency/medical communications throughout the area, that  
23 the area is greatly insufficient for the coverage. I  
24 think this was indicated that a few years ago when they

1  
2 had a very severe flood in the area so much of the  
3 departments did not have adequate communications, the  
4 volunteer fire department, volunteer rescue squads,  
5 things of this nature.

6 And the little pager here is probably  
7 one of the best ways to recall, or call, volunteer people.  
8 You can assign a pager to each member of the rescue squad,  
9 dial one telephone number, and call them all to the  
10 rescue squad house or fire department. It's kind of  
11 like they used to use a siren in a small town to call  
12 the volunteer people in. And this was something that  
13 was really needed in the area.

14 All of the Administrators of the  
15 hospitals in the area indicated that they were interested  
16 in, their employees were interested in, in the service.  
17 It was something that would be of really a great benefit  
18 to the area.

19 And I might add, I think the South-  
20 western part of the State is the only State that does  
21 not have this facility either in operation or in some  
22 undertaking to provide this service for the people in the  
23 medical field. Even over in the Covington area, the  
24 hospital has taken it upon itself to provide this service

for its own physicians and things of this nature.

And if you will notice in those letters, most of the Administrators indicate and admit that the expenditure of funds necessary to provide this service for one of those hospitals exceeds what they can afford. And by a joint effort, such as an RCC certificated company in the area providing the service for all of them, spreads the cost out and makes it feasible for them. This is something they really need.

Q Have you received letters and response to your communication with those people?

A Yes, sir, I have. And I think the Judges will find them indicated, or as a part of their packet.

Q Do you expect some additional responses?

A Yes, sir, I do.

Q Who from?

A Most of the County Administrators have not written back yet, and that's simply because of a time element. In addition to that, the Judges will see in their packet a letter that I wrote to the President of the Chamber of the Commerce in the area

1  
2 and I might add that they do not have a Director in  
3 the Chamber of Commerce right now. So they were not  
4 able to get back to me by letter on time. However,  
5 they did indicate that they felt this was also a service  
6 that would greatly benefit the medical and commercial  
7 communities throughout the area.

8 Q Now, we filed with our exhibits a  
9 map which outlines in green the area proposed for  
10 certification. It's identical to what is on the big  
11 map we see over here.

12 And, you will concur in the agreement  
13 of counsel that the map as shown, and the map as filed,  
14 is the area that we are proposing for certification, will  
15 you not?

16 A Yes, sir.

17 Q Okay. Now, let's get back to the  
18 Corporation for a minute. You are President of Afton  
19 Communications; is that correct?

20 A Yes, sir.

21 Q And Member of the Board of Directors?

22 A Yes, sir.

23 Q And stockholder?

24 A Yes, sir.

Q Now, in our exhibits we filed some photo copies of sheets from a Lenowisco report indicating statistical data in the area, total population, the density locations, the housing pattern breakdowns, and those kind of things, did we not?

A Yes, sir.

MR. CRANWELL: Your Honors, if it please the Court, you have photo copies from this book. But there is a lot of information in this book that is not in the photo copies, and I don't know the procedure at this point in time, but I would be willing to offer the entire book as an exhibit if Mr. Macaulay does not object.

COMMISSIONER SHANNON: Mr. Macaulay.

MR. MACAULAY: I have no objection.

COMMISSIONER SHANNON: All right.

Let's go ahead and make that Exhibit EWC-4.

Just tell us basically what -- let me see --

MR. CRANWELL: Lenowisco is the Lee/Scott/Wise/Norton Planning District Commission.

That is the planning projections and studies,  
I think, through --

COMMISSIONER SHANNON: Regional  
land use plan through 1995.

MR. CRANWELL: Right.

COMMISSIONER SHANNON: All right.

BY MR. CRANWELL: (Continuing)

Q And, would it be fair to say from the  
surveys that you conducted that you are convinced of the  
need of the service in Southwest Virginia?

A Yes, sir. Absolutely the need does  
exist, Your Honor.

Q Now, let's get back a little bit now  
to the bathtub water, because that's what we are all down  
here for, is to get bathed. This is a system that you are  
going to put in.

You-all have discussed with Motorolo  
the equipment that you will need to have the initial  
installation at High Knob; is that correct?

A Yes, sir, it is.

Q And you propose, I believe, a tower  
at High Knob and what kind of a transmitter do you propose?

1  
2           A           Initially, we are proposing to install  
3 a 100 watt transmitter on the top of High Knob with a  
4 Modax 500 terminal in the maintenance office, as indicated  
5 previously in the office in Wise, Virginia.

6           Q           All right.. Now, let's talk a little  
7 bit about your additional site for additional transmitter.  
8 You are -- I think you said you were going to have two;  
9 is that correct?

10          A           I think we are going to approach the  
11 area covering it on a three-phase approach. In other  
12 words, our engineer later on will testify that we found  
13 through what study Motorolo has provided us and, then,  
14 we've also had verified by an independent engineer as  
15 to what our initial installation will cover. This is  
16 going to be brought out to you a little bit later in  
17 the testimony.

18                       Once this is established and we  
19 have established beyond the question of a doubt what kind  
20 of coverage we will get off of the initial installation,  
21 we will address the portion of the district to the east  
22 of us. And when I say to the east of us, I'm talking  
23 about Lebanon and Clinchport, which you will see that  
24 this area, or this transmitter, will not cover, that



corridor, primarily because of the mountainous terrain in the area, and the distances involved.

When we have established our primary or our first coverage area, we will address the area to the east of us that has not been certificated. This has not been covered by an initial site -- excuse me. This leaves the kind of elongated area to the east of us which will have to be covered out of an area to the east of us. I think our opposition has indicated they are going to try to do this from Brumley Mountain which is south to the area requested. Whether that's possible.

The second phase, where the coverage of the eastern part has been completed, then, we will address the Pound area down in Southwest part of the State.

However, our initial installation will cover most of the populated area throughout the area. And all the engineering in the world, and all of the speculation and engineering data, cannot certify just how much area that would cover. So, we feel that we need to install that first, find out what that's going to do and, then, address the other areas. We feel like this is a sensible and a sane approach to it. It is a

practice of good business management to expend the funds necessary to provide service, but don't overspend because when you overspend you increase the rates.

COMMISSIONER SHANNON: This is what you have referred to as Phase I?

WITNESS CLARKE: Yes, sir.

COMMISSIONER SHANNON: Go ahead.

WITNESS CLARKE: I think that's

all.

BY MR. CRANWELL: (Continuing)

Q All right. Now, let me ask you about the financing of this equipment. Have you proposed, or do you have a method to finance the initial investment for your equipment?

A Well, Mr. Hylton and myself have discussed this really at length, and we feel like the initial installation we can finance out of our pockets. This, we feel like, will cut down on the debt service and hopefully this will, here again, allow us to provide adequate service to the area at less cost. Interest

1  
2 rates being what they are today -- they are extremely  
3 high -- and this would drive the debt service really  
4 up. So we feel like at the present time we will try  
5 to finance it out-of-pocket.

6 Q Does your financial statement reflect  
7 you have the money in cash on hand with which to finance  
8 it?

9 A Yes, sir, I think it does.

10  
11 COMMISSIONER SHANNON: What is  
12 going to be the cost of initial installation?

13 WITNESS CLARKE: The initial  
14 installation is in the neighborhood of  
15 eighteen thousand dollars, excluding pagers.  
16 We don't -- I mean, it's hard to determine  
17 how many people would want to lease pagers  
18 versus buying pagers. And I think our tariff  
19 indicates that the rate for furnishing just  
20 service is cheaper than servicing the pager  
21 and service. I, myself, subscribe to a  
22 service in the Roanoke area and own my own  
23 pager, and I find this more satisfactory.  
24

BY MR. CRANWELL: (Continuing)

Q And you are going to, with your own funds, make the initial purchase; is that correct?

A Yes, sir. That is our intention.

Q How about Phase I and II? What is your projection right now as far as development costs, how to go about it and how to set it up?

A Well, the initial Phase I installation in the area around Norton/Wise, off of High Knob, I think we've already pretty much discussed that, how we are going to approach that. In fact, I think it's a matter of record, how we are going to establish it and how we are going to pay for it.

Phase II, we've got to get Phase I into operation to see what the coverage is to the area. And, then, once we've done that we will address the eastern part of the District which is the most populated, or the second most populated area, in the area that we are requesting certification in.

We really don't know at this point how powerful a piece of equipment we will need, how much we will need, the exact location of it, and things of this

1  
2 nature primarily because we don't know beyond a shadow  
3 of a doubt what the coverage will be off of our first  
4 Phase I installation. The same thing holds true in the  
5 third area, or the area to the west of the High Knob,  
6 installation. We feel like it is paramount to establish  
7 initial installation in the area, find out what kind of  
8 service we can give off that installation, what kind of  
9 coverage we can get off of it, and the only way you are  
10 going to find that out is to install it.

11 I suppose you could go up there and  
12 make a very large expenditure in the area and blanket the  
13 whole area to begin with. But you may find that you've  
14 done some things that you didn't need to do. You've  
15 driven the cost of development up. If you've done that,  
16 you've increased the rates.

17 We are attempting to provide the best  
18 service we can to the area at the cheapest price.

19 Q Let's talk a little bit about time-  
20 tables.

21  
22 COMMISSIONER SHANNON: Before you  
23 do, let me ask you, what is Phase III?

24 WITNESS CLARKE: Phase III is the

1 covering of the area to the west of the  
2 High Knob area, the area down in Pound,  
3 Virginia. And I might add, all the way  
4 down to Ewing, Virginia, all the way down  
5 to the tip, which is to a large degree  
6 unpopulated, and when that installation is  
7 put in so much of it is going to be just a  
8 wilderness area.  
9

10 And that's the reason we have  
11 put that as a third phase approach to it.  
12 We address the most populated area first,  
13 the area that will give the most people the  
14 most coverage. We have chosen the second  
15 most populated area secondly, and the third  
16 most populated area thirdly.  
17

18 BY MR. CRANWELL: (Continuing)

19 Q Assuming that you are certificated,  
20 when and how soon do you propose to initiate Phase I?

21 A This has got to be primarily speculation,  
22 but we would hope to have Phase I initiated within eight to  
23 ten months, something of that nature. This is dependent  
24 upon the availability of licenses in the area, and we

1  
2 have discussed this with our engineer, Mr. Griffin,  
3 who is very well versed in obtaining FCC licenses in  
4 the area which he will discuss with you at length in  
5 a little bit. That has got to be procured; we've got  
6 to procure the equipment; we've got to have it installed;  
7 we've got to sell the service.

8 Now, we anticipate eight to ten  
9 months; however, this may be a bit optimistic, or this  
10 may be a longer period of time than it actually takes.  
11 But, projecting ahead, this is how we see it.

12 Q Another point, and I will ask you again.  
13 Is it your intention to proceed with all haste to get  
14 this system in operation as soon as you can possibly get  
15 all the governmental certifications?

16 A Obviously, that would be the case  
17 here. Yes, sir. We are in this business to provide a  
18 service. We are in this business to make a return on  
19 our investment, very frankly. And if we are certificated  
20 in the area and do not utilize it, the expenditures that  
21 we have made in procuring that certificated area would be  
22 a loss. And we are not in business to generate a loss.  
23 It's that simple.

24 Q How about Phase II? How long do

1  
2 project on timetables, assuming just for the sake of  
3 discussion that you and I are operating Phase I and  
4 you've got a certificate and you were going great guns  
5 and got everybody in Wise happy, everybody in Norton  
6 happy? What are you going to do about the eastern  
7 portion?

8 A Well, we would hope we would have  
9 everybody happy in the area --

10 Q Everybody happy? I want you to tell  
11 me how you do it so I can work on some of my clients. Go  
12 ahead.

13 A I think initially what we are trying  
14 to do is to provide the service in the area at a period  
15 less than a year. Once that is established and in service  
16 and we see what the coverage is, we will address the area  
17 to the east of us, the Lebanon/Clinchport area.

18 And, here again, we've got to see  
19 where the population centers are, how best to serve these  
20 areas, and this will take some engineering work. We would  
21 anticipate a year to eighteen months, something like --  
22 something of that nature. However, this is something,  
23 again, that is speculation because we don't know right  
24 now exactly how long Uncle Sam will hold us up on the



1  
2 license. We don't know the availability of equipment  
3 at Motorolo as of this point. They do have it, but,  
4 of course, it may take six to eight weeks, or two  
5 months, or something of that nature, which has been  
6 indicated to me by Motorolo, to deliver the equipment  
7 and get it in operation. So we are talking about some-  
8 where in the neighborhood of twelve months or something  
9 of that nature before we can get into service in the  
10 eastern part of the State, provided everything goes as  
11 we anticipate it.

12 Q Now, you said the eastern part. I  
13 think you mean the eastern part --

14 A Excuse me. The eastern part of  
15 the certificated area.

16 Q How about Phase III? What are the  
17 timetables on that?

18 A Phase III, I would see as possibly  
19 eighteen months to two years. Here again, let me reiterate  
20 that Phase III, while it is a very necessary part to  
21 service and we don't mean to relegate it to some sub  
22 level. What we are trying to do is, we are trying to  
23 establish what areas we are going to cover with the  
24 equipment that we install at the time we install it and,

1  
2 then, address it. And I would imagine it would be  
3 eighteen months to two years. Here again, each time  
4 you put a site in you've got to apply for additional  
5 licenses from the Federal government and they are rather  
6 slow in acting on these things at times. And we don't  
7 know just what the coverage area is going to be off of  
8 the equipment that we are installing initially in Phase I  
9 and Phase II.

10 Q Now, based on what you have seen  
11 out there, you are convinced that there is a public need  
12 for this service; is that correct?

13 A I think I've already indicated in  
14 my testimony that there is a definite need out there.  
15 I think it's pointed out very well.

16 Q Are you-all going to provide adequate  
17 service to the area out there?

18 A We are going to sure try. Yes, sir.

19 Q Now, how about your regulations for  
20 your customers, the schedules, I believe the sophisticated  
21 term is "tariffs"? You have filed those with the  
22 Commission, have you not?

23 A Yes, sir, we have.. And I think the  
24 Judges will find in their packets --

COMMISSIONER SHANNON: Why don't we admit that, Attachment 5?

BY MR. CRANWELL: (Continuing)

Q Now, will you tell us the management tools that you propose to utilize to see that this business is operated and managed correctly?

A Well, I think initially we've got to establish the service itself and install the equipment, things of this nature. Then, we've got to institute a marketing plan. And I think Mr. Hylton and myself both have been involved in sales and marketing of a service, him in the burglar alarm business, and me in the real estate business. I think we've got to, at that time, set up some type of bookkeeping, cost accounting, things of this nature.

And, here again, I would reiterate that Mr. Hylton is in business in the area, does provide alarm service to people throughout the area that we have asked for certification.

Q Let's talk about your bookkeeping and your records? How do you-all propose to take care of your book work and on what kind of secular basis do

1  
2 You intend to review the books?

3 A We are looking towards a monthly  
4 income statement and balance sheet, things of this  
5 nature. I would also like to add that Mr. Hylton has  
6 in operation, or in his company, a computer that does  
7 the billing and bookkeeping work for his alarm system  
8 business throughout Southwest Virginia. And we anticipate  
9 using that to keep up with costs and income statements  
10 and also do the billing.

11 The Judges will notice that there is  
12 a tape that comes off of the terminal that we propose  
13 to install that can be entered into this computer and  
14 we can bill directly off of it. So I think we've got a  
15 real good tool to use here for billing and also a tool  
16 for accounting available to us.

17 Q What other additional management tools  
18 do you intend to use?

19 A I think just good basic, common,  
20 horse sense, like so many of us use in our day-to-day  
21 business. Obviously, we've got to keep a positive cash  
22 flow; we've got to meet our obligations, and things of  
23 that nature.

24 Q How much time do you intend to spend

1  
2 in Southwest Virginia as far as providing the management  
3 functions?

4 A I think as much time as necessary.  
5 This undertaking represents a sizeable investment by  
6 myself and Mr. Hylton, not only in money but in time.  
7 And obviously we are not about to put our time and our  
8 money into something and just let it lay there and linger.

9 Q What you are saying, you are going to  
10 pay the price in time in whatever it takes to get the  
11 system operating?

12 A Absolutely.

13  
14 MR. CRANWELL: I think you can  
15 answer any questions that Mr. Laing or  
16 Mr. Macaulay might have of you at this  
17 time.

18 COMMISSIONER SHANNON: Go ahead,  
19 Mr. Macaulay .  
20  
21  
22  
23  
24

## CROSS EXAMINATION

BY MR. MACAULAY:

Q Mr. Clarke, just so the Commission and all of us are clear, you do not propose to provide with respect to this application a two-way system? In other words, you are not going to provide mobile radio telephone service under this application?

Am I correct?

A Do you want a yes or no?

Q Answer it any way it's appropriate.

A Not initially, no, sir, primarily because our investigation of the area indicates that so many of the companies involved and the people involved in the area that we utilize a mobile telephone two-way radio in a car, already have their existing facilities. I think Doctor Baker alludes to that in his testimony when he talks about the availability of frequencies throughout the area.

This is kind of the icing on the cake.

Q Where in his testimony does he say that?

1  
2 A He talks about when he's going to  
3 procure his license from the FCC, he is going to do  
4 whatever study is necessary for a time allocation of  
5 frequencies because there is a shortage of available  
6 channels throughout the area. I think this indicates  
7 and underlines that there is already a large group of  
8 people who have two-way mobile communications in the  
9 area.

10 Q Actually, they don't use the same  
11 channels, do they, Mr. Clarke?

12 A There are so many of them operating  
13 150 megacycle band, and I think you will find a lot of  
14 them operate in there now. And I think that is what he  
15 is alluding to.

16 Q All right. Am I correct that your  
17 tariff has no provision whatsoever for two-way service,  
18 no rates set for two-way service?

19 A We have reserved that until the time  
20 that we install it and find out what the cost is. I  
21 think it would be very shortsighted on our part to propose  
22 to charge so much for a service that we are not installing  
23 it, do not know the cost of, inflation being what it is.  
24 If we install it, twelve months down the road, it could

1  
2 cost twice as much as what it does today. And it doesn't  
3 make a lot of sense to come in with a bunch of tariffs  
4 that will not relate to the cost of the equipment and  
5 cost of installation at the time it is put in.

6 Q You are aware that the Commission is  
7 not interested in your profit; they are interested in the  
8 service to that certificated area?

9 A I'm very well aware of that, Mr.  
10 Macaulay. But I think also the Commission is of the  
11 understanding that if a company does not operate and  
12 operate in a profitable manner it cannot provide service  
13 for its customers throughout its certificated area.

14 Q Well, now, you've had no prior  
15 experience with radio common carrier service, just for  
16 the record?

17 A I've had no experience prior to --  
18 that's exactly right. Yes, sir..

19 Q Am I correct that Afton was not  
20 incorporated until this year?

21 A Yes, sir, you are..

22 Q And six days later you made application  
23 for a certificate; is that correct?

24 A Yes, sir..



1  
2  
3 Q Why did you decide to apply for  
4 the Southwest area?

5 A Since I've been sixteen years old,  
6 I've been a ham operator and I've always been much  
7 interested in electronics and radio. Ham radio has no  
8 bearing whatsoever on radio common carrier, I admit that;  
9 however, it is something that is of great interest to me.  
10 I've always enjoyed being involved with it. There is a  
11 need for the service throughout the area, and I would  
12 like the opportunity to provide it.

13 Q Did you review the application of  
14 Paging, Inc. before you made application for Afton?

15 A No, sir.

16 Q How did you become aware that Paging  
17 had applied for a certificate?

18 A I came to Richmond looking at the map  
19 to see about serving the area, and upon looking at the  
20 map I -- it was -- I think it was penciled in on the  
21 State Corporation Commission's map that Mr. Wickham has  
22 that Paging, Incorporated had applied for the area back in  
23 November. And I think this was about January or February.

24 Q So the area you decided to serve was  
exactly coincidental with exception to this area to the

1 east with that filed by Paging; is that correct?

2 A No, sir, it was not. We felt like  
3 that was the only area of the State that was not certificated  
4 in that area, and whoever would be awarded that area should  
5 provide service throughout the entire area.  
6

7 Q Well, I am correct, though -- I believe  
8 I understood you, that as far as service to Lebanon and  
9 the Pennington Gap area, that is going to have to wait and  
10 see how you make out with the transmitter on High Knob;  
11 is that correct?

12 A If --

13  
14 MR. CRANWELL: Your Honor, I'm  
15 going to object. I don't want him putting  
16 words -- Mr. Macaulay is a good lawyer,  
17 obviously a lot better than I am, but I'm  
18 at least slick enough to know when on cross  
19 examination you are misstating a client's  
20 testimony. And I appreciate the wide  
21 latitude that attorneys have in cross  
22 examination. But as wide as it is, it's  
23 not wide enough for a statement -- misstatement  
24 of a witness' testimony. And I don't say

it's intentional. I just ask Mr. Macaulay to be within the bounds.

COMMISSIONER SHANNON: Well, you can correct any mischaracterization on redirect.

BY MR. MACAULAY: (Continuing)

Q Well, you did refer to three phases, did you not, sir?

A Absolutely.

Q And did you say that Phase II would not begin until you saw how things went on Phase I, how the transmitter worked on High Knob?

A I think that's a fair statement.

Q And Phase III would await the conclusion of Phase II; is that correct?

A Yes. I think that's fair.

Q And you said Phase III wouldn't be complete perhaps for twenty-four months after you got approval from the government; is that correct?

A I think that is a safe assumption.

Q You are not going to have any office in the area are you, of Afton Communications Corporation?

1  
2 You don't propose that in this  
3 application do you?

4 A No, sir, we do not propose that.  
5 However, this is something that Mr. Hylton and I have  
6 addressed, and we've thought about it. We feel that  
7 there is a need for someone in the area to provide an  
8 office, or someone that can be contacted for services,  
9 service interruption, things of this nature.

10 Q But you are going to subcontract it  
11 out to some outfit called Two-Way Radio. Is that what  
12 it amounts to?

13 A No, sir. That is not correct. What  
14 is being subcontracted out to Two-Way Radio is the  
15 maintenance and installation of the equipment. That  
16 is an entirely different thing.

17 We are talking about someone to  
18 attend to public relations, things of this nature, in  
19 the area. And it's pretty premature at this stage to  
20 go hiring somebody to serve customers in an area that  
21 we haven't even been certificated in.

22 Q Well, you worked for C&P, I believe  
23 your testimony was, and they are a common carrier, are  
24 they not?

A They have the right to provide common carrier in the area. Yes, sir.

Q They don't have a right. They have an obligation to provide it for anyone wishing it in the area.

MR. CRANWELL: Your Honor, he is testifying now. I don't mind that if he can produce some evidence that C&P has got that obligation.

COMMISSIONER SHANNON: I think that's probably a legal conclusion. I don't think this witness --

MR. MACAULAY: I withdraw the question. I have no further questions.

COMMISSIONER SHANNON: Any redirect of Mr. Clarke?

MR. CRANWELL: No.

COMMISSIONER SHANNON: Thank you very much, Mr. Clarke. You may stand down. Your testimony will be received as marked.

\* \* \* \* \*

WITNESS STOOD ASIDE



1  
2 A We now have fourteen. We do have  
3 as high as eighteen at times.

4 Q And do you provide the management  
5 functions for Electralarm?

6 A Yes, I do.

7 Q What type of, we will say, classical  
8 management tools do you utilize to exist in business?

9 A The usual financial statements, profit  
10 and loss balance sheet, monthly statements.

11 Q What -- how is your computer utilized  
12 in your operation?

13 A Our computer is utilized for monthly  
14 statements, payroll, billing, all facets of the business.

15 Q Will you be able to tie that into your  
16 management functions of Afton Communications?

17 A Yes, sir, it's very adaptable to  
18 that.

19 Q How will you do that?

20 A Just by a program, a flop disc program,  
21 for Afton Communications.

22 Q How will the link between your  
23 central computer in Southwest Virginia, how will that be  
24 handled?

A Initially, certainly, it will be all done from Roanoke. Conceivably, at some future date, it could be tied into the equipment.

Q Let's talk a little bit now about your background. You finished high school when?

A I didn't finish high school. I joined the Marine Corps in 1944.

Q During the Great War?

A Yes. And after discharge, I got my GED. I went to Roanoke College for a couple of years and, then, with Western Electric and, then, with Automatic.

Q How long were you with Western Electric?

A Approximately four years.

Q What did you do at Western Electric?

A Installed central office dial equipment.

Q And what was your principal responsibility there?

A With Western Electric?

Q Huh-huh.

A I was just an installer. We wired equipment together; we installed Hull Street exchange here



1  
2 in Richmond in 1947, I believe..

3 Q After Western Electric, who did you  
4 work for?

5 A I left Western Electric after about  
6 four years and went with Automatic Electric in Chicago  
7 doing very similar type work, only in addition we did  
8 some microwave installations.

9 Q And what was your principal respon-  
10 sibility when you were working -- responsibility when  
11 you were with them?

12 A I was what is known as a lead man.  
13 I had charge of seven people and installed equipment  
14 all over the Continental United States.

15 Q Did you have management responsibility?

16 A It was rather a semi-management  
17 responsibility. The management responsibility only as  
18 far as directing the efforts of seven people keeping time,  
19 that type of thing.

20 Q Now, after that employment experience,  
21 what did you do? I think that's after -- that's when  
22 you came back to Roanoke, isn't it?

23 A Yes. I came back to Roanoke and went  
24 with General Electric Company in Salem.

1  
2 Q And how long were you with General  
3 Electric Company in Salem?

4 A I went with General Electric in  
5 '55. I probably left around '63, somewhere along  
6 there.

7 Q Tell us what your initial responsi-  
8 bilities were at G. E.?

9 A I hired on at G. E. as a wireman. I  
10 went --

11 Q Would that be classified as kind of  
12 a laborer?

13 A Yes, sir, it was a laborer. In fact,  
14 I was hired before the plant opened in Roanoke and trained  
15 as a wireman. Within a year I was a foreman, and I got  
16 rather regular promotions, ended up in time study.

17 Q How many employees did you have working  
18 for you at that particular point in time?

19 A The most I had at G. E. was sixty-  
20 four.

21 Q Were you in charge of management  
22 responsibility for that section?

23 A Yes, I was.

24 Q And what responsibilities did you

1  
2 have in charge of management, in that area?

3 A The budget and scheduling, directing  
4 the efforts of the people within my unit.

5 Q How long did that continue?

6 A Until I -- I had that position for  
7 approximately, I would say, four years.

8 Q For example, what kind of a budget  
9 were you talking about, dollar-wise?

10 A I really can't recall off the top of  
11 my head what the figures would have been.

12 Q Did -- were you in charge of personnel,  
13 for example, for the sixty-four people, personnel problems?

14 A To some extent, although there is a  
15 Personnel Department that handled real problems.

16 Q Did you receive promotions while you  
17 were in that management position?

18 A Yes. I don't think that over eighteen  
19 months went by that I didn't get a promotion.

20 Q Now, at some point in time you  
21 terminated your relationship with G. E. Could you tell  
22 us why that was?

23 A I got involved with alarms by instal-  
24 ling one as a personal favor for a friend. And just word

1  
2 of mouth, it grew and my efforts to stop it growing, I  
3 started charging people and that didn't help. I got to  
4 a point where I had to either get out of the alarm  
5 business or quit G. E. I could not serve the two masters.  
6 And I chose, then, to stay in the alarm business.

7 Q And when was that?

8 A I started in the alarm business in  
9 '57. That was the first one I put in. I left about '63.

10 Q You left G. E. in 1963 and you have  
11 been operating the alarm business since then yourself;  
12 is that correct?

13 A Yes.

14 Q You have filed with your exhibits your  
15 current financial statement; is that correct?

16 A Yes, sir.

17 Q What did you list the value of that  
18 business on your financial statement as?

19 A At approximately five hundred twenty-six  
20 thousand dollars. That is not my figure. I think it's  
21 worth more than that. That is an offer that was made for  
22 the business.

23 Q So, that's how you set the value on  
24 the business, what you were offered for it?

A Yes, sir.

Q Do you think it has been a successful business?

A Yes, sir.

COMMISSIONER SHANNON: Why don't we identify Mr. Hylton's narrative prefiled testimony as REH Number 5, and make his Resume Attachment 1, his financial statement as Attachment 2.

BY MR. CRANWELL: (Continuing)

Q Also, in the exhibit we filed you have some statements from a banking institution who has been --

A Yes, sir.

Q Salem Bank and Trust Company?

A Yes, sir. Mr. Sonny Toper (phonetic), the Vice-President.

Q Now, let's talk about the management for Afton. Who is going to be primarily responsible for the management of the business?

A Mr. Clarke and I will jointly manage

1 the business. I think initially I will probably be making  
2 more contacts in Southwest Virginia because I do have  
3 quite a bit of spare time.  
4

5 Q Why do you have spare time?

6 A I have extremely efficient, a group of  
7 people at the central station. I have a manager, and all  
8 of my time is not required at the central station.

9 Q On the average, how many days do you  
10 expect to spend in Southwest Virginia providing assistance  
11 to Afton Communications?

12 A Initially I expect to be up there every  
13 week from one to two days.

14 Q How about management tools for Afton?  
15 You use the computer and essentially you do use it in  
16 your business now?

17 A Yes.

18 Q How about the equipment purchase and  
19 stuff. You are familiar with them. We have been through  
20 them with Mr. Clark.

21 He essentially stated what you-all's  
22 initial proposals and phase proposals correctly, did he  
23 not?

24 A Yes, sir.

Q Did you do some of the telephone interviews also, like Mr. Clarke did?

A Yes, I did. And I talked to some people personally.

Q And what is your opinion as to the need for the service out there?

A I think there is definitely a need for the one-way communications. I did not get the feel that we could justify a two-way at this time. I just don't think that there is the business out there to justify the expenditure, although we certainly are going to have the equipment initially to provide that service. And if the market develops -- and we will certainly make an effort to develop the market -- then, at that time we would want to provide the two-way.

MR. CRANWELL: Would you answer any questions Mr. Macaulay might have?

COMMISSIONER SHANNON: This might be a good time to take a short recess.

NOTE: The Commission is recessed at 11:17 o'clock A.M. Thereafter, the Commission

## CROSS EXAMINATION

BY MR. MACAULAY:

Q Mr. Hylton, you do not have any prior experience with radio common carrier service do you?

A No, sir. I have no experience, and I had no experience when I went into the alarm business either.

Q All right. Do you have a balance sheet available for Afton Communications Corporation?

Yours is very impressive, but I don't see one for the Corporation.

A No, sir, we don't have one.

Q You don't have one. Does it have any assets?

A It will if we are certificated for the area.

Q How many stockholders have invested how many dollars up to the present time?

A Mr. Clarke -- we have both indicated a willingness to put up all of the money necessary to provide this service.



1  
2 Q Are you legally and contractually  
3 obligated to do so?

4 A I am morally obligated. And for me  
5 that's --

6 Q Answer my question, please.

7 A That's sufficient.

8 Q Morally obligated only? Okay.

9 But you do not propose any local  
10 office within the area proposed to be served?

11 A We propose to have a local representa-  
12 tive in the area.

13 Q What does that mean? He rides around  
14 in a car there or --

15 A No, a person in that area to sell and  
16 promote and market the product.

17 Q There is no reference of that in your  
18 prefiled testimony, is it?

19 A No, sir, I don't believe there is.

20 Q Now, I believe you said you would be  
21 up there at least once a week?

22 A Yes, sir.

23 Q I believe you said on Page 20 of  
24 your testimony that after you got the certificate,

1  
2 assuming you got the certificate from this Commission,  
3 and from the FCC, you would be serving Lebanon within  
4 eighteen months; is that correct?

5 A Yes, sir.

6 Q And, then, probably twenty-four months  
7 to get to Pennington Gap?

8 A Yes, sir.

9 Q Now, I believe that we have had  
10 testimony that you are not proposing two-way service in  
11 this particular application but you are not proposing, as  
12 I understand it -- the equipment could be used for two-way,  
13 but you are not proposing any two-way receivers, are you,  
14 in this equipment?

15 A No, sir. We have not been able to  
16 detect the market for them. I can't -- I don't think it  
17 would be good business management to incur a debt service  
18 for something you couldn't sell.

19  
20 MR. MACAULAY: No further  
21 questions.

22 MR. CRANWELL: Just a couple of  
23 questions.  
24

## REDIRECT EXAMINATION

BY MR. CRANWELL:

Q Being a knight of the round table myself, sometimes I can observe the spears as well as everybody else.

Let's get back to this eighteen months to twenty-four months, and first and foremost, let's get back to your moral commitment to put the money up.

And let me ask you point blank. Are you and Mr. Clarke going to put the money up to buy the equipment?

A Personally we will finance it.

Q You have taken an oath here, sworn to tell the truth here, haven't you?

A Absolutely.

Q And you are telling the Commission that is what you are going to do?

A Yes, sir.

Q Now, let's get back to the eighteen months and twenty-four months. You are going to provide this service out there, aren't you?

A Yes, sir.

Q And eighteen months is the far end projection on Lebanon service, is it not?

A That's correct.

Q And twenty-four months is the far end projection on the --

A Pennington Gap.

Q -- Pennington Gap service?

A Yes.

Q Now, you do intend to put service in those areas, do you not?

A Yes, sir.

Q And you intend to put them in as quick as you can get the licensing and the data and the market surveys to put them in; is that correct?

A Absolutely.

Q Let's go back to two-way communications. Suppose the market develops out there for two-way communications? Are you going to provide that service?

A We are anxious, and we intend to try to develop the market for it, but we just cannot bring ourselves to make an expenditure when there is no market for the product.

Q What you are saying is, you want to

1  
2 provide the service but you are not going to dance in  
3 different tunes than what you think provides that good  
4 service for the area?

5 A No, sir. I think foremost we want  
6 to provide good management. If we don't provide good  
7 management we can't provide the services. We have to  
8 look at that objectively.

9  
10 MR. CRANWELL: That's all the  
11 questions I have.

12 COMMISSIONER SHANNON: Just so  
13 the record will be clear, on Mr. Clarke's  
14 EWC Number 3, you put them all together,  
15 the statements of three witnesses. And,  
16 of course, his continuing testimony on  
17 Page 16 will be part of EWC-3. And Mr.  
18 Hylton's continuing testimony on Page 18  
19 will be part of REH Number 5, just in  
20 case there is any question about that.

21 Thank you. You may stand down.  
22 Thank you very much, Mr. Hylton. Your  
23 testimony will be received as indicated.

24 \* \* \* \* \*

WITNESS STOOD ASIDE

FREDERICK G. GRIFFIN, a witness called  
by and on behalf of Afton Communications Corporation,  
having first been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CRANWELL:

Q State your name and give us your  
address, please.

A My name is Frederick G. Griffin. My  
business address is 7212 Timberlake Road, Lynchburg,  
Virginia.

Q What is your position, Mr. Griffin?

A I am a professional consulting  
engineer, originally registered by examination in the  
State of Virginia.

Q You are licensed in the State of  
Virginia?

A Yes, sir.

Q By whom are you employed?

A I am in the employee of Frederick G.  
Griffin, Incorporated, which is a professional consulting  
practice organized under the professional corporate laws

of the State of Virginia.

MR. CRANWELL: I want to introduce these, this small brochure on his Company, unless you have some violent objection to them.

MR. MACAULAY: No, sir.

COMMISSIONER SHANNON: Why don't we identify Mr. Griffin's engineering statement which is attached to the prefiled testimony, let's identify that -- I take it that is his prefiled testimony -- and, we will identify that as FGG Number 6. And you can make this Attachment 1 to FGG Number 6.

When I say this, I'm referring to this brochure that Mr. Cranwell just handed up entitled, "An Introduction to the Firm of Frederick G. Griffin, Inc., Engineers and Planners, Lynchburg, Virginia".

BY MR. CRANWELL: (Continuing)

Q Are you the President of the Corporation?

1  
2 A Yes, sir.

3 Q And major stockholder?

4 A Yes, sir.

5 Q How many employees do you have?

6 A Frederick G. Griffin, Incorporated  
7 employs four people in conjunction with the professional  
8 practice. We have a technical services company called  
9 Thomas Jefferson, Inc. which employs ten people --  
10 common carrier independent telephone consulting, who are  
11 presently operating in four states.

12 Q Now, would you tell us what your  
13 educational background is?

14 A I'm a graduate of the University of  
15 Colorado with a Bachelor of Science degree in electrical  
16 engineering with honors, graduating in 1960. I had one  
17 year of graduate work at the University of New Mexico,  
18 which I did not complete my Master's degree. I completed  
19 a three year work study, advanced engineering course,  
20 with the General Electric Company, identified as the ABC  
21 Sequence. That course, at this time, carries with it  
22 graduate credit. At the time I completed it, it did not.

23 Q How about your work experience? Would  
24



1  
2 you give us a history on that?

3 A I worked for General Electric for  
4 ten and a half years, working out of their Communication  
5 Products Department and Communication Systems Division in  
6 Lynchburg. They changed their names a couple of times  
7 while I was working for them. Worked in the area of  
8 mobile equipment design, propagation, analysis propagation  
9 studies, systems engineering.

10 Q Now, I don't know what that propagation  
11 systems means. Would you explain? It would be like me  
12 saying habeas corpus to you. You would probably have a  
13 little difficulty with it.

14 Would you kind of break that down  
15 for me a little bit so I will know what we are talking  
16 about?

17 A In country boy layman's terms, it's  
18 the determination of when you have satisfactory communica-  
19 tion via over-the-air transmission of the information.

20 Q That's what you were primarily doing  
21 when you were employed by -- I think it was G. E. you said?

22 A A portion of that time.

23 Q After that employment, what did you  
24 do?

1  
2           A           I started in the private practice  
3 with the firm I'm presently employed with.

4           Q           You've been at that for how long?

5           A           Eight years.

6           Q           And what professional associations  
7 do you belong to?

8           A           I'm a member of the Virginia Society  
9 of Professional Engineers, the National Society of  
10 Professional Engineers, The Association of Federal  
11 Communications Consulting Engineers, and The Society of  
12 Broadcasting Engineers, and The Society of Cable Television  
13 Engineers.

14          Q           Are you an officer in any of these  
15 associations?

16          A           Yes. I am presently on the Executive  
17 Committee and Secretary of The Association of Federal  
18 Communications Consulting Engineers.

19          Q           Would you tell me what The Association  
20 of Federal Communications Consulting Engineers is?

21          A           That is referred to as the AFCCE.  
22 AFCCE is a group of registered professional engineers  
23 who are proficient in practice before regulatory bodies,  
24 principally the FCC. As a condition to being a member of

1  
2 that you must have over eighty percent of your time  
3 in communication consulting and you must be up to date  
4 and knowledgeable on the FCC rules and have a copy of  
5 those rules with their amendments available to you at  
6 all times.

7 Q How long have you been a member of  
8 that Association?

9 A I can't tell you exactly, but it's  
10 about five or six years.

11 Q Are you familiar with the licensing  
12 procedure that you go through with the FCC as a result  
13 of being in this Association?

14 A Yes, sir.

15  
16 COMMISSIONER SHANNON: Do you  
17 hold an FCC license authorizing you to  
18 service and work on radio --

19 WITNESS GRIFFIN: No. That's  
20 different. That's a technician. AFCCE is  
21 equivalent to the Communications Bar. In  
22 other words, before an attorney can appear  
23 before the FCC on the part of a client, it's  
24 my understanding he has to be a member of

1  
2 the Communications Bar. It is not that  
3 rigid on the engineering side, but there  
4 is an acknowledged prestigious organization  
5 which is AFCCE, which carries more weight  
6 when somebody says: I'm a member of AFCCE.

7 COMMISSIONER SHANNON: I believe  
8 the FCC requires every major radio station  
9 to have an engineer; is that right? Is  
10 that an engineer in the sense of a college-  
11 trained engineer, or is that an engineer  
12 that has completed their requirements and  
13 courses and been certified as a Class 1  
14 engineer?

15 WITNESS GRIFFIN: Not to degrade  
16 anybody, but broadcast engineer, for the  
17 most part, is a technician grade level or  
18 a skilled profession.

19 COMMISSIONER SHANNON: Rather than  
20 a degree holding --

21 WITNESS GRIFFIN: Rather than a  
22 degree holding engineer. However, most  
23 owners that are multi-station owners and  
24 so forth on a management level will have a

1  
2 a college graduate who also will hold  
3 the first, second, or third license,  
4 depending on what that is.

5 I hold none of the class  
6 licenses. In other words, I cannot  
7 go in and physically fix equipment and  
8 take it off the air and put it back on.  
9 However, in terms of any filings, getting  
10 license, and things like that --

11 COMMISSIONER SHANNON: I under-  
12 stand. What is ESEE, an ESEE graduate,  
13 from the University of Colorado?

14 WITNESS GRIFFIN: There are  
15 several errors in my deposition of a  
16 typographical --

17 COMMISSIONER SHANNON: Is that  
18 BS?

19 WITNESS GRIFFIN: That should  
20 be BSEE, and two or three others we would  
21 like to correct as we go on here today.

22 COMMISSIONER SHANNON: Thank you.  
23 Go ahead, Mr. Cranwell.  
24

BY MR. CRANWELL: (Continuing)

Q Have you assisted clients in obtaining land mobile licensing with the FCC?

A Yes, sir.

Q And would you tell us who and when you assisted?

A We did the Southern third of the State of Delaware in the emergency/medical service. We have done the Hampton Roads Sanitation District, which covers a fifty mile area around the City of Norfolk. We are currently involved in several frequency bands with the City of Winston Salem in both public safety and power radio, utility radio.

Q And, have you been retained by Afton Communications to assist them from a technical standpoint with setting up a system and obtaining the FCC license?

A Yes, sir.

Q Are you familiar with the area that Afton proposes for certification?

A Yes, sir.

Q Would you tell us from, I guess, a municipal jurisdiction, what areas are proposed to be served?

1  
2 A Well, basically the same area  
3 that has been identified earlier this morning, but it  
4 is Dickenson County, Lee County, part of Russell, part  
5 of Scott, Wise County, and the City of Norton, which is  
6 not any county jurisdiction.

7 Q All right. Now, I suppose that a  
8 communications system is designed to serve people and  
9 not trees and bushes and rocks and snakes and things  
10 of this nature.

11 As far as the system goes, how  
12 about the population centers in this area? Is that  
13 what we are designing a system to serve, the population  
14 density area?

15 A Principally, yes. But, since you  
16 are designing a mobile system and people are mobile, you  
17 try to serve the whole area but your basic design hinges  
18 around population centers, which is the highest probability  
19 of where people will be. Naturally, there is some transient  
20 but principally, yes.

21 Q Can you identify the principal popula-  
22 tion centers in the proposed area for us?

23 A Yes, sir.

24 Q Tell us what the population --

1  
2 A You want the county, town and  
3 population?

4 Q Uh-huh.

5 A Okay. I will read this off. But  
6 it's my understanding probably --  
7

8 COMMISSIONER SHANNON: They are  
9 in the record, Mr. Cranwell. And if you  
10 are referring to Jonesville, Norton, Wise,  
11 Pound, they are on Sheet 2 of his prefiled  
12 testimony..

13 MR. CRANWELL: Okay.  
14

15 BY MR. CRANWELL: (Continuing)

16 Q As part of your employment with Afton,  
17 have you been asked to review the proposed list of  
18 equipment that they are going to purchase from Motorola?

19 A Yes, sir. And that has previously  
20 been identified as Attachment Number 4, which I saw up  
21 on the front. That constitutes, with the exception of  
22 one sheet of paper, the total amount of information  
23 submitted to our office.

24 Q And have you conversed with them as



1  
2 to their proposals to provide service for the entire  
3 area?

4 A Yes, sir. I have had two conversa-  
5 tions with Motorolo representatives.

6 Q How about Afton Communications? Have  
7 you been contacted and discussed with them the development  
8 of the service in the area?

9 A Yes, sir.

10 Q And have you suggested a plan and  
11 have they accepted a plan for development, and would you  
12 tell us what that plan is and correlate that with the  
13 equipment, if you can?

14 A Coverage to the total area on  
15 both a management and technical basis, as I understand  
16 it, is to be a phase type coverage. What has been  
17 submitted as Attachment Number 4 is the first, or initial,  
18 coverage area. And I -- when I get through, I would  
19 like to submit this piece of paper as an exhibit or  
20 attachment or whatever protocol.

21 On the paper which will be submitted,  
22 we have coded in yellow the population centers and we  
23 coded in orange the two service contours. The Phase I  
24 proposal is to install a 100 watt VHF transmitter on

1 a 100 foot tower and the area located on High Knob.  
2  
3 At this time, I will point out in my original deposition  
4 there is a slight error in recording the elevation of  
5 the site. I found upon checking Motorola's data, that  
6 we had an administrative error. It is not substantive  
7 with regard to the total system. We are talking five,  
8 six hundred feet shift and sixty feet in elevation.

9 But if somebody checks it, they will  
10 find out that my original deposition is a slight error --  
11

12 COMMISSIONER SHANNON: What does  
13 the 5.2dB gain --

14 WITNESS GRIFFIN: That's -- if  
15 you had a point source of light or a point  
16 source of energy, here it would radiate as  
17 a sphere. Okay. In the communications world,  
18 you are not interested in what goes vertically  
19 up or vertically down, you are interested,  
20 in essence, a pancake pattern. So the  
21 antenna takes the energy above and below and  
22 squashes it down.

23 So if you took the energy which  
24 would come from me to you on a sphere basis

and compared it to when I squashed the ball, you would have 5.2dB, or roughly four times more energy, twice as much electric field. That's a gain of the antenna --

COMMISSIONER SHANNON: Your effective radiated power has increased, I guess, by narrowing it down; is that correct?

WITNESS GRIFFIN: That's right.

COMMISSIONER SHANNON: This is all -- you say VHF. That would be, of course, FM, wouldn't it, frequency --

WITNESS GRIFFIN: Yes. And the proposal is in a 150 megacycle band.

COMMISSIONER SHANNON: I see.

BY MR. CRANWELL: (Continuing)

Q Let's talk about the other phases that Afton is talking about. If you can, tell us -- identify this, what those are, and what your recommendations are in that area?

A There are two areas that will not be

covered by High Knob and I might inject just parenthetically my understanding of the two Applicants here is that it's identical transmitted, both in terms of power antenna and heighth, and that that comes from reviewing what they have submitted and what my client has submitted. The physical coverage from the High Knob site, given the same mathematical model of prediction, would be identical, because if my understanding is right the power and heighth and antennaes are as identical as you can make them.

So, now we are going to talk about the area not covered from the Phase I. There is an area to the east which it runs northwest and southeast which does not have coverage. It is Afton's business plan, after they have installed the Phase I and determined where there is signal, where there is coverage, where there is business need, that they would, then, engineer a site probably slightly east of Dante, D-a-n-t-e. They pronounce that not like Southside Virginia.

COMMISSIONER HARWOOD: Or Southwest.

They call it Dan.

WITNESS GRIFFIN: Okay. And the

1 antenna would probably be elongated as  
2 compared to a cylindrical pattern. But  
3 the intent here is on the Phase II to cover  
4 the uncovered area, or the not served area.  
5 And, now, on Phase III to go to the west  
6 and pick a site probably in the neighborhood  
7 of Jonesville.  
8

9 Please recognize that detailed  
10 engineering of both these areas has not  
11 been done yet. We are operating in an  
12 area of general experience, but to cover the  
13 area to the west was a third transmitter  
14 site.  
15

16 BY MR. CRANWELL: (Continuing)

17 Q Now, is it possible -- is it possible  
18 through extensive engineering work to project a probability  
19 of coverage and locate the Phase I or the Phase II and  
20 the Phase III transmitters at this particular point in  
21 time?

22 Would it be possible to do that?

23 A Technically, you could make a  
24 probability prediction and a selection of the site, the

1 antenna use --

2 Q That was that propagation thing you  
3 were talking about, that I wasn't sure what it was;  
4 is that right?  
5

6 A Right.

7 Q Now, let me ask you, in your opinion,  
8 is that the -- is it sound from an engineering standpoint  
9 to do that at this point in time?

10 Or, would you say that the method  
11 that Afton has adopted to determine the location of  
12 Phase II or III antennae is a feasible way to go?

13 A Afton has taken a more reliable,  
14 conservative approach. The area we are involved in  
15 here is an area of pretty rugged terrain. There is  
16 high mountains. It's running from the northeast to the  
17 southwest down through there, and propagation at best is  
18 a probabilistic type thing.

19 Field data to work with is the most  
20 certain. So, I endorse Afton's business and technical  
21 approach, which is put in the Phase I, see where you get  
22 good, reliable coverage and see where you get marginal  
23 coverage, determine where there really is a need and,  
24 then, engineer the two subsequent phases accordingly.

1  
2 If, in fact, you have a critical  
3 location like a hospital, so forth, you are going to  
4 want to fill that void in whether it's for a business  
5 dollar reason or a service to the public. There is  
6 no certainty in the propagation work. There is only a  
7 probability.

8 After you put the system in, there  
9 is higher certainty because, then, you can go out and  
10 do field measurements.

11 So, in short, I endorse their  
12 business and technical work.

13 Q Now, based on the phase proposal and  
14 the initial equipment purchase, and based on your knowledge  
15 of engineering, are you of the opinion that Afton can  
16 provide adequate service in the area?

17 A Yes.

18 Q Now, Mr. Griffin --

19 MR. CRANWELL: Can we take a  
20 break here for just a second and go off  
21 the record?

22 WITNESS GRIFFIN: Could I make a  
23 comment?  
24

BY MR. CRANWELL: (Continuing)

Q Go ahead and make your comment on the record.

A This, to some extent, is in rebuttal to Mr. Angus. Is that pronouncing your name right?

MR. MACAULAY: Macaulay.

WITNESS GRIFFIN: Macaulay. Excuse me. Regarding two-way service. The material list which has been submitted by Afton lists a mike for Motorolo equipment. In discussion with Motorolo, that is equipped with both transmitter and receiver. So it can provide two-way service.

For the benefit of the Commission, the difference in terms of the equipment -- and I'm not going to discuss the realities of implementation -- but the differences in the equipment, as I understand it -- and I may have a bad understanding, so I will just give you my understanding -- is that Afton is providing one transmitter, one receiver, offering one-way service to start out with.



If there is two-way service, they will implement that on a time-share basis. But on those two RF channels.

Paging, on the other hand, is offering, or proposing, two transmitters, two receivers, two transmitters, one receiver, the single transmitter being the one where Paging and the transmitter receiver pair for the two-way.

There is considerable question by the other Applicant's comment, particularly at the bottom of Page 7 of Mr. Baker's testimony where he specifically states that he has knowledge that there is a frequency congestion problem in the area.

So, there is more question on Paging's part whether they can get two frequencies, as Afton's, whether they can get one. And I think that is a significant difference..

There is also a significant difference in Phase I regarding -- and I'm on another subject related to Phase I, that's

the engineering implementation. Afton has stated that they will do what is permitted under 47 C.F.R. Part 21 which in layman's terms is the FCC rules covering radio common carrier service.

Paging, on the other hand, has said they will engineer in the VHF range, and what does that mean in a lot of words. As I understand it, it says that Paging will engineer for the VHF. Why, I don't know. They made that statement, I assume, because of compatability with their other systems. But, it limits their chances of implementation by roughly fifty percent.

There is only eleven channel pairs in the VHF. So, this -- Mr. -- let me get the right man here. If Mr. Vernon Baker's submitted testimony and concern and submission is right, as stated on Page 7, then, they run into a frequency congestion problem. They are out to lunch. The area is unserved.

If Afton runs into a frequency congestion problem, they have said to the

Commission: We will do whatever is possible to serve the area. Which means they will get the two VHF channels and the twelve UHF channels. That is by the business plans, as I understand them, and there is a high probability of implementing Phase I. I think those two points are significant.

MR. CRANWELL: There won't be any need for us to go off the record because I was going to ask him to do a comparison of the two, but I was kind of saving that for rebuttal. But, again, I'm a trial lawyer at best and I'm not quite exactly familiar with the procedure, but he has already --

COMMISSIONER SHANNON: He has done it.

MR. CRANWELL: He has already preempted me, so it won't be necessary for me to call him as a rebuttal.

Let me refine that question.

BY MR. CRANWELL: (Continuing)

Q Have you, at my request, done an

analysis of the proposal as submitted by Afton and  
Paging and based on your evaluation there and your  
expertise, will you evaluate the two plans?

Give us the pros and cons and give  
us the -- your opinion as to which one has the highest  
probability in providing the service in the area.

A           The answer to your first question  
is yes. I have obviously compared the two.

I would like to further embellish  
your answer. Would you want me to here? I would continue  
on a phase comparison. I've given you the two technical  
points on Phase I.

Q           How about repeating them and --

MR. MACAULAY: Just a minute.

Just for the record, my client's qualifica-  
tions will be a matter of evidence. This  
is rebuttal testimony. I decided to let it  
go. But my client's credentials will be in  
the record shortly.

And I'm raising a question. I  
want the Commission to consider carefully  
this gentleman's credentials as an expert

to make the comparison he is being asked to make. I want to make that clear.

COMMISSIONER SHANNON: I think you will be permitted to bring that out on cross examination.

MR. CRANWELL: That would be most fine. Then, I would be happy -- as I said, I had planned to do this in rebuttal, and I would be more than happy to cut this off now.

COMMISSIONER SHANNON: No. I think, since it has been raised, let's keep the continuity of the record. It's all in here together, so go ahead and proceed. That's fine.

BY MR. CRANWELL: (Continuing)

Q Do you want me to repeat the question?

A No. I would only like to state for the record, I'm not criticizing Mr. Baker for his credentials. I'm only comparing what has been submitted on the plan. I have read Mr. Baker's credentials. I don't know him personally. I have reviewed everything that has

1  
2 been submitted. I think it's a matter of approach  
3 and not a matter of expert qualifications.

4 So, don't misunderstand what I  
5 said.

6 The only other thing I would add on  
7 Phase I is a business financial comparison. Paging has  
8 not been as specific as Afton. In fact, I think probably  
9 both Applicants, on the part of the Commission Staff,  
10 might be questioned or interrogated about the details.  
11 Okay.

12 But, generally speaking, Afton has  
13 submitted a list of materials for the principal equipment  
14 in Phase I, whereas Paging has submitted under their  
15 Exhibit 6 from Mr. Baker roughly a dollar breakdown and  
16 a verbal scenario. The point I would raise here is that  
17 for the High Knob area, Paging has estimated or allocated  
18 roughly seventeen thousand dollars, whereas Afton is  
19 saying eighteen thousand dollars.

20 It has been my experience nothing  
21 comes as a free lunch. So, with generally the same dollar  
22 allocation the equipment purchased and installed is  
23 probably, then, within a zone of reasonableness, relative,  
24 comparable, although not identical. In other words, we

1  
2 do not find here a two or three to one increased  
3 capitalization on the part of Paging as compared to  
4 Afton or vice versa.

5 Now, Phase II. Acknowledged by my  
6 client, the technical details of Phase II, the work has  
7 not been done. The need has been recognized to serve  
8 the eastern area. Paging has submitted a coverage map  
9 from their Brumley site. They are suggesting on a Phase II  
10 that they will share that site with this service area.  
11 I'm not trying to criticize that design, but I want  
12 to characterize it so the Commission understands it.

13 If you assume the area is generally  
14 homogeneous in terms of this service area and the neighbor-  
15 ing service area, the towns are about the same distance  
16 apart; it's a semi-rural area, and so forth, then, you  
17 can reasonably conclude that the traffic usage, so to  
18 speak, in common carrier terms of that station would be  
19 even over the area. Looking at the map -- and I'm more  
20 than willing to submit this after my testimony -- you  
21 can see that roughly three-quarters of the land area  
22 of that Brumley Mountain is not in the service area.

23 What does this mean to the people  
24 in the area? If my general scenario is right, subject

1 to refinement, the people in this area would roughly  
2 have twenty-five percent access to this station which  
3 means they have a higher probability of receiving a  
4 business signal, as compared to Afton's business proposal  
5 of installing a transmitter solely dedicated to the  
6 people in the service area.  
7

8 Now, shifting to the western portion  
9 which is unserved, neither Applicant, as I see it,  
10 has been specific on how to serve the western area.  
11 There is no money at all acknowledged. There is an  
12 acknowledgment of need in a scenario by Mr. Baker's  
13 testimony, but on the budgeted plan I couldn't find any  
14 dollars.

15 The scenario indicates a transmitter  
16 site up in the Pennington Gap area. And to the best  
17 of my knowledge, I have located this and it's nearly on  
18 the border of the service area. What does this mean  
19 to the people in the area? This means that half of  
20 the coverage, or half of the energy, is going to be in  
21 Kentucky because of the physical location with the site.

22 And I will acknowledge directional  
23 antennae, whether they -- no matter whatever pattern  
24 you can bring most of the energy over but you are going



1  
2 to lose all of the backside coverage. If you can find  
3 the site, and the studies prove out better, it would  
4 stand to reason that a better utilization of that  
5 capitalization and site would be centroidally to the  
6 unserved area.

7 So, if I look here, which is the --  
8 again, recognizing what this map is, this is a coverage  
9 area for Phase I from either Applicant, if I'm right,  
10 that they are proposing same power, same antenna, and  
11 we are on the same mountain, rather than putting this  
12 site up near the Kentucky border, if you put the site  
13 down central in the area, around Jonesville, it naturally  
14 would give you better service for the people in that  
15 community.

16 That is the extent of my comparison.

17 Q Have you suggested to Afton that  
18 they take the approach with the centroidally location of  
19 the transmitters?

20 A Yes.

21 Q Have they indicated a willingness to  
22 proceed in that area to do that?

23 A My understanding is they will do that  
24 after they get the certificate of necessity and convenience.

Q Okay. Now, let's get back to this VHF problem that you said Mr. Baker alludes to in his filed testimony.

Again, would you kind of refine for me, because I didn't quite pick it up in your initial testimony, as to what problems that creates for Paging in their application?

A Let's assume one of the Applicant's is given the charter from the State of Virginia to provide the service. The next step is to clear a frequency according -- and that must be done within the context of Part 21 of the FCC Rules.

Paging has stated, or implied, on the part of Mr. Baker, that they are going to engineer in the VHF spectrum. This limits the search for the engineering to eleven channels. Afton has also acknowledged that that will be their first approach.

So, both Applicants are now looking at the eleven channels that are assigned. And, specifically for the record, that's under Part 21, Paragraph 501, Sub-paragraph B or C, depending on which game you want to play.

If Paging doesn't find a channel, they

1  
2 have not acknowledged they would do anything else. Whereas,  
3 Afton has said, if there is a channel problem they will go  
4 ahead and look at all the others. And, Paging has already  
5 acknowledged that they are anticipating a frequency clearance  
6 or allocation situation.

7 So, my conclusion is the probability of  
8 implementing the service is higher with Afton than it is  
9 with Paging.

10 Q Now, you are familiar with the procedure  
11 that you have to go through with the FCC licensing process,  
12 are you not?

13 A Yes.

14 Q Historically, what is the time  
15 period on that, or can you pin it down? Is it something  
16 you can do estimates on?

17 A That's not a fair question, because  
18 it's so much a function of the staffing at the FCC and the  
19 way people turn over there, you can run into a situation  
20 where people get transferred and slots not get filled and  
21 you can get hung up. Right now, there is a big campaign  
22 to reduce the licensing time in the Broadcast Bureau, so  
23 they've pulled people and staffed that one up.

24 If the radio common carrier gets behind

1  
2 and there is pressure there, they will bring people over.  
3 I would say a matter of anywhere from three months upward.  
4

5 COMMISSIONER SHANNON: The  
6 proposed deregulation, that hasn't reached  
7 down to the RCC level yet, has it?

8 WITNESS GRIFFIN: I don't think  
9 this aspect of it will ever happen, because  
10 this is the basic technical charter of the  
11 FCC, giving frequency. Your proposed de-  
12 regulation is somewhat hinging on programming  
13 and monitoring points and administrative time  
14 and logging and things like that. The actual  
15 licensing process, or giving somebody the  
16 ticket to the air, I can't visualize the  
17 FCC will ever relinquish that aspect of it.  
18 They might.  
19

20 BY MR. CRANWELL: (Continuing)

21 Q Just a couple of points and, then,  
22 I'm going to turn you over to the graces and tender loving  
23 care of Mr. Angus Macaulay over here in just a second.

24 You have reviewed the equipment and

1  
2 you have worked with these people in their phase  
3 development plan; is that not correct?

4 A Yes, sir.

5 Q Is the equipment that they propose  
6 to buy and is the plan they propose to initiate adequate  
7 to provide service and good service in the initial area?

8 A Yes, sir.

9 Q And the population basis where,  
10 around High Knob?

11 A At this time, why don't we inject  
12 these three --

13 Q If you want to introduce those maps,  
14 I'll be glad if -- Mr. Macaulay, would you like to take  
15 a look at them?

16  
17 MR. MACAULAY: I object to them.

18 WITNESS GRIFFIN: You object to them?

19 Okay.

20 MR. MACAULAY: Let me see. I don't  
21 know.

22 MR. CRANWELL: I never heard of a  
23 man objecting to an exhibit without looking  
24 at it. That sounds like my wife.

MR. MACAULAY: You know, we are supposed to be prefiling --

MR. CRANWELL: I understand that. And if you object to those, I will have him go circle it on the map. I mean, there's ways for lawyers to do everything.

MR. MACAULAY: All right. I won't -- I will waive any objection.

MR. CRANWELL: Good.

COMMISSIONER SHANNON: Do you want to offer these as attachments to Mr. Griffin's prefiling?

MR. CRANWELL: We would like to.

COMMISSIONER SHANNON: All right. You say you will waive any objection, Mr. Macaulay?

MR. MACAULAY: Yes, sir.

COMMISSIONER SHANNON: All right. We will make -- is there any order these should be received in, Mr. Griffin?

WITNESS GRIFFIN: The table ought to be first.

COMMISSIONER SHANNON: All right.

The table, which is "All Incorporated Places and Unincorporated Place of 1,000 or More" will be received as Attachment 1 to Mr. Griffin's testimony.

It will be Attachment 2. And, then, the service contour, this one with the red and yellow circles, will be Attachment 3. And, then, the final one is the map of the service area showing, I guess, the High Knob is the center.

WITNESS GRIFFIN: High Knob is the center and the other two are the Paging.

COMMISSIONER SHANNON: That will be Attachment 4.

BY MR. CRANWELL: (Continuing)

Q My question was have you reviewed the equipment and the initial plan on High Knob? Is the equipment and is the plan sufficient to provide adequate and good public service in the area outlined on the maps?

A Yes, sir.

Q Now, how about Phase II and III? Are

you satisfied that the engineering work can be done to provide the service in the Phase II and III area?

A Yes, sir.

Q And the comparisons as to what Paging is recommending and what Afton has indicated they will do to Phase I and II, which of those two plans do you think is the soundest from guaranteeing the highest probability of service to those areas?

A Afton Communication's.

MR. CRANWELL: Okay, Mr. Macaulay,  
your witness.



## CROSS EXAMINATION

BY MR. MACAULAY:

Q Mr. Griffin, before this particular case, have you ever acted as a consultant to an entity providing radio common carrier service other than Afton Communications Corporation?

A I have worked generally in the land mobile service. I have not specifically worked in radio common carrier before.

Q You have not worked in radio common carrier before? I didn't notice any radio common carrier clients listed in your brochure.

A This is the first radio common carrier client.

Q Now I want to be very accurate and careful about the summary from your testimony -- I'm referring to your testimony about this High Knob transmitter, and I believe -- the pages are not numbered, but you said it was some minor discrepancies in the numbers.

But, tell me what the discrepancies are. Now, we have 100 watt transmitter. Is that --

A Why don't we go through my deposition

and let me correct it when I get to it.

Let me explain why there are errors in this. This was taken over the phone.

Q Tell me what figures were wrong.

A Okay. Let me start first, the first word of my engineering statement, and let's correct it all and, then, you can go at it any way you want. Okay.

And, Paragraph A, where it says "Appliance", it ought to be -- the word ought to be "Affiant", meaning me.

Q I don't care about that kind of, sir. I just want to get to this tower.

A Oh. All right.

Q See the bottom, "Equipment Proposal"?

A Yeah. That paragraph is all right. The error in on the top of the next page.

Q Okay. What should be changed?

A The site location that Motorolo is proposing, they do not have coordinates on, but they tell me it is five hundred feet due north from the following coordinates: 36-53-26, 82-37-14. And the ground elevation is 4150.

Q So that's a change, 4150 from 4162;

1  
2 right?

3 Okay. Now, the 100 foot tower,  
4 that's -- is that correct?

5 A That's the only change in equipment.

6 Q All right. Then, the 5.2 decimal  
7 gain you --

8 A My understanding is it's the same.  
9 All right. If you want, actually it ought to be 5.25.  
10 It's the same as on Attachment 4. There is no change in  
11 the equipment list.

12 Q 5.25. So, if I'm correct, you are  
13 saying that Afton will provide this service with 100  
14 watt transmitter located on High Knob, an elevation of --  
15 it will be a 100 foot tower at an elevation of four  
16 thousand one hundred fifty feet. And there will be a  
17 5.25 decimal gain.

18 A One correction. The 4150 was the  
19 ground elevation, so the antenna is one hundred feet above  
20 that.

21 Q That's what I mean. So, the elevation,  
22 the base, of the tower was 4150, so total height would be  
23 obviously forty to fifty. Now, I want you to listen  
24 carefully.

Do you think the FCC would license such a facility? I am going to warn you, I believe they would not.

MR. CRANWELL: Wait a minute.

Wait a minute now.

MR. MACAULAY: I'm going to have testimony --

MR. CRANWELL: Wait a minute now. If he is going to produce somebody from the FCC to say they would not license such a facility, I don't mind him asking that question. But I can tell you one thing, I've been down the pike in the courtroom enough times to know that if you examine a witness on the basis of a proposition, you've got to be able to prove that proposition in your direct evidence.

And I don't want any of your clients testifying to it. I want somebody from the FCC.

MR. MACAULAY: One of my clients is going to testify to it.

MR. CRANWELL: If he is with the FCC, then, I won't have any objection.

MR. MACAULAY: I want to be fair with the witness.

MR. CRANWELL: You can be fair if you prove it. You be fair. But if you can't I'll be screaming to the high heavens.

COMMISSIONER SHANNON: You have that right to object, and he has a right to cross examine the witness on it. And we realize that there is nobody from the FCC here, so it would be based on -- that would be weighed accordingly.

MR. CRANWELL: Well, Your Honor, I would like -- as I said, I would like to note for the record --

COMMISSIONER SHANNON: I haven't heard the witness' answer yet.

MR. CRANWELL: Well, I don't care what the answer is. I've been -- as I said, I've been in this game for twelve years and I've been right under the gun on many occasions, and I always like to

1  
2 get it in the record where I'm going. And  
3 I know ya'll are going to let him answer  
4 the question, but I want it to be absolutely  
5 clear if the Commission gives him permission  
6 to answer the question, that Mr. Macaulay,  
7 then, is going to have to prove that proposi-  
8 tion in direct evidence.

9 COMMISSIONER SHANNON: All right.  
10 Go ahead, Mr. Macaulay.

11 MR. MACAULAY: I don't know what  
12 he means by prove, Mr. Commissioners. I  
13 am -- I propose to offer evidence on the  
14 point.

15 COMMISSIONER SHANNON: Well, I  
16 think Mr. Cranwell says it's got to be  
17 competent evidence.

18 MR. CRANWELL: I'm saying very  
19 simply that if he wants to ask my client  
20 if his client testifies that this would  
21 not be acceptable, then, that's fine. But  
22 if he wants to ask my client if the FCC would  
23 not license it, then, he'd better have  
24 somebody from the FCC to testify. Because,

1  
2 if he doesn't he's asking an improper  
3 question.

4 COMMISSIONER SHANNON: Mr.  
5 Cranwell, did your witness here speculate  
6 as to what the FCC would do on granting  
7 channels? And, you didn't bring a witness  
8 in here.

9 MR. CRANWELL: I would remind  
10 the Court that the Rules of Evidence are  
11 self-executing. If Mr. Macaulay had  
12 wanted to object at that time, that right  
13 was available to him. If he wants to be  
14 a benevolent Applicant, there is nothing  
15 I can do about that.

16 But I've been in this business  
17 a long time, and as I've said, all I've  
18 done is stated my objection for the record.  
19 It's no disrespect to the Court or to Mr.  
20 Macaulay. I just know that I don't like  
21 the doors to close on me without me putting  
22 my foot in, so if I have to plow it open  
23 again I would be able to do it.

24 It's no disrespect. It's just me

1  
2 being an advocate. I apologize. I can't  
3 help but being anything but a fighter.  
4 And if it's an affront to the Court, I  
5 apologize.

6 COMMISSIONER SHANNON: Go ahead,  
7 Mr. Macaulay.

8  
9 BY MR. MACAULAY: (Continuing)

10 Q Are you familiar with FCC regulations,  
11 Mr. Griffin?

12 A Yes, sir.

13 Q I guess my question is, is it your  
14 opinion that the FCC would grant a license to such a  
15 facility?

16 A I will not give you a yes or no  
17 answer on that, but I will answer your question if you  
18 will permit me.

19 Q You can answer it any way you want  
20 to.

21 A Okay. There are four things that  
22 are required to get an FCC license. You have to get  
23 the frequency for your tower. You've got to get an  
24 FAA clearance. It has got to be compatible with the rules.



And if it's not compatible with the rules, it has got to be a waiver issue. Those are the steps.

COMMISSIONER SHANNON: Compatible with what rules?

WITNESS GRIFFIN: The FCC rules. In other words, if I apply directly by the rules, and I'm not in conflict with the rules, and everything, I get my license.

If I apply in conflict to the rules, and I have a reasonable case for a waiver, I, in essence, get a license by exception.

COMMISSIONER SHANNON: All right.

WITNESS GRIFFIN: Okay?

BY MR. MACAULAY: (Continuing)

Q May I look at your FCC rules?

A Okay. (Witness handing counsel a paper writing)

Those were delivered from Dow, Lomath and Albertson as the current and best, because I wanted to be double sure that I was up to date.

1  
2 MR. CRANWELL: Your Honor, I'm  
3 going to make another objection. As I  
4 said, I've got to do it this way. And I  
5 apologize to everybody. Okay.

6 COMMISSIONER SHANNON: You have  
7 a right to try your case.

8 MR. CRANWELL: I know that. And  
9 I have perceived I might have offended the  
10 Court.

11 COMMISSIONER SHANNON: No, you  
12 haven't offended anyone.

13 MR. CRANWELL: And I just want to  
14 be certain I don't do that.

15 Now, he has gotten into a field  
16 that I did not get into on direct examination.  
17 Okay. That is whether or not the FCC would  
18 license this group.

19 MR. MACAULAY: You got in  
20 rebuttal on direct, Mr. Cranwell. Don't  
21 give us a bunch -- this isn't a jury.

22 MR. CRANWELL: If you will let  
23 me proceed, then, I will let you say what  
24 you want to.

MR. MACAULALY: You've done most of the talking.

MR. CRANWELL: Okay. Now, again, as I said, I'm a novice at this. But I'm not a novice at the process. Okay.

And I've always found that you should make sure that the process doesn't work against you, that it works for you.

Now, the only thing I've got to say is if he's going to use FCC rules which my expert furnished him, and he's going to cross examine him, then, I would suggest they be made a part of the record and I would also suggest that if my client answers something that is beyond the scope of my direct examination, that he be bound by that, that he be made his witness, because he has gone beyond the scope of direct examination and, then, he does not have the right to rebut that in his direct examination.

That's what the Rules of Evidence are in a court of law. I would only ask

1  
2 that you-all follow those, and that Mr.  
3 Macaulay, if he goes on this expedition  
4 and doing a little fishing that if he  
5 catches a red snapper instead of a carp  
6 that he has to live with that red snapper.

7 COMMISSIONER SHANNON: Mr. Macaulay.

8 MR. MACAULAY: I just don't  
9 understand his characterization of my going  
10 beyond direct. I'm looking right at his  
11 testimony in which he gives certain figures,  
12 and I'm asking him, and I'm cross examining  
13 him, about those figures.

14 It is his writing.

15 COMMISSIONER SHANNON: Let me say  
16 this. We don't adhere strictly to the  
17 Rules of Evidence. And this is more or  
18 less a legislative type of hearing where  
19 you are awarding a certificate of public  
20 convenience and necessity. We are sitting  
21 in the stead, Mr. Cranwell, of the General  
22 Assembly, I guess, in this matter.

23 MR. CRANWELL: Then, I should  
24 voice no objections at all.

1  
2 COMMISSIONER SHANNON: No, I'm  
3 not suggesting that. But I'm simply saying  
4 that we do give both sides a certain  
5 latitude. But, as far as this Commission  
6 determining what the FCC is going to do,  
7 I don't think they probably know themselves  
8 what they are always going to do.

9 And I don't think the case neces-  
10 sarily will turn or fall on that. So,  
11 having said that, I think we will go ahead  
12 and let Mr. Macaulay pursue this line of  
13 questioning. And if he gets too far  
14 afield, you may object and we will dis-  
15 continue it.

16 MR. CRANWELL: Can I just state  
17 in the record again, as I said, I don't  
18 like the door to close 'til I get my foot  
19 in. I would like the record to note that  
20 my objection to this line of examination  
21 is that I would suggest that it's beyond  
22 the scope of my direct examination of  
23 this witness, that if Mr. Macaulay examines  
24 in this area he is making him his witness

and should be bound by his testimony.

And if he later tried to contradict it,  
then, he has violated the rules of procedure,  
as I perceive them.

That's all. You may go ahead  
now, Angus. I apologize.

MR. MACAULAY: I'm examining  
the witness about his prefiled testimony.

BY MR. MACAULAY: (Continuing)

Q I call your attention to Section 21,  
505 of the FCC Regulations presented by you to me,  
and ask you, if you think, given those figures, the FCC  
would grant a license?

It's a manifestly fair question. Now,  
please read carefully.

A (Witness looking at Regulation)

Section 505 applies to UHF. That's  
the 450 to 512 band. And to date, our client has said  
that they will go there if they can't get in the VHF.  
But that's not answering your question. That's my  
interpretation of 505. It says right here.

Q Well, do you want to answer my question?

1  
2 A The answer to your question is  
3 the four criteria for getting the license. Okay. That's  
4 the -- the channel, the FAA, the rules and the Commission.

5 I have done no channel searches, so  
6 I cannot make any definite statements on whether you can  
7 get a channel. Regarding FAA clearance, I haven't done  
8 any coordination on aircraft. So, that could stop the  
9 filing.

10 Q So, you are not certain one way or  
11 the other on that?

12 A Let me finish.

13 Q All right. The third one regarding  
14 the rules, I read the rules, and I could not find a  
15 definite reason why it could not be licensed; however, I  
16 raised the same question myself that you have put to me.

17 So I called the man that eventually  
18 would have to make judgment on the license. The man's  
19 name is Jim Bennett. He sits at the FCC. He's on the  
20 FCC Staff. I talked to him at 2:30 on July 25th, 1979  
21 for approximately fifteen minutes from my office. I  
22 did not take everything up there, but I roughly reviewed  
23 what the proposal is and where it was located and that,  
24 although I did not see a market discrepancy in what was

1  
2 applied for, is there anything that I should know. He  
3 referred me not to the section you brought up but rather  
4 to Section 21-107, which is compatable to what our client  
5 is filing.

6 So, the answer to your question is,  
7 I don't have any direct concerns that the facility can't  
8 be licensed, either directly or with a waiver.

9 Q Mr. Griffin, I believe you have read  
10 the prefiled testimony of Mr. Baker, have you not?

11 A Yes, sir.

12 Q You have made some comparisons  
13 allegedly between the Applicant. Don't you believe that  
14 a person of Mr. Vernon Baker's background and experience  
15 will do whatever is necessary to provide adequate service  
16 for this entire area?

17 Do you think he will have difficulties  
18 that Afton won't?

19 A You are asking me to read the man's  
20 mind? I can't do that. I can only read what he said.

21 Q But you can give an opinion based on  
22 what that --

23 A I gave an opinion on what was filed.

24 Q Okay.



A That's all I gave an opinion on.

Q Okay. No further questions.

A I will state again, I have no  
reservations on Mr. Baker's qualifications or credentials.  
Anything I said here is not a personal attack on either  
one of those areas.

MR. MACAULAY: He didn't interpret  
it that way, and neither did I.

No further questions.

COMMISSIONER SHANNON: You may stand  
down, Mr. Griffin.

Thank you very much.

\* \* \* \* \*

WITNESS STOOD ASIDE

1  
2  
3                   VERNON H. BAKER, a witness called by  
4 and on behalf of Paging, Inc., who having been duly sworn,  
5 testified as follows:

6                   DIRECT EXAMINATION

7 BY MR. MACAULAY:

8  
9                   Q           Mr. Baker, please give your name  
10 and address.

11                  A           My name is Vernon H. Baker. I reside  
12 at 1012 Allendale Court, Blacksburg, Virginia.

13                  Q           Describe your educational and pro-  
14 fessional backgrounds.

15                  A           I attended the University of  
16 Tennessee and graduated with a Bachelor of Science Degree  
17 in electrical engineering. I earned all of my expenses  
18 in my college education, and I attended V.P.I. and, then,  
19 I transferred to Michigan State University and received  
20 two graduate degrees.

21                  Q           All right. In summary, what degrees  
22 do you hold, in what field?

23                  A           B.S. in electrical engineering, and an  
24 M.S. in engineering and a Ph.D. in engineering.

Q Tell me about your military service.

A I was on active duty in World War II as a radio material officer, and my job was to check out ships on radar and radio and sonar equipment on these ships before they went into service.

Q What was your rank when you were discharged?

A I was a Lieutenant when I was discharged.

Q What did you do after your military service?

A After military service, I went back to school and I worked part-time and earned my way through with graduate degrees. And my first full time job was at V.P.I. in 1949 and I stayed with them ten years at the experimentation. And I resigned then and went into private business in 1953.

Q I believe in your prefiled testimony, you worked for --

A I mean, 1958. I beg your pardon.

Q You worked for several companies while you were continuing your education?

A Right.

Q What were some of those?

A Robert Shaw Corporation, the Oak Ridge Laboratories, and the Tennessee Valley Authority. That was during this work study program mostly.

Q What have you been doing after you entered private business basically?

A Most of my work in private business has been working with AM, FM stations, designing, installing equipment.

I have done some installations and design work for cable t.v. and radio common carriers.

Q Are you a licensed professional engineer?

A Yes.

Q Do you have a First Class Radio Telephone License issued by the Federal Communications Commission?

A Yes.

Q What are some of the professional organizations you belong to?

A I belong to the National Society of Professional Engineers, the Virginia Society of Professional Engineers, the Institute of Electrical and

Electronics Engineers.

Q Have you had experience in designing radio common carriers?

A Yes.

Q What does that involve?

A That involves frequency searches, design of antenna system, filing applications with the FCC, selecting equipment, making up budgets for the equipment, getting bids, and actually doing the installation and testing.

Q You have testified before the FCC on several occasions, have you not?

A Yes.

Q Now I believe we have before us the area proposed to be served. You have a small map attached to your testimony as Exhibit 1.

COMMISSIONER SHANNON: Let's identify Mr. Baker's prefiled testimony as Exhibit VHB Number 7. And how many of these exhibits is he sponsoring?

MR. MACAULAY: Exhibits 2, 3, 5, 6 and 7 and 8, Your Honor.

COMMISSIONER SHANNON: We will make those attachments. They will become attachments to Mr. Baker's exhibit, his Exhibit VHB Number 7.

MR. MACAULAY: All right.

BY MR. MACAULAY: (Continuing)

Q Mr. Baker, would you please come around to the map that we have here, this exhibit, and tell the Commission what Paging, Inc. proposes to do, what sort of facilities you propose to install and when you propose to install them and what they will serve?

A The areas in red, which both parties agreed to serve, and the one -- the two transmitters be on High Knob near Norton and they would -- there would be a transmitter at Pennington Gap, and two transmitters would be on Brumley Mountain.

That's over here at the edge of the area. Brumley Mountain and High Knob are the two prime sites in all the area. They are about forty-two hundred feet above sea level.

And in my search I have not found anymore prime sites than those two.

1  
2 Q And you propose to provide two-way  
3 mobile service from all three of those sites; is that  
4 correct?

5 A Yes.

6 Q Would you tell the Commission how  
7 you interconnect?

8 A It's my interpretation that a radio  
9 common carrier has to provide two things. They have to  
10 provide the mobile telephone service and to provide the  
11 paging. And in all my experience, we have tried to do  
12 that in the areas that we serve.

13 Q Now, which transmitters are going to  
14 serve which areas?

15 A Well, the transmitters will serve any-  
16 where that can be heard. From High Knob we estimate that  
17 to give service about twenty-five miles with a unit  
18 directional antenna. Radio waves do not stop at border-  
19 lines. They travel through the space.

20 And wherever there is a road, or  
21 wherever there is a person, we have tried to serve them  
22 in Virginia. And if they go to Kentucky, they may want  
23 to call back to Virginia it would be nice for them.  
24

Baker - Direct

150

COMMISSIONER SHANNON: It is  
now 12:30. The Commission will stand in  
recess for lunch until 2 o'clock.

NOTE: The Commission is recessed  
at 12:30 o'clock P.M.



2:00 p.m. The Commission  
resumes its session

COMMISSIONER SHANNON: Please continue.

BY MR. MACAULAY (Continuing)

Q Mr. Baker, when was Paging, Incorporated,  
incorporated?

A May 1971.

Q Do you have current certificates for  
radio common carrier issued to Paging?

A We have a certificate for the Martins-  
ville area, and for Blacksburg area.

Q When were those certificates granted?

A Martinsville was 1973, and Blacksburg  
area was 1974, and it was a --

Q I believe the record shows that the  
Application now under consideration was filed November 21,  
'78, with this Commission. Is that correct? The one  
we are considering now?

A That is correct.

Q I believe you are in the process of  
telling us what you are going to serve, from what area.

I am referring generally to your testimony on page 5. Describe the extent to which your facilities will provide proper and adequate service to the area.

A We propose to serve the area from two transmitter sites on top of High Knob. One of them is a two-way transmitter, and the other one will be a one-way transmitter. The one-way will give paging service, and the two-way will give mobile telephone service.

And then from Brumley Mountain we will serve the Southeast area of the map shown over there, with two almost identical transmitters.

One will be paging, and one will be two-way. And then from Pennington Gap, on the Western part of the State, west of Norton, we will serve that area over there with a transmitter at Pennington Gap.

Q At the bottom of page seven is a question: Do you foresee a frequency allocation problem for the service in the area. There was some comment on that testimony. Would you comment on that to the Commission? I believe we have to find out what frequencies we are talking about, do we not?

A Well, in the State of Virginia, most of the mobile telephones are on what we call the VHF Spectrum.

1 That is about a hundred and fifty-two megahertz , and  
2 if you want to drive from Norton to Richmond, you could  
3 stay in contact with your home office if you use a hundred  
4 and fifty-two megahertz band.  
5

6 We would search that out, and use every  
7 possible way to utilize that spectrum in order to design  
8 the facilities.

9 COMMISSIONER SHANNON: How many channels  
10 are in that?

11 WITNESS BAKER: This is seven channels.  
12 Seven two-way; and two one-way, in that channel.

13 COMMISSIONER SHANNON: And that is all  
14 the channels that the FCC has allotted?

15 WITNESS BAKER: That is all in the  
16 one-fifty. Now, in the four-hundred and fifty  
17 megahertz band, there are quite a number of more  
18 channels, and there are not many of those being  
19 used in that part of the country.

20 COMMISSIONER SHANNON: Why is that,  
21 Mr. Baker?

22  
23 WITNESS BAKER: Because it is just the  
24 way it grew up. It is kind of like VHF TV. You

1 know, they started out with all VHF television, and then  
2 they started adding UHF after the others ran out of  
3 frequencies. And most of the mobile telephones in  
4 Virginia now are on VHF, or one hundred and fifty mega-  
5 hurtz. So if you want to roam around throughout the  
6 State, you have to use one-fifty.

7  
8 COMMISSIONER SHANNON: Will you educate  
9 me? This has absolutely nothing to do with the  
10 issues here, but I know on AM used to use kilo-  
11 cycles, and it has gotten to be megacycles, and  
12 megahurtz, and sometimes referred to as meter  
13 bands.

14 WITNESS BAKER: Well, there was a gentleman  
15 back a hundred years ago by the name of Professor  
16 Hurts, who did quite a lot of physical equations  
17 and mathematics on electro-magnetic spectrum, and  
18 he was a professor -- I believe he was a German  
19 Professor -- and they just honored him by changing  
20 it from megacycles to megahurtz. It means the  
21 same thing. But all over the world, when they  
22 switch over to the metric system, it means mega-  
23 hurtz.

1  
2 COMMISSIONER SHANNON: How does that  
3 tie into a meter band?

4 WITNESS BAKER: Well, you measure the  
5 wave length in meters. If you have two meters  
6 antenna, that is called a two meter band. That  
7 would be about, maybe, two hundred megahurtz.

8 COMMISSIONER SHANNON: I see. That  
9 has nothing to do really with the frequency,  
10 does it?

11 WITNESS BAKER: Well, the higher the  
12 frequency, the lower the wave length. Its  
13 inverse proportion.

14 COMMISSIONER SHANNON: Sometimes I  
15 listen to Radio Moscow, and they refer you to  
16 the thirty meter band.

17 WITNESS BAKER: Right. That is how  
18 long the wave length would be, and it would be  
19 originating thirty meters --

20 COMMISSIONER SHANNON: Thirty meters a  
21 second?

22 WITNESS BAKER: Right.

23 COMMISSIONER SHANNON: Thank you. Excuse  
24 me, Mr. Macaulay. It is something I wanted to ask.

MR. MACAULAY: It interested me, too,  
Mr. Commissioner.

BY MR. MACAULAY (Continuing)

Q What did you estimate the cost of  
financing the initial equipment. I believe you talked  
about that on page eight.

A Our exhibit -- which exhibit; exhibit  
number six, is it -- shows the estimated cost for the  
construction. The thirty-eight thousand for the base  
station, and associated equipment. That is in the three  
locations. Five different transmitters.

COMMISSIONER SHANNON: That is two-way  
service?

WITNESS BAKER: That would be two-way  
and one-way. It would be two-way for mobile  
telephones, and one-way for paging only.  
The difference there is if you were talking  
two-way, you would have to have a transmitter  
and I would have one. Whereas one-way, I don't  
have a transmitter, and you would have a receiver.

BY MR. MACAULAY (Continuing)

Q I believe that shows a total of ninety-five thousand dollars estimated in that exhibit?

A Yes, sir.

Q Now, there was some testimony previously, I believe, that there's some question about the demand for two-way service, Mr. Baker. I believe you have an Exhibit 3 to your testimony which has something to do with ascertaining the service. Will you explain to the Commission what you and your associates did, and what resulted in ascertained need?

A We actually visited all of the people that we have listed in our exhibit in person. We set down with them and asked them about their communication needs.

Q This is Exhibit 3, page 1, is the summary of it.

A And we found that there was a need, and we have signed orders here for thirty-seven mobile telephones, and forty-eight pages. And we conducted this survey in the area as listed in Exhibit 3.

Q Which area did you cover?

A I did the survey in the Lebanon area, and -- Edward Baker did the survey, and Mr. Henderson in the other area.

Q I think it would be of interest to the Commission just to look at one of those applications. The number of mobile units desired is shown; the number of paging units desired is shown; the cost is so much, considering what the service is.

What do you conclude from your survey with respect to the need for two-way telephone?

A I conclude that when you have that many people say that they would like to have the service, that there is enough there to justify putting it on the air.

Q What arrangements have been made for offices to serve this area by Paging, Inc?

A We have agreement with the owner of a building in Wise, Virginia, to have office space. That is shown in one of our exhibits.

Q I believe that is exhibit seven to your testimony. What else?

A Also, we have an agreement with the same Company that the Afton group has, to have technical help from the Motorola District to do technical maintenance.

Q Do you have office space for one of your representatives, too?



A Yes, I have office space there.

Q What sort of qualifications does the manager of your system have?

A Well, one of the principles, the Vice President, will be the general manager, and the manager - we will employ a local manager - he will be a business-type person who can sell and promote, and take an active part in the community.

Q How many customers were your paging serving as of July 1, '79?

A I believe it was about a hundred and thirty customers as of July.

Q Now --

COMMISSIONER SHANNON: How far does your signal from Martinsville reach out toward the territory that you are proposing to serve here?

WITNESS BAKER: Martinsville is about a hundred and fifty miles, and the signal from Martinsville goes about twenty-five to thirty miles, depending on where you are actually located.

1 COMMISSIONER SHANNON: So actually  
2 the two territories -- if this application would  
3 be granted, you still would have an area  
4 in between you still wouldn't be able to serve,  
5 in between the Martinsville territory.  
6

7 WITNESS BAKER: It is in the other  
8 area in between there, yes.

9 COMMISSIONER SHANNON: Is that served  
10 by anybody now?

11 WITNESS BAKER: Most of it can be served  
12 from the Blacksburg area. It is a mountainous  
13 terrain.

14 COMMISSIONER SHANNON: Down around  
15 Floyd County.

16 WITNESS BAKER: Around Floyd can be served  
17 from Blacksburg. In fact, we have a customer  
18 in Floyd on the Blacksburg system. A court  
19 reporter there.

20 COMMISSIONER SHANNON: Okay.

21 MR. MACAULAY: All right.

22 BY MR. MACAULAY (Continuing)

23 Q At my request, have you reviewed the  
24 prepared testimony prefiled by Afton Communication?

1  
2 A Yes, sir.

3 Q In your opinion, what is the significant  
4 differences between Paging's application and Afton's  
5 application?

6 A I think the major difference is that  
7 we propose mobile telephone service and they do not.  
8 We propose to serve the area with a full one-way and  
9 two-way service, as we understand the radio common  
10 carrier is supposed to do. Straight out in the  
11 beginning.

12 We do not propose any delays. We will  
13 have the service promptly. We have expertise and  
14 experience in the field, and their engineering presented,  
15 in my opinion, will not be granted by the Federal  
16 Communication Commission.

17 Q All right. With respect to engineering  
18 --

19 MR. CRANWELL: I would respectfully  
20 like to note for the record that what I perceived  
21 happening at the time I made my initial objection  
22 has now happened, Your Honor. Mr. Macaulay I  
23 knew was going to be unhappy with the answer he  
24 received from Mr. Griffin, and at that point in  
time that is the reason I objected, because I

1 wanted the court to be absolutely clear that  
2 if he asked that question and got the answer  
3 about the FCC license, that he was acting beyond  
4 the scope of what my direct examination had been,  
5 and he should be bound by that testimony, and not  
6 come back then and try to impeach his own witness  
7 which the rules of evidence permit -- I mean do  
8 not permit -- and that is what he has attempted  
9 to do through the testimony of this witness. And  
10 I would ask that the answer be disregarded and  
11 be stricken from the record.

12 COMMISSIONER SHANNON: Mr. Cranwell, he  
13 has expressed an opinion, and we certainly take  
14 notice that he can't speak for the FCC. And  
15 it is a statement of opinion, and you have a lot  
16 of those around here, and we have to sit through  
17 it. So we will let it stand, and let the objection  
18 go to the weight.

19 BY MR. MACAULAY (Continuing)

20 Q Well, specifically, with specific reference  
21 to the proposed transmitter, you recall I did ask the  
22 gentleman -- I guess this does come under rebuttal --  
23 but you permitted Mr. Cranwell, I believe, to do  
24 rebuttal in his case --

MR. CRANWELL: I am not objecting to the procedure; just to the results.

MR. MA CAULAY: I would like to point out I am simply asking about the proposed transmitter power, which is described in his direct testimony. It does not go beyond the scope of the opinion of Mr. Cranwell.

BY MR. MACAULAY (Continuing)

Q Now, you say the FCC would not license this particular facility, is that your testimony?

A Yes, sir; not according to their rules.

Q Why not?

A In all my experience since 1971--

MR. CRANWELL: Objection.

COMMISSIONER SHANNON: This will be a continued objection. We will go ahead and let him answer the question on the same basis --

MR. CRANWELL: That is not necessarily the same objection. If he is starting to testify about what the FCC rules and regulations are, I would like for him to qualify him as an expert to do that. Now, this man has testified that he is a member of the Association of

Consulting Engineers, and if this gentleman is qualified to give that testimony, I have no objection. But I would like to see that done.

COMMISSIONER SHANNON: Mr. Macaulay?

BY MR. MACAULAY (Continuing)

Q You have a PhD in Engineering, do you not?

A Yes, sir.

Q You are able to read, are you not?

A Yes, sir.

Q Are you familiar with FCC regulations?

A Yes, sir.

Q Have you appeared before the FCC many times?

A Yes, sir.

Q Do you have a copy of the FCC current regulations in front of you?

A I do.

Q Would you refer to the specific regulations on which you base your opinion?

COMMISSIONER SHANNON: Gentlemen, let's get on with this. We cannot prejudge what the

1 FCC is or is not going to do. Our function  
2 here is to determine whether a certificate in  
3 a particular area in Virginia should be granted.  
4 This Commission, far be it from it, to ever tell  
5 what any Federal agency is going to do. I think  
6 we would be all wizzards if we could. And I  
7 think this gentleman has given his opinion; your  
8 witness, Mr. Griffin, gave his opinion, but that  
9 is not going to go, really, to the issue, I  
10 don't think, of PC&N here, because you can't do  
11 anything with the certificate you get from us  
12 until you clear --

13 MR. CRANWELL: I stand muted and silent  
14 at this point. And you won't hear anything from  
15 me for a while.

16 MR. MACAULAY: I would like the record  
17 to show that the gentleman offered to read  
18 specific regulations.

19 COMMISSIONER SHANNON: Well, if you want  
20 to proceed in that area, go right ahead, Mr.  
21 Macaulay. I gave Mr. Cranwell latitude in that  
22 area, and I will certainly do the same for you.

23 BY MR. MACAULAY (Continuing)

24 Q I believe they refer to a hundred watt  
transmission location. Now, what is the FCC rule with

1  
2 respect to power and altitude?

3           A           The FCC rules allow in this radio common  
4 carrier service -- they allow -- it is not like the  
5 safety and private service that Mr. Griffin referred to --  
6 the radio common carrier rules are separate and distinct  
7 from all the other rules, and the radio common carrier  
8 frequencies are supposed to be clear of interference.

9                   And this rule that they will grant  
10 five hundred watts of effective power at five hundred  
11 feet above average terrain. In other words, they would  
12 not grant any more than that.

13                   COMMISSIONER SHANNON: That is maximum  
14 power?

15                   WITNESS BAKER: That is maximum power.  
16 Five hundred feet. Now, when you go up to  
17 forty-two hundred feet, you have to lower your  
18 power to get the same equivalent coverage,  
19 as if you were five hundred feet above average  
20 terrain. Now, I made a preliminary calculation  
21 at High Knob, and the power there that you could  
22 use would be less than ten watts. They have  
23 proposed a hundred watts. They would interfere  
24 with stations in Kentucky, Tennessee, and  
North Carolina. All over the eastern --



1  
2  
3 COMMISSIONER SHANNON: You mean if I  
4 took my four watt CB Transmitter to the top  
5 of High Knob, I would have an effective power  
6 many times greater --

7 WITNESS BAKER: You could talk all  
8 the way to Tennessee and North Carolina. You  
9 are not allowed to go up above thirty feet, I  
10 don't believe, for CB.

11 But as you go up, there are curves in  
12 the rules that show you what power you can have  
13 as you are going up to forty- two hundred feet.

14 Now, we filed an application with the  
15 Commission only about two months ago for  
16 Brumley Gap. The elevation of the tower is  
17 virtually identical to High Knob, about forty-  
18 two hundred feet. The maximum power that we  
19 can have there, effective power, is about  
20 eighteen watts. The maximum transmitter power  
21 is about nine watts.

22 So there is no way that the Commission  
23 will allow the hundred watt transmitter.

24 That is a rule that I have been working  
with --

BY MR. MACAULAY (Continuing)

Q What particular rule are you referring to?

A The Rule is Section 21.50, and I will read it to you.

Q It is 50.5, isn't it?

A 21.505. It is printed in the Federal Register.

COMMISSIONER SHANNON: The Code of Federal Regulations. What is it, 47CFR 505?

WITNESS BAKER: Telecommunications. It says in here that because of the widespread coverage and undesirable areas where no substantial need exists for mobile communication service through a distant base station, base station will not be authorized to employ transmitting antennas in excess of five hundred feet above average terrain, unless the effective radiated power of the base station is reduced below five hundred watts, but not less than the amount as shown in the chart below, entitled Required Reduction and Effective Radiated Power for Antenna Heights in Excess of 500 Feet Above Average Terrain.

Now, I would like to explain what average terrain is.

COMMISSIONER SHANNON: Yes.

WITNESS BAKER: High Knob is an elevation of about forty-two hundred feet. That is the highest point in that whole area next to Brumley Gap.

The way to figure the average elevation is that you draw out eight radials around the tower, and from two to ten miles; every one-tenth of a mile or so you record the elevations. Then you average all those eight radials, and that is what the average elevation is. And for High Knob, it is about two thousand feet above average terrain.

COMMISSIONER SHANNON: They are using the U. S. Coastal Geodetic Contour Map?

WITNESS BAKER: U. S. Coastal Geodetic maps. And the reason they have that in there, sir, is because RCC stations are not supposed to receive any interference, whereas stations in other services might be able to have interference.

COMMISSIONER SHANNON: Does that rule apply to all types of broadcasting as well?

WITNESS BAKER: That applies to FM

broadcasting and TV broadcasting.

COMMISSIONER SHANNON: But it doesn't  
apply to AM?

WITNESS BAKER: No, sir; that is an  
entirely different set of rules, and it does  
not apply to just business areas.

BY MR. MACAULAY (Continuing)

Q What does it specifically refer to  
here?

A The mobile two-way radio and also RCC  
paging and mobile telephones.

Q Mr. Baker, is your corporation, with  
its current assets and credit lines available to it,  
perfectly capable of building the system as spelled  
out in your application?

A Yes, sir.

MR. MACAULAY: Mr. Cranwell?

## CROSS EXAMINATION

BY MR. CRANWELL

Q Mr. Baker, sometimes it falls upon an Applicant an unpleasant task, and I am going to get the unpleasant one out of the way first, and then you and I are going to go on to something else.

It doesn't have anything to do with you personally, it is just something that I have to get verified at this point in time, okay? Would you flip over to Exhibit 8 of your prefiled testimony? Could you tell us what that is?

A It is a statement from my two-way radio.

Q What is the date on that statement?

A Quite frankly, I don't see one, sir.

Q Let me ask you another question. Have you had a chance to compare the letterhead on that letter with the letterhead on the exhibit filed by us, which was contracting a service for two-way?

A That is a business card of Mr. Cox, and this letter was typed up on plain paper, and it didn't have any letter head when he sent that letter.

Q And would it surprise you if I told you that Mr. Cox denies that he ever wrote you that letter?

A It sure would, because we have a very good business relationship.

Q Well, if Mr. Cox in fact didn't write that letter, who did?

A He signed the letter. We typed the letter.

Q Would it surprise you if Mr. Cox said he never signed such a letter.

MR. MACAULAY: Mr. Cranwell, aren't you doing what you objected to me doing?

WITNESS BAKER: Mr. Cox already has a contract with us for service, and he signed this letter, and I drove to Wytheville to get him to sign the letter.

COMMISSIONER SHANNON: Mr. Cranwell, these letters that are here that are signed, since I can see that they are letters, they will be accorded the same treatment as your letters. They will be passed to the file, and not considered part of the evidence, because our rules provide that no letter can become an exhibit unless the writer of the letter is present.

MR. CRANWELL: Do your rules also provide anything as to determination of credibility of

witnesses.

COMMISSIONER SHANNON: Certainly it does.

MR. CRANWELL: Would it be within my right to determine the credibility of a witness to prove to the Commission that an exhibit filed is not a true exhibit?

COMMISSIONER SHANNON: Well --

MR. MACAULAY: Are you going to make an offer of proof to offer evidence to that fact?

MR. CRANWELL: I will get to that in a minute.

COMMISSIONER SHANNON: Go ahead and pursue your line of questioning. The only thing I am saying is that none of these letters will be received under our rules as evidence.

BY MR. CRANWELL (Continuing)

Q You are saying that you have worked with Mr. Cox, and that you do have an agreement with him, then?

A Yes. We have agreements. Not only there but other locations.

Q Other locations?

A Yes.

Q Mr. Cox, he does have a facility up in

Wise, does he not?

A He has a laboratory.

Q In Wise.

A Yes.

Q And that is where he will work on the equipment.

A His people will.

Q His people will, that is right. Now, you said you were going to have a single transmitter at Pennington Gap, is that correct?

A That is correct.

Q And where is that transmitter going to be located?

A There is a public -- sites available at Pennington Gap Airport.

Q Have you made arrangements for the location of the -- at a tower at that site?

A I have inquired. I have not an agreement yet.

Q Have you done a preliminary indication of what the cost might be?

A No, I have not.

Q So we can really say -- we are talking about Phase Three of Afton Communications -- you are no further along in your providing service in that area than they are, are you?



1  
2 A No, I wouldn't say that.

3 Q You wouldn't? What would you say then?

4 A I say there are a number of sites  
5 available in that area. We have never had trouble getting  
6 a site. And this -- there are other public antennas there.  
7 It is sort of an antenna farm at Airport, and I don't  
8 see why we can't get the location there.

9 Q But at this point in time you haven't done  
10 any cost calculation on it, you haven't secured a site,  
11 you haven't done the wave patterns to determine the  
12 coverage or anything that you are going to have, have  
13 you?

14 A No, we haven't done that.

15 Q So then it would be fair to say you are  
16 no longer -- no further along in that area than Afton is,  
17 are you?

18 A No, I wouldn't say that.

19 Q Are you going to provide two-way service  
20 from your transmitter?

21 A Yes, sir.

22 Q So you don't need two transmitters to  
23 provide two-way service, do you?

24 A Just one, sir.

Q Just one. That is the intriguing thing  
to me. If you will look at your exhibit Number 6, page 1,  
you indicate an expenditure of about seventeen thousand

dollars in equipment, and Afton indicated about eighteen thousand.

Yet, you indicate that you are going to have three more -- three more transmitters in your system than they are at that cost?

A You are talking about Exhibit 6?

Q Page 1. That is your balance sheet -- excuse me, yes, page 1, that is your cost estimate for High Knob. We counted Brumley Mountain, Brumley Gap, okay?

A Would you repeat that, sir?

Q My question was, in the seventeen thousand dollar figure you have there, which appears to be your total amount allowed allocation for the purchase of equipment --

A That is for High Knob.

Q That is right, and that seventeen thousand dollars, and Afton's proposal for High Knob is eighteen thousand dollars, is that right?

A That is correct.

Q Okay. Now, do you propose to have an additional transmitter up there within that seventeen thousand dollar figure that they don't have in their eighteen thousand dollar figure?

1  
2 A Yes. We propose to have two transmitters.

3 Q Okay. And you are telling us within the  
4 framework of the purchase from Motorola, the same  
5 people they are, that you can provide additional piece  
6 of equipment, and still do it a thousand dollars less, is  
7 that right?

8 A I wouldn't necessarily buy it from  
9 Motorola. There are other companies. General Electric,  
10 and based on our experience in the others, we can do it  
11 for that price.

12 Q Isn't it fair to say that if we look at  
13 page 6 of your testimony -- excuse me, page 7 -- that you  
14 don't know what equipment you are going to use yet, because  
15 you haven't yet designed it? You have to design it, and  
16 you have to order it, and supervise the construction.  
17 Isn't that fair to say?

18 A Mr. Cranwell, what you do is to determine  
19 the engineering, and work backwards and figure out the  
20 equipment, but all of my experience so far has shown  
21 that all the stations we have built so far will come  
22 within this budget.

23 Q So what you are telling us is simply  
24 this, and you clarify if I misstate it: What you are

1 saying to the Commission is that old Vernon Baker is a  
2 good old guy, and he has done one of these things before  
3 -- two of these things before, and he has told us what it  
4 is going to cost, and they don't know what kind of equipment  
5 they are getting. They don't know what kind of antennas  
6 or anything, but we are going to give the service, and  
7 just because you say you are going to give it, you are  
8 going to give it without giving them any list of equipment,  
9 or any specifics whatsoever. Isn't that the case? Isn't  
10 that what we are talking about?

11 A I tell you the engineering work there.  
12 You don't know the equipment.

13 Q Well I thought you did all of this. You  
14 have done enough preliminary engineering to tell me where  
15 you can reach and where you can't reach, and your  
16 average elevation and everything. You mean you have done  
17 all of that engineering, but you still can't tell us what  
18 kind of equipment you need to buy?

19 A We are not ready to say whether it is  
20 General Electric, Motorola or whatever.

21 Q One of your exhibits you filed was a  
22 Motorola statement, indicating that you could get the  
23 equipment from them, didn't you?

24 A That was to show our financial ability.

Q You are not going to get the equipment

from Motorola?

A We will get some equipment from them, but we don't have to.

Q So it is fair to say at this point in time we don't know what kind of equipment you are going to put up there, do you?

A I don't think it is important what kind of equipment you have as long as it is licensed by the FCC.

Q Well, what if you got a two hundred watt transmitter like you say these people have a hundred watts. Wouldn't that make some difference?

A Well, Mr. Cranwell, their hundred watt transmitter will not be licensed because they will have to cut down their power to about ten watts, and the FCC does not allow them to cut down a hundred watt transmitter to a ten watt transmitter.

Q From what you then told me, it is important as to the kind of equipment you have, isn't it? It is or it isn't. Which is it?

A The design of the equipment is important, but the make of it is not all that important.

Q All right. That is what I asked you. At this point in time you are not even prepared to tell

us the design of the equipment you are going to use out there, are you?

A There is about eight or ten manufacturers, and they all have similar prices and similar designs. And it is up to you to decide, to pick it out of the catalog which one will do the job. Any of them will do the job.

Q So let me give you the scenario once again to see if I can get you to answer my question one more time, and then we will move on to something else.

Let's take the staff, for example, of the State Corporation Commission. Okay. They review and make a determination of which of the two applicants can best provide adequate service up there, okay. Now, they have a list of equipment that Afton is going to use. They can look at that, they can do -- obviously, if you can do the engineering work, they can do the engineering work, to provide what kind of system there is going to be out there based on that equipment, right? But you have asked the Commission to just disregard that, and to accept the fact that you have a system that is in operation, the fact that you say you would give them the equipment, and make a judgment that you can provide adequate operation out there, isn't that correct?

1  
2           A           Could I make a statement to the  
3 Commission?

4           Q           I wish you would.

5           A           The Federal Communication Commission  
6 puts out a list of all the equipment approved, and they  
7 call it type acceptance. They take it into laboratories,  
8 they test it for power, for radiation, Harmonic radiation,  
9 and they don't require you use any special kind of  
10 equipment, except that it is type-accepted in their  
11 laboratories. There must be dozens of transmitters  
12 that will do the job. And the public never would know  
13 which one was doing the job.

14                   COMMISSIONER SHANNON: You mean they  
15 don't approve it by manufacturer, like Motorola,  
16 General Electric?

17                   WITNESS BAKER: They do, but it has to  
18 go through their lab and be type-accepted, and  
19 there are dozens of them that are type-accepted.

20 BY MR. CRANWELL (Continuing)

21           Q           Doctor Baker, I am sorry, I didn't mean  
22 to indicate I was talking about manufacturer. I think when  
23 you just got through your discussion, you were talking  
24 about really Section 15 of the FCR, not 21. What I am  
talking about is equipment configuration. I mean, we

1 have got something with Afton that the Commission engineering  
2 staff can get its hands on and look at.  
3

4 A And yes, they will turn it down when they  
5 get it.

6 Q And what you are saying is that I offer  
7 nothing but my good faith, is that right?

8 A Well, I have experience and all of my  
9 training and background and association, and they would  
10 accept what I would say.

11 Q So what you are saying to these two  
12 gentlemen here is that Vernon Baker is a good old guy, and  
13 he has two in operation. Give him another one, and he  
14 will put the equipment out there, and disregard the  
15 fact that Afton, although it is our first application,  
16 and they have a lawyer who probably doesn't know what  
17 he is doing and struggling, they have at least told what  
18 equipment they are going to put out there. They have  
19 told you the configuration. You can tell by looking at  
20 it.

21 But you should disregard that because  
22 the equipment is not important, is it?

23 A As long as it is approved by the FCC  
24 lab, it will do the job.

Q All we have got is your word and commitment



that that is going to go out there, isn't it?

A You can't put any other kind out there.

Q It is exactly like what Mr. Macaulay asked my client. Are you legally bound to put up this money. You are not legally bound to put any equipment out there, are you, if -- even if you get this certificate of convenience and necessity.

A Yes you are.

Q Well, lets me and you go on to another topic, okay? Are you a member of the Association of Federal Communication Consulting Engineers?

A No, I am not.

Q Are you familiar with that group?

A Yes, I am. It is not necessary to be a member of that group in order to practice before the FCC.

Q That is a pretty high honor, though, isn't it?

A No, it is not.

Q It is not?

A No.

Q It is not kind of like the Bar for the Federal Communication Commission?

A You don't have to be a certified engineer

in order to practice before the FCC.

Q Mr. Baker, I am a pretty good lawyer, and I am not going to let you get off this quick now. I don't care what you have to be to practice before the FCC. My question is this: Do you not agree that this is a pretty well respected association in the trade? And is it not well respected before the FCC?

A It is as far as I know, it is a group of fine gentlemen who get together and discuss the FCC rules.

Q Then it is a pretty well thought of organization, isn't it? It is not hard to say. Either say 'yes' or 'no.'

A I could join by just asking.

Q You could?

A Yes.

Q You haven't asked?

A No, I haven't asked.

Q Now, lets talk about on page 6, where you say the proposed area to be -- is to be served initially from two antennas on High Knob.

Is that correct?

A That is part of the initial installation.

Q And then are you to have a subsequent transmitter on Brumley Mountain. Is that correct?

A There are two transmitters there.

Q Right.

Q Are you going to go into Brumley Mountain immediately?

A Yes. Why would I have the application on file.

Q You don't have a license from the FCC do you?

A No.

Q If you don't get the license from the FCC you won't be on Brumley Mountain, will you?

A Right.

Q Okay.

A It is already on the cut-off list. Nobody can object. So we are pretty sure it is going to be granted.

Q Well, maybe you are a wizard. The Judge has already said he is not, but maybe you are. Lets ask this question now: Brumley Mountain is going to be serving two areas then, right?

A Correct.

Q And did you hear Mr. Griffin talk about getting that busy signal on your phone?

A Well --

Q You did, didn't you?

1                   A           I don't know what he meant by that.

2                   Q           Let me ask you this. There are only so  
3 many channels that you can serve up there, isn't it? Only  
4 so many calls that you can receive, and so many messages  
5 that you can transmit. Isn't that right. And if you are  
6 on Brumley Mountain and providing a service for the area  
7 that Brumley is initially designed to serve, that means  
8 the people in this proposed area are going to get a busy  
9 signal, doesn't it?  
10

11                  A           Not necessarily.

12                  Q           Not necessarily. But not necessarily no  
13 either, right?

14                  A           Brumley Mountain -- you can see Lebanon  
15 from Brumley Mountain. We are talking basically about  
16 Lebanon, and that is a prime site for a radio common  
17 carrier, and it would be a waste of natural resources and  
18 electro-magnetic spectrum not to utilize that in a  
complete circumference of the area.

19                  Q           Well, let me ask you this. Are you  
20 already certificated for that area, Brumley Mountain.

21                  A           In Brumley Mountain, yes.

22                  Q           And what certificate was that? When was  
23 that issued?

24                  A           That was issued -- an amendment of ours --

back in March, I believe.

Q March of this year?

A Yes.

Q Have you started any service over there yet? Oh, that is right. You can't until you get your FCC license, can you.

A That is correct.

Q You don't know whether you are going to get your license or not, do you?

A We are reasonably sure.

Q Reasonably sure you will. I notice you have some costs for antennas and stuff on Brumley Mountain in your capital outlays. You haven't sneaked any of that cost in your other area over into this area, have you?

A It would cost the same no matter what.

Q It would cost the same no matter what you are doing?

A Yes.

Q Equipment costs --

A Equipment costs so much.

Q You don't have to have a base station over there, do you?

A I don't understand.

Q All you are going to have is a transmitter over there, isn't it. On Brumley Mountain. Two of them?

A Right.

Q You are going to have the same costs over there that you have at home now?

A Based on my engineering so far, the two mountain tops are about forty-two hundred feet above sea level and you can have identical set-ups, because you can have virtually the same power.

Q Are you telling us you have done the engineering work to determine theirs, but you haven't done sufficient work to determine the configuration of equipment you ought to be able to have?

A We have done the engineering work for Brumley Gap. And that is what I base my cost estimates on.

Q Have you submitted the configuration of your equipment? The stuff that you are going to use over at Brumley Mountain?

A Yes, we submitted it to the FCC.

Q Have you submitted it to the State Corporation Commission for their review, like we did.

A It is not required to my knowledge.

Q But it would be required for them to

1 make a determination of whether you provide adequate  
2 service, wouldn't it?  
3

4 A No, sir. We haven't had to do that  
5 in the past. We just --

6 Q Have you ever been in a contested hearing  
7 before?

8 A We are supposed to report to the State  
9 Corporation Commission the number of customers we have  
10 once a year, on Form L, that we send to the SCC. And  
11 to my knowledge, there is no rule that we have to send  
out anything else.

12 Q Brumley Mountain, that is over close  
13 to Abingdon, isn't it?

14 A It is really near to Lebanon.

15 Q Do you know whether that would be a long  
16 distance exchange from Lebanon?

17 A It would be long distance telephone  
18 exchange, but you can put in a wire there to have it not  
be long distance.

19 Q Isn't that going to cost your customers  
20 more to do that, than if they had to go long distance  
21 exchange? Won't that cost them more?

22 A No, it won't cost them any more, because  
23 we will pay for that ourselves by putting in a trunk line.

24 Q Isn't it going to run your costs up then?

A Not appreciably.

Q Not appreciably. But you could do the same work that you are talking about for the same seventeen thousand dollars. You could locate within the area close to the area, and be able to serve Lebanon, Clintwood, and all over the local dial, couldn't you? Without the trunk line, if you selected a site within the proposed area, isn't that correct?

A There is no other prime site that I was able to find, compared to Brumley Mountain.

Q With the investment you have got on Brumley Mountain, sometimes the -- beauty is in the eye of the beholder. You weren't looking a hell of a lot further, were you?

As a matter of fact, from Brumley Mountain you can't even serve Clintwood, can you?

A I would have to look at the map.

Q Go ahead and look at it. Go ahead and look at it.

A Did you say Clinchcourt or --

Q Clintwood, Clinchport, -- all of them, take your pick.

A We would serve about twenty-five miles from the site. Thirty miles.

Q Again, I am not going to let you off this hook. Can you serve them or not from Brumley Mountain?



A We can get contact with people from Clinchport, yes. From High Knob.

Q How about Clintwood?

A Clinchfield --

Q As a matter of fact, the exhibit you filed, you can't even get to Clintwood, can you? Your own exhibit. You don't have to look at the map. You can come back over here and look at the exhibit you filed. I have it circled in red on my book if you want me to show you.

What are you going to do to serve that area up there?

A We can serve that from High Knob.

Q You can?

A Yes.

Q It doesn't show that on the exhibit you filed.

A What exhibit is that?

Q The one you have got right in front of you.

A This is from Brumley Mountain.

Q What is this over here?

A That is Hazard, Kentucky.

Q You are saying then if you can serve it, then we can serve it, is that right?

1 A I am not saying that.

2 Q Is it your contention then that you can  
3 put in a ten watt transmitter as opposed to a hundred  
4 watt that we are going to put in, and you are going to  
5 transmit twice as far as we are. How are you going to  
6 do that?  
7

8 A Well, sir, you are not going to put in  
9 ten watts unless the Act of Congress changes the FCC rules --

10 Q What are you going to put in?

11 A I am going to put the maximum allowed.

12 Q What is that; is that a hundred watts?

13 A No.

14 Q What is it?

15 A It is approximately ten watts.

16 Q Approximately ten watts. You have  
17 absolutely confused me, or else I am just dumber than  
18 everybody else. I asked if you are going to put ten watt  
19 in. Is that what you are going to put in?

20 A It depends again on the antenna. You have  
21 gain  
22 a five point two/on antenna. In order to get the effective  
23 power, you have to consider your antenna gain and your  
24 transmitter power. He has a five point two decimal gain  
antenna. That will almost double the effective power.  
If you have a ten watt transmitter, you get about twenty  
watts effective power.

So the effective power on High Knob cannot exceed about twenty watts.

COMMISSIONER SHANNON: Will the Federal Communications Commission entertain an application for channels for a transmitter site prior to this Commission acting?

WITNESS BAKER: Yes, but they will hold it until this Commission acts.

COMMISSIONER SHANNON: They won't act on an application, and then let us act.

WITNESS BAKER: They might grant it, but there will be stamped on it no construction can start until you get a certificate.

COMMISSIONER SHANNON: You mean they would grant it conditionally, on that condition?

WITNESS BAKER: Yes. You are the ones in the driver's seat.

COMMISSIONER SHANNON: Have you filed your application with the FCC?

WITNESS BAKER: We filed it for Brumley Gap.

COMMISSIONER SHANNON: How about High Knob?

WITNESS BAKER: We haven't filed that because Brumley Gap is just a tenth of a mile over

into the other area.

COMMISSIONER SHANNON: And Mr. Cranwell, has your client filed with the FCC yet?

MR. CRANWELL: No. For High Knob, no. He has filed for Brumley Gap, because he has already got a certification in the other area.

COMMISSIONER SHANNON: Yes. Go ahead.

WITNESS BAKER: You can't stop radio waves that go out in the area, and we are trying to utilize that.

BY MR. CRANWELL (Continuing)

Q You are going to send some of those Virginia resources over into Kentucky, aren't you? At Pennington Gap?

A It is possible.

Q It is possible?

COMMISSIONER SHANNON: Does Kentucky have a law similar to Virginia?

WITNESS BAKER: Yes.

COMMISSIONER SHANNON: So you would have to be certified over there, too?

WITNESS BAKER: You can send a signal over there, but you couldn't have a customer over there.

COMMISSIONER SHANNON: Not legally.

WITNESS BAKER: Not legally, but somebody from Virginia might want to drive to Kentucky, and they talk back across the state line. I don't think anybody can say -- would say anything about it.

I never have heard of a case like that.

BY MR. CRANWELL (Continuing)

Q On page 7 of your testimony, you talk about the very type frequency allocation in southwest Virginia, and VHF Spectrum. What are you going to do if you can't get your VHF channel.

A I --

Q Are you going to do like we are going to do?

A We are going to make every effort to use the VHF so that our customers can roam throughout the State of Virginia.

Q It is always difficult to have to ask questions after you have heard me examine my witness, and talk about your VHF. It always reminds me of a pregnant lady getting to point the father out. What I want to ask you is did you have any thoughts about UHF before you got here, or before you saw my exhibits, or was it just

kind of something that you decided that I sure was a handsome guy, and somebody you would like to be married to, and you would get on the bandwagon.

A Mr. Cranwell, I am sure you didn't remind me of a UHF. I am familiar with it. I have done work in that band, and we have other stations on UHF.

Q So the limitation you have in your testimony, we can just disregard, is that right?

A No, you can't.

Q Are you going to live within those limitations?

A We will make every effort to have a VHF system, and then if we exhaust that system, we will go to UHF, because we want our customers to be able to roam throughout the State, and be able to talk back home.

Q How long has Paging, Inc., been in business?

A Since 1971.

Q Since 1971.

A That is when they incorporated.

Q And you have two certificates of convenience and necessity, is that right?

A That is right.

Q And you have two areas that you are

presently serving, is that correct?

A That is correct.

Q How many other areas are you proposing to service at this time?

A We only have two certificates.

Q Well, what about Marion, and Wytheville, and all those things I saw in your testimony. What are you proposing for them?

A They are in the second certificated area. We now have application on file for the FCC for Marion and Wytheville, for two-way and one-way service.

Q So is it fair to say, then, that you are going to have five service areas, or two service areas, but you are going to have about five or six antennas. Which is it? Because you see, I don't know.

A We presently have two certificates, and then one certificate we have one antenna and a transmitter.

Q In Martinsville?

A In Martinsville.

Q Well, lets stop right there. Let me ask you a question: How come the people over in Rocky Mount are screaming and crying for this service, and you can't give it?

A I haven't had anybody --

Q That is in your certificated area, isn't it?

A Yes, it is.

Q What is the population of Rocky Mount, do you know?

A About twenty-five hundred.

Q About twenty-five hundred. You are offering no service at all in Rocky Mount, are you?

A We are in the process of acquiring a site there.

Q You are?

A Yes.

Q You are going to have to make a capital expenditure for that.

A If we can acquire a site.

Q How much would that be? Seventeen thousand dollars?

A We haven't determined that yet.

Q How about Wytheville? Seventeen thousand dollars?

A I believe that is approximately right.

Q Marion seventeen thousand dollars?

A I would have to look --

Q Abingdon seventeen thousand?

A Right.

Q And then in this area you have got an additional seventeen thousand in Brumley Mountain. An



additional seventeen thousand at High Knob, and an additional seventeen thousand at Pennington Gap?

A Those powers and frequencies vary to different locations, and the costs are not identical.

Q The corporation is going to have to put together the capital to put those systems in, aren't they? I mean really, before you do this out here in Southwest Virginia you are going to have to do those things, aren't you?

A Right. I think our proposal shows we have enough to do that.

Q I have ticked off about seven areas that you are going to have to spend seventeen thousand dollars and do you want to calculate that and see if you haven't spent your hundred thousand dollars in a hurry?

What I am asking you is that you have got a corporation, regardless of how you want to read your balance sheet, that has been operating for about eight years, but really, you can capitalize its worth at about two hundred thousand dollars, and you are going to tell me you are going to borrow a hundred and twenty-five or thirty thousand dollars on a capitalization of that?

A I think the bank says we will have to personally endorse the note. But we do have a commitment;

they will loan us the money.

Q A hundred thousand dollars.

A A hundred thousand.

Q And you are going to use that hundred thousand dollars to provide those other areas, or are you going to use the hundred thousand dollars to provide this area?

A We are going to use what we say we use here, and there is enough left over in our proposal to do the others, too.

Q Well, then, are the customers in this area going to be buying the debt service for what you are spending in the other areas then?

A No, sir.

Q Well, you figured ninety-five thousand dollars in here, and you say that was enough money to do what you were going to do there, and take care of these other areas, too, in your line of credit. Now, how in the world can they help but be paying your debt service.

A We have already filed our tariff, and we have a uniform tariff.

Q Maybe you do, but let me and you think out loud for a minute. If you are going to charge ninety-five thousand dollars for this area, you have a hundred thousand dollars line of credit, and we have already talked about three other sites that you are going

to have to spend seventeen thousand dollars, and you said there is enough in that hundred thousand dollar line of credit to do it, in effect that other area is paying part of the debt service of that in their tariff.

A No, sir. We also have another letter here for fifty thousand dollars, and then we have one from the Motorola that is different from that.

So we have adequate financing. If not, we can provide it personally.

COMMISSIONER SHANNON: You treat your Company collectively. I mean, you don't take one particular area --

WITNESS BAKER: No. We have one balance sheet.

COMMISSIONER SHANNON: You have a consolidated company.

WITNESS BAKER: Consolidated. Right. Like C&P does.

COMMISSIONER SHANNON: Or one of the larger utilities.

WITNESS BAKER: Right. We provide the service wherever needed.

BY MR. CRANWELL (Continuing)

Q Just like we want to be sure in Virginia that the Virginia ratepayer is not getting charged for

1 something that is happening in West Virginia. All I am  
2 trying to do is that somebody in Lebanon, or Wise is not  
3 paying part of the debt service for somebody in Wytheville.  
4 What you testified to indicates to me that that is  
5 the case.

6 Now, I am going to ask you one more time  
7 to explain that -- why that is not the case.

8 A In our overall planning, we have one  
9 uniform rate. We have a tariff. And we may have some  
10 services that lose money, and some make money. But we  
11 are going to put this in and serve the people based on  
12 the tariff we filed.

13 COMMISSIONER SHANNON: Are your Blacksburg  
14 customers now paying basically the same rates  
15 as your Martinsville customers?

16 WITNESS BAKER: Yes, sir.

17 COMMISSIONER SHANNON: And you would  
18 recognize there may be some difference in cost  
19 of serving the people. But still, as far as  
20 you are concerned, it is all treated collectively.

21 WITNESS BAKER: Right. There is not a  
22 whole lot of basic difference. The paging costs  
the same as Martinsville or Blacksburg.

23 COMMISSIONER SHANNON: You don't string  
24 land lines like the telephone company does.

WITNESS BAKER: No. It all goes through the air. The transmitter costs the same there as it does in Blacksburg or Brumley Gap, but the wattage, the price varies with the wattage of the transmitter. The pager costs the same in Lebanon or Marion, as it does in Martinsville.

BY MR. CRANWELL (Continuing)

Q It is also true if you are treating yourself as a unitary conglomerate, that if you get in financial trouble in Martinsville then that is going to impact southwest Virginia, isn't it?

A We don't intend to get in trouble in Martinsville.

Q Right. Well, lets talk about Martinsville. You were certificated down there in 1973. When did you start providing that service down there?

A Oh, within one year -- as soon as we got our CP, we built the station.

Q Within a year?

A Less than a year.

Q But I assume in the entire area that you are certificated in, you are not providing complete service because you haven't really gotten up to Rocky Mount yet and that has been what, six years?

1  
2 A We haven't had any requests from Rocky  
3 Mount.

4 Q I thought you told me you were in the  
5 process of putting an antenna up there.

6 A Well, we are going to --

7 Q Are you going to stick an antenna up  
8 there?

9 A We believe we can get customers there.

10 Q Well, did you believe that three years  
11 ago? Four years ago? Two years ago? Why have you  
12 waited six years, then?

13 A There hasn't been any demand.

14 Q Ah. That is the thing that intrigues  
15 me. You didn't happen in your last request for  
16 convenience and necessity -- you didn't happen to  
17 indicate to the Commission that you were going to blanket  
18 your entire proposed area at that time like you have today  
19 with southwest Virginia, did you?

20 A We proposed -- we can serve Rocky Mount  
21 now. I can go to Rocky Mount.

22 Q But you are not. As a matter of fact,  
23 what you are doing in the Martinsville area is  
24 essentially what these people propose to do in southwest  
25 Virginia. You started out with a population base, and  
26 worked from there. Now you are contemplating going up

1 to Rocky Mount.

2 A We serve Rocky Mount now through the  
3 Martinsville station.

4 Q I thought you said you didn't have any  
5 customers in Rocky Mount.

6 A I said I didn't.

7 Q You have totally confused me now. Does  
8 Paging, Inc., serve people in Rocky Mount?

9 A If they travelled to Rocky Mount, they  
10 can be served through the Martinsville repeater station.

11 Q All right. The people in Rocky Mount  
12 can't get this communication system right now until you  
13 put a new antenna over there, can they?

14 A That is right.

15 Q Are you -- you are in the process of  
16 doing that, and you have been in that area for six years  
17 and you haven't done it, have you.

18 A We are trying to get a site in there from  
19 the U. S. Forestry Service.

20 Q But you are going to forget about that  
21 area that you had for six years, and you havent given  
22 any service to any of those people, and you are going to  
23 romp over here to the great coal fields and you are going  
24 to blanket that whole area in one fell swoop, aren't you?

A No, sir, I am not going to forget any  
area. We have a certificated area.

Q You ran the people out of Pennington Gap. Are they going to have to wait six years like the people in Rocky Mount?

A We will have service to them within one year or less after we get --

Q How about Rocky Mount?

A There is a frequency problem in Rocky Mount.

Q Well, you said there was a frequency problem in southwest Virginia.

A Not as severe as in Rocky Mount.

COMMISSIONER SHANNON: Why is that?

WITNESS BAKER: There is no VHF channel available in Rocky Mount, but there are some available at High Knob.

COMMISSIONER SHANNON: Is that because they have all been allotted?

WITNESS BAKER: You have Greensboro, Winston Salem, Roanoke -- and Roanoke has three, Martinsville has one. Blacksburg has one, and Greensboro and Winston Salem have all the rest of them, and there is just no way you can put in a viable system there. But High Knob is not that tight yet.

BY MR. CRANWELL (Continuing)



Q It should be worse at High Knob, because it is higher than your site in Martinsville, isn't it? You have all them people from all over the United States broadcasting in on you, like you said.

A High Knob is really an isolated area of the State there. It is a very mountainous territory.

Q Well, you said in direct examination a few minutes ago that you just hadn't picked a stranger out of the crowd. That you were aware of UHF, and that you were going to go with UHF in southwest Virginia if you couldn't get the service out there, yet you had UHF available in the Rocky Mount area, and you haven't opted to do that, have you?

A No, not yet.

Q I know it is nice to talk about all this experience you have got, but sometimes when you get a track record, it is not always the best thing to have either. People in Rocky Mount have been there six years with no service, and you can put it in with UHF couldn't you?

A But they wouldn't be able to go anywhere except in Rocky Mount. There they could hollar almost and contact each other.

Q So what you are saying is that it is VHF or nothing.

1  
2 A No, I am not saying that.

3 Q On your balance sheet, page 4, of the  
4 Exhibit, you have got cash on hand of nineteen thousand  
5 dollars. You have got notes payable of ten thousand  
6 dollars. So you have liquidity in that corporation  
7 that has been operating for how many years, of nine  
8 thousand dollars?

9 A Yes.

10 Q How would you compare that to Mr. Hylton's  
11 business that has been in operation about the same time,  
12 that is worth five hundred thousand dollars. Do you  
13 guess he has been doing a better job of selling than you  
14 have?

15 A I don't think you can compare apples and  
16 eggs.

17 Q You mean you don't think the sale of  
18 a rose is the sale of a rose, no matter whatever color  
19 the rose might be?

20 A No. Radio common carriers is an entirely  
21 different ball game.

22 Q That is intriguing to me. You have a  
23 hundred and thirty customers?

24 A Yes.

Q And you have two areas?

A Yes.

Q There are a lot more people in Martinsville and Henry County than there are in southwest Virginia, isn't it?

A No.

Q It is not?

A About the same population.

Q About the same population? You have been out there for six years, and you have a hundred and thirty customers in these two areas which is double the population of southwest Virginia, is that right? Blacksburg area, Martinsville area? And yet you got an offer from eighty-five customers already --

A That is correct.

Q That is a pretty good market out there, isn't it?

A It appears so.

Q Do you have anything east of Roanoke?

A Blacksburg is east of Roanoke.

Q Blacksburg is west of Roanoke.

A No, we don't have anything east of Roanoke. Beg your pardon.

Q Have you ever made application for anything east of Roanoke?

A We made application for Eastern Shore, Virginia.

Q Did you withdraw that application?

A Yes, I did.

Q Who ultimately got the certification out there?

A RCC of Virginia.

Q Is that the fellow up in Harrisonburg?

A Yes.

Q Has he ever made application for anything west of Roanoke? Do you know?

A He applied in Martinsville. He withdrew that.

Q He withdrew that, didn't he?

A Yes, I believe so.

Q I thought he did. You say there is not going to be any delay; that you are going to go ahead and put this system in immediately, is that correct?

A Yes, sir.

Q And you are certifying to the Commission here, under oath, that you have the sufficient capital to do that, plus take care of the other areas that you intend to construct antennas in, is that right?

A Yes, sir.

COMMISSIONER SHANNON: How many employees does Paging have?

WITNESS BAKER: Five.

COMMISSIONER SHANNON: Five full time?

WITNESS BAKER: Three full time, and two part time. We have other people who do contract work or maintenance. Agents in various places in sales work.

BY MR. CRANWELL (Continuing)

Q Sir, are you through?

COMMISSIONER SHANNON: Yes.

BY MR. CRANWELL (Continuing)

Q The management for out in Southwest Virginia, are you going to provide that?

A Yes, sir; I am going to be involved in it.

Q I guess from page 7 your involvement is travel as necessary?

A Yes, sir.

Q That is not any more than Afton is proposing then, is it?

A I can't attest to what Afton will do. I just know that I will travel as required to get the system in operation, test it, and take care of whatever maintenance problems arise.

Q When you get it in at Wytheville and Marion, where was the other one? And Brumley Mountain, High Knob, Pennington Gap? Have you done an estimate

as to what your total debt service is going to be?

A Yes, sir. That is in our papers.

Q It is in your papers? Is that going to be somewhat in excess of a hundred thousand dollars?

A Yes, sir.

Q Would you agree with me that if you borrowed that money, and if you get it below the market rate, -- suppose you get it at ten percent -- that you are going to have debt service costs that Afton is not going to have of about ten thousand dollars a year?

A I don't see where that is relevant.

Q Well, do you think it would be relevant as to whether or not you might be back for a rate increase, or whether the tariff that you set are realistic based on your investment?

A It is my understanding that the Commission will not allow interest to be included in rates of a public utility.

Q Well, lets just take for example -- lets suppose you have eighty-five customers, and if we figure that it was ten dollars a month, that would be eight thousand, five hundred a year, roughly. Maybe a little bit more. Maybe nine thousand. Lets suppose that you really are collecting twenty dollars a month, which you indicated on your tariffs. So that is about

19 nineteen thousand dollars a year, is that correct?

A Correct.

Q And are you telling us, that with a debt service in excess of ten thousand dollars, that you are going to operate the rest of your business -- or the rest of the service that it takes for that area, on a nine thousand dollar margin? Your advertising, your management, your whole works? Your repair, your maintenance? I mean doesn't that get kind of close dollar?

A We already have customers and equipment already paid for in these other services.

Q I am talking about in this area.

A We are a unified company. We have one corporation, one balance sheet, one uniform rate. And

--

Q So what you are saying is that because you paid for the equipment in all these other areas, you are just going to be able to absorb this expense and provide this service, really, at less than what it is going to cost you to operate out there, is that right?

A No, I am not saying that.

Q If that be the case, maybe you had better look at your balance sheet again, because the bottom line on that is going to start going down, isn't it?

A These people that we get for customers

1 are going to have to pay in, and that is going to carry the  
2 debt service..

3 Q That is the question I asked you, and I  
4 put it to you: Based on the projected expenditures, you  
5 have about a hundred thousand dollars, and about eighty-  
6 five customers that you projected. Now, it is not hard  
7 mathematically to figure all that. Your debt service is  
8 going to be at least ten thousand dollars a year, at  
9 least. That is assuming you can borrow the money at  
10 ten percent, which you can't.

A 11 But assuming that, seeing the number of  
12 customers that you have got, you are going to have to  
13 operate that business on something less than a thousand  
14 dollars -- than an eight thousand dollar return, aren't  
15 you? All your other overhead.

16 A If I can do some multiplying here. We  
17 have eighty customers who pay twenty dollars a month. That  
18 is sixteen thousand. And that is assuming they own all  
19 their equipment.

20 Q That is sixteen hundred, isn't it?

21 A Sixteen hundred.

22 Q Maybe I had better go back and check some  
23 of your other engineering calculations that you have.  
24 Maybe too many zeros on me.

A That is about eighteen thousand.



Q A year. And you have got ten thousand dollar debt service?

A We figure once we are on the air, we can double our number of customers in that area.

Q You are basing that on the fact that you have two certificated areas now that are double the population which you are talking about, and you don't have but a hundred and thirty customers there, which is not but about forty more than what you --

A We believe that Norton is a special case, because it is isolated and it is not near any big, metropolitan area. We believe we can get more customers than that.

Q Are you telling us that the population of Norton, which is what? Four thousand. The City of Norton is four thousand, and is in greater demand than say the City of Martinsville? Is that what you are telling us? That the City of Norton is going to save you all these customers. You are going to give one to everybody down there?

A I am not saying that. I said the county of Wise are about the same population of Martinsville. Henry County.

Q But you are serving Blacksburg and Montgomery County also, aren't you?

A Right.

1 Q And if we consider the Blacksburg-Montgomery  
2 County area and the Martinsville area, which are the two  
3 areas you are serving, the population of that is double  
4 what it is in southwest Virginia, isn't it?

5 A But there are not as many businesses there  
6 as there are in Wise County, that would use the service.

7 Q Are you telling me that there are more  
8 industrial sites located in Wise County than in Montgomery  
9 County? I know Montgomery County. Want me to take you  
10 through them? Radford Arsenal, Federal Mobile - do you  
11 want me to keep going? Electrotech, Poly-Scientific.  
12 You don't want to say that, do you, doc?

13 You are going to retract that, aren't  
14 you?

15 A More industrial sites.

16 Q Right. Actually in place, doing business.  
17 I am talking about going businesses. You don't want to  
18 say that, do you? The real truth of the matter is you  
19 come up here and you paint a nice, rosy picture, and you  
20 want us all to dance to your tune and give you a  
21 certificate of convenience and necessity, based on what  
22 you projected you can do, but it just doesn't stand up  
23 if it is analyzed, does it, doc?

24 A I believe it does.

Q Well, then again I am going to ask you  
one more time: Are you telling the Commission that you

can operate, the overhead it is going to take to service the customer in southwest Virginia, on eight thousand dollars a year?

A Initially we can't but it is not going to stay that way. We are going to have growth, and we are going to move on and increase our business.

Q I believe you said -- as you understood -- I believe you said you had to provide two-way service for your radio common carrier?

A Yes, I understand that you have to provide two-way service as a radio common carrier.

Q What is your understanding of that based on?

A It is based on the FCC rules, and the State Code, where the certificate of convenience was set up, as I read it.

Q Would you read it? The SCC regulation--

A It puts paging as secondary service, and radio telephone as primary service.

Q In your opinion, right?

A Yes, sir.

Q What do you project as the growth of your employment once you get your antennas in Wytheville, Brumley Mountain, High Knob and Pennington Gap. Do you project any growth in employees?

A We will add employees as required to do the job. As our income increases.

Q Do you all run monthly statements on your business? Income statements?

A We have meetings occasionally, and we know what we have got in the bank, and our CPA takes care of our statements whenever we ask him to.

Q Do you get a quarterly statement from the CPA?

A If we need it.

Q Well, how do you know whether or not if you need it if you don't look at it? How can you know what your expenses and overhead are running. Are you all's operation so small that you can just do that off the top of your head?

A Well, with a hundred and thirty customers the way it is now, we can tell by our bank balance and by our monthly bills whether we make it or not.

Q Am I to assume, then, that you are not this great conglomerate, and unitary thing, that you have the Commission believe you are going to spread out all these costs. That you are pretty small potatoes?

A I didn't give an impression that I was any great conglomerate. That is your word, sir.

Q All right. I apologize, sir. I believe I am through.

~~COMMISSIONER SHANNON: Do you have much~~

## REDIRECT EXAMINATION

BY MR. MACAULAY

Q Turn to Exhibit 4, please, Doctor Baker.  
That is the map.

Mr. Cranwell seemed to be a little confused  
by what that map is all about. Will you just briefly  
and clearly explain to the Commission what that map is put  
in there to show?

A That map shows the primary and secondary  
coverage of stations applied for on Brumley Gap.

Q It has nothing to do with High Knob, does  
it?

A No, it has nothing to do with High Knob.  
And this curve over here to the left is the station over  
in Kentucky --

COMMISSIONER SHANNON: Where is that  
base station?

WITNESS BAKER: That is in Hazard,  
Kentucky.

BY MR. MACAULAY (Continuing)

Q There was some reference to one of your  
applicant officers in your corporation, that he had -- is  
worth half a million dollars, and you are a little  
reluctant to get involved in this -- but is it true that  
you have a net worth well in excess of seven figures?

MR. CRANWELL: Objection.

COMMISSIONER SHANNON: What is the basis of that?

MR. CRANWELL: I would like to see some statements. I would like to see his financial statement.

MR. MACAULAY: It seems to me he testified --

MR. CRANWELL: I withdraw the objection. I don't want to be here all day. I want to go home.

MR. MACAULAY: That is all.

COMMISSIONER SHANNON: Thank you very much, Doctor Baker. You may stand down and your exhibits will be received as marked.

MR. MACAULAY: Shall I call another witness?

WITNESS STANDS ASIDE.

COMMISSIONER SHANNON: With respect to these letters, Mr. Macaulay, I think we have to make the same ruling with regard to them as I did with Mr. Cranwell. They will not be part of the record. I want to be absolutely fair to both sides on this.

MR. MACAULAY: I understand. Shall I call the next witness?

1  
2  
3                   EDWARD A. BAKER, a witness called  
4 by and on behalf of Paging, Inc., who having first been  
5 duly sworn, testified as follows:

6                   DIRECT EXAMINATION

7 BY MR. MACAULAY:

8                   Q           Please give your name and address.

9                   A           My name is Edward A. Baker. I  
10 live at 400 Alleghany Street, Blacksburg, Virginia.

11                  Q           Give us briefly your educational  
12 background and previous professional experience,  
13 particularly with reference to radio common carrier.

14                  A           I have an Associate Science  
15 Degree from Ferrum College in 1970. I also have a  
16 Bachelor of Business Administration from Virginia Tech  
17 with a double major in Management and Finance.

18                               I have also attended numerous  
19 seminars, both at Harvard and at the University of  
20 Virginia.

21                               I also hold a first-class radio  
22 telephone license issued from the Federal Communications  
23 Commission.

24                  Q           What are your duties with Paging,  
Incorporated?

1  
2 A I am Vice-President of Paging,  
3 Incorporated, and I work with sales and management, plus  
4 service and also do engineering.

5 Q It has been previous testimony about  
6 the service Paging is presently providing in other areas.

7 Did you obtain letters from current  
8 customers of Paging, which you attach as Exhibit 9 to  
9 the Application?

10 A Yes, that's correct.

11 Q And, summarize what those letters  
12 indicate.

13 A All right. The letters from our  
14 customers basically state that they have service with  
15 our Company and that they are satisfied with our service,  
16 and that it has helped them in their business.

17 Q Now, with respect to the other  
18 exhibits of which there has been some testimony, i.e.,  
19 about the request for service in this area for which  
20 application is being made, did you participate in obtain-  
21 ing the ascertainment of need?

22 A Yes, I did.

23 Q What areas did you concentrate on,  
24 Mr. Baker?

A I worked in the Norton/Wise area.  
We talked to the folks in person concerning the communica-  
tion needs. And that's where we found there was a need



for a radio telephone system and a paging system with those people that we talked to.

Q Well, was it not true that a large percentage of those who wanted two-way service?

A Yes. But the ones that we interviewed, we had over thirty-seven requests for mobile telephone service.

Q On Page 14 of your prefiled testimony, there appears the following, Line 20: Does Paging, Inc. plan to build and operate the system as soon as reasonably possible? Answer: Yes.

Is this accurate?

A Yes, it is.

Q Now, I believe it has been some testimony -- I would like you to confirm it. Do you propose to establish two offices, one in Wise and one in Lebanon with full time representatives to serve this entire area if you are granted a certificate?

A Yes, we do.

COMMISSIONER SHANNON: Why don't we identify Mr. Edward A. Baker's testimony as EAB Number 8, and does he have just the one exhibit, the letters?

MR. MACAULAY: Let me see. He --

## CROSS EXAMINATION

BY MR. CRANWELL:

Q Ed, do you concur with your father's statement, ya'll have got a hundred and thirty customers?

A That's an approximate figure.

Q Do --

A It is continuing to grow since we are expanding our service all the time and upgrading our service.

Q Do ya'll have a list of all your customers with their address and phone number?

A I'm sure that can be easily obtainable from our billing, since we do send out monthly statements to all our customers.

Q But the letters you submitted from customers, I notice, seem to me they were all from Blacksburg. You didn't get any letters from your customers in Martinsville saying you were giving them good service.

Why was that?

A No apparent reason. We could easily include that.

Q Well, you've got a hundred and thirty customers, and you've got the address and phone

1  
2 numbers. Why didn't you get a letter from each one  
3 of them?

4 A Well, due to the mail and other  
5 circumstances, it was a lot easier to obtain these so  
6 we would have them before this hearing.

7 Q Well, that's less than ten percent  
8 of your total customers.

9 Are you telling us that based on  
10 a ten percent survey that you are assuring the Commis-  
11 sion that you are providing adequate service in the  
12 areas you are in?

13 A Well, if we felt the need of  
14 polling all of our customers, we would have done so.

15 Q Well, you didn't call anybody  
16 at all in Martinsville. Of course, we know you didn't  
17 call anybody in Rocky Mount, because it has been six  
18 years over there and you haven't provided any service,  
19 have you?

20 A To date, we have not had requests  
21 from Rocky Mount, but our present station located in  
22 Martinsville covers the Rocky Mount area where you can  
23 call from the Rocky Mount area into that area, since  
24 our station located in Martinsville signal crosses over  
Rocky Mount. If you are in the Rocky Mount area you  
can use our present system.

1  
2 COMMISSIONER SHANNON: Where  
3 is your Rocky Mount -- I mean, your  
4 Martinsville antenna located?

5 WITNESS BAKER: It's located  
6 in Henry County outside of the City of  
7 Martinsville on the -- one of the highest  
8 areas in the County.

9 COMMISSIONER SHANNON: What is  
10 the power, 100 watts?

11 WITNESS BAKER: At that present  
12 station, I believe that is correct. The  
13 effective power.

14 Martinsville is right in between  
15 stations located in Lynchburg and Roanoke  
16 and has wide area coverage.

17 BY MR. CRANWELL: (Continuing)

18 Q You did this survey on all these  
19 people that are going to take your service; is that  
20 right?

21 A Yes. I assisted in the ascertainment  
22 for the Norton/Wise area. Yes.

23 Q Was there any particular reason  
24 you quoted them a lower rate than actually appears in  
your tariff?

1  
2 A I'm not aware that I quoted  
3 them a lower rate.

4 Q All right. How about us looking  
5 at your tariff, Page 13. You've got twenty-five dollars  
6 per month. And in your survey that you conducted, you  
7 quoted twenty dollars a month.

8 A What page are you talking from?

9 Q Page 13 of your tariff. Manual  
10 paging rental, you've got a maintenance tone voice,  
11 your receiver is twenty-five dollars per month. And  
12 I refer you back to any of your surveys.

13 You say the cost of which is  
14 expected to be approximately twenty dollars per month,  
15 the mobile radio telephone excluding rental, maintenance  
16 and approximately thirty dollars for paging a month.

17 A If you will look on Page 14,  
18 Page 14 of our tariff -- it's not 14. It's Page 12,  
19 concerning two-way service, you will see that our  
20 charge is twenty dollars for a customer-owned unit for  
21 mobile telephone.

22 Q Where is that?

23 A It's --

24 Q Are you reading F?

A Right. It's Number 1, Paragraph F,  
on Page 12 of our tariff, which states that our basic

1 service charge is twenty dollars a month for radio  
2 telephone service.

3 Q So, you are telling us there is  
4 not a discrepancy?

5 A No, there is not.

6 Q Well, you didn't disclose to your  
7 proposed customers that you had two tariffs for your  
8 automatic pagers to give you twenty-five dollars and  
9 thirty dollars, did you?

10 A There is not two different tariffs  
11 for our automatic service. We have a manual paging  
12 service which would be twenty-five dollars. Our tariff  
13 on Page 13, Number 3, Paragraph B, states automatic  
14 paging which would be thirty dollars a month based on  
15 sixty calls.

16 Q Now, my next question to you is,  
17 how many of your present one hundred thirty customers  
18 are two-way customers and how many are one-way pagers,  
19 or do you know?

20 A I would have to look at --

21 Q Do you have any idea? Could you  
22 give us a percent? Ten percent? A hundred percent?  
23 Fifty percent?

24 A I would say in excess of twenty-  
five, of mobile units, with the rest probably being paging

units.

Q Somewhere around eighteen percent; is that about right?

A I'm not sure if that works out to that or not. But there would be --

Q Well, you would certainly concur with me that there was a lot more industry -- that there is a lot more industry in Montgomery County, Blacksburg area, than in the Martinsville/Henry County area, and a lot more need for industrial communications than there would be in the southwest?

A That's true. There is a lot more industrial area in Montgomery County and the Martinsville area. It is also true when you have the large plants that also go to in-house systems where they are mainly interested in communicating on plant personnel in their factory or out in their yard.

Q And that's exactly the point that I was trying to get to your dad a few minutes ago, and he didn't want to seem to get there. That's the case of Southwest Virginia.

The major industries out there already have their in-house communication two-way, don't they?

A We have shown through our survey that a lot of folks do not have access to service, plus

1  
2 it is true that being in a coal area, the coal companies  
3 are required by law to have their own mobile system.

4 Now, this does not preclude the  
5 coal companies in that area from using radio common  
6 carrier service, and it does not address the other  
7 businesses in the area who have need of this service and  
8 have expressed need for this service as shown in our  
9 survey.

10 Q Next question. You say you are  
11 going to have an office in Wise and one in Lebanon; is  
12 that right?

13 A Yes.

14 Q Are you going to have an employee  
15 there?

16 A We will have a representative in  
17 both those locations.

18 Q The same person in both locations?  
19 Or, is that a different person in each location?

20 A Well, there will probably be two  
21 people. There will be somebody different at the office.

22 Q Will that person have secretarial  
23 help?

24 A If needed, they will.

Q All right. You heard the scenario  
I took your father through about your debt service, didn't



1  
2 you?

3 A Yes.

4 Q And about your projected income  
5 from the customers you are talking about now? You  
6 were here when we went through all that?

7 A Yes.

8 Q And you concur with me that  
9 you've got about eight thousand dollar margin after  
10 taking care of your debt service, don't you?

11 A Well, we are all talking about the  
12 initial start-up costs. If we are just going by the  
13 folks that we have in our survey, which only covers a  
14 small number of the folks down in that area, since  
15 obviously we could not talk to everybody down there,  
16 it is showing need for the service, that the initial  
17 start-up costs would be a sizable but that would be  
18 unrealistic to assume that you wouldn't have anybody  
19 over eight to nine units.

20 Q Another question. You have been  
21 in Martinsville and Blacksburg for about six years, five  
22 years, respective, but you don't have a total but of  
23 a hundred and thirty customers in those two areas, do  
24 you ?

A Approximately. That's the total  
number at the present time, approximately.

Q What do you expect to pay these two people that you are going to have running the office, one in Wise and one in Lebanon?

What do you expect to pay them in salary?

A Well, it would be based on their duties that they have. Many things. We have agency agreements, which is based on the actual work performed.

Q Are you going to pay the minimum wage, two dollars and ninety cents an hour? Do you want to calculate how much that is annually?

Tell me if you don't want to; I'll tell you what it is.

A Well, it's not -- if we have a sales representative in the area, they usually work on commissions. They are paid for what they generate in the business, which is the usual practice in the radio common carrier field.

Q Are you telling us, then, that you expect these people to go to work for you and generate commissions, five or ten thousand dollars a year for them?

A Well, it's practical in other areas.

Q But you are not going to have them on fixed salary? How about your secretarial help you are

going to have? Are they going to be on fixed salaries?

A We will expand the staff as needed in the Lebanon area based on our growth and the need for it.

Q I'm not talking about your growth. I'm talking about what you told the Commission you were going to do.

You said you were going to put a man in Wise and one in Lebanon. Now, you've got eight thousand dollars to pay those two people. You tell me how you are going to pay them.

A Most of our business, billing and main office work is handled out of our Blacksburg office. We have central accounting and repairs work. Our offices, proposed offices, in Wise and Lebanon will have a local representative down there to do sales work and whatever is needed. And our staff at those two locations will be expanded as the market dictates.

Q Would you agree with me, if you hired a secretary even at either one of those places and paid her the minimum wage, she would earn in excess of five thousand dollars a year?

A I'm sure, if you had a full time secretary you probably would spend that amount of money.

Q So you are not going to have full

1  
2 time people there; is that right?

3 Which way? Either you are going  
4 to have full time people or you are not? Now, you said  
5 you were going to have a man in Wise and a man in  
6 Lebanon. You are going to service this area, and they  
7 were going to have secretarial help.

8 Now, which way is it? You can't  
9 have it both ways.

10 A I stated they would have  
11 secretarial help as needed, since the service is just  
12 beginning. Our local representatives should be well  
13 able to handle any items that come up.

14 Q Are they going to -- are these  
15 two people going to start to work for you on straight  
16 commission, or are you going to have to subsidize them?

17 A Basically, if they sell, based on  
18 an agreement, based on their actual work, that they do  
19 perform, based on contractual arrangement, it would depend  
20 on their duties that they would perform on the actual  
21 compensation.

22 Q Is that answer based on what  
23 ya'll have done in other areas?

24 A Yes.

Q What do you average paying these  
people, then, in your other areas? Maybe we can get  
to it that way. Or, do you know that?

Is your accounting system sophisticated enough for you to ascertain that?

A No. Really, our accounting is very simple. It is not that complicated.

Q What do you pay them?

A Well, we have our sales agents that get a commission for each unit or contract they do sign. They are paid a basic commission of twenty dollars. They are paid so much for maintaining that customer. It would depend on the local representative on how much they would be paid for each unit.

Q We are going to have to do this the hard way, aren't we? How much are you paying that representative in Blacksburg?

A I'm paying myself in Blacksburg, since I am the representative in Blacksburg.

Q How much are you paying the man in Martinsville?

A The gentleman in Martinsville, is our agent in Martinsville, is paid on a commission basis for each unit, for each unit he signs up. He is also paid five dollars a unit that he has on the system that he services that month, for each month that he's on it.

Q Mr. Baker, this is not hard. I'm going to ask you one more time and I want you to answer me. How much did that person draw in salary in 1978, or

1  
2 in pay, or in wages, or whatever he got paid, by Paging,  
3 Inc.? How much was that in 1978?

4 A Well, several thousand dollars. I  
5 cannot give you an exact amount, because the gentleman --

6 Q How much did you make in 1978, then,  
7 Mr. Baker, if you are the representative in Blacksburg?

8 A Personally, as being an officer of  
9 the Company, we put all our cash back in there. I'm what  
10 you call a dollar-a-year man. I do not draw a salary  
from Paging.

11 Q Well, you've got to pay your bills  
12 or APCO, I know, they will cut my electricity off if I  
13 don't pay. How much did you have to live on last year?

14 And I just want to know -- what I'm  
15 trying to find out is, do you have enough money in  
16 eight thousand dollars to pay these two people you are  
going to have over there?

17 I don't believe you do, and you are  
18 leading me to believe you don't because you won't answer  
19 my question.

20 Now, how much did you pay him, the  
21 guy in Martinsville? How many thousands of dollars?

22 A Well, as I told you, several  
23 thousand dollars. He is not a salaried person. As I  
24 just mentioned, he works on commission, plus he is paid on

1  
2 a unit basis for each unit he has on the air. His  
3 monthly salary will vary depending on the number of  
4 accounts that he has servicing on there that month.

5 Q I guess -- I want to turn you  
6 loose if I can, if you will let me. Now, let me ask  
7 you this. Do you have a secretary in Martinsville for  
8 this man?

9 A Our agent does the secretarial  
10 work.

11 Q Do you have a secretary for you,  
12 then, in Blacksburg?

13 A Yes.

14 Q All right. How much do you pay  
15 her?

16 A I do a lot of my secretarial work,  
17 plus we have management company in Blacksburg that is  
18 contracted out for the management service which I'm also  
19 director of, which it states in my testimony, Laytron,  
20 Incorporated.

21 MR. CRANWELL: Your Honor,  
22 normally in the course of a trial I  
23 would ask the witness to respond to my  
24 questions, but I'm not going to do that.  
The day is wearing thin, and time is  
wearing short.

## REDIRECT EXAMINATION

BY MR. MACAULAY:

Q How much are you paying your secretary? He is so much worried about it. Apparently he didn't feel you answered it responsively.

How much are you paying your secretary in Blacksburg, approximately how much?

A Let's see. It's about a hundred and thirty dollars a week.

MR. MACAULAY: Okay.

\* \* \* \* \*

WITNESS STOOD ASIDE



1  
2  
3                    HENRY B. HENDERSON, a witness called  
4 by and on behalf of Paging, Inc., who having first  
5 been duly sworn, testified as follows:

6                    DIRECT EXAMINATION

7 BY MR. MACAULAY:

8                    Q            Give the Commission your name and  
9 address, Mr. Henderson.

10                   A            My name is Henry B. Henderson.  
11 I reside at 400 Owens Street, Blacksburg, Virginia.

12                   Q            What is your education and profes-  
13 sional background?

14                   A            I graduated from V.P.I. in Finance  
15 in the College of Business. And I've done some graduate  
16 work in educational technology. I worked for Tech in the  
17 Tele-Communications Center, and I formed my own company  
18 in the land mobile radio service. And that's what I  
presently operate.

19                   Q            All right. Basically, what kind  
20 of work is your Company engaged in in more detail?

21                   A            Okay. We are in the land mobile  
22 radio service and in the business of supplying radio  
23 units, paging units, mobile telephone units, to the  
24 public. We do sales and service in this business.

Q I believe your testimony was that your Company owns a tower at High Knob. Is that correct?

A Yes, sir, that's correct.

Q And that your Company would allow Paging, Inc. to install an antenna on that tower?

A Yes, sir.

Q You heard Mr. Vernon Baker's statement about the testimony of Mr. Griffin.

Do you have anything to add very briefly in connection with Mr. Griffin's testimony?

A Well, if the Commission would let me, I could add a few things I think would shed a little light on our situation with the Federal Communications Commission. There are two divisions of Federal Communications Commission.

One is the domestic public land mobile --

MR. CRANWELL: I would like to interpose an objection. It pains me dearly to question the credentials of a V.P.I. graduate, having matriculated, or something, from that great institute, and matriculated and graduated, I might add, but I thought this man was a Finance

major and graduate. And if they are going to get him into the FCC rules, I would like for him to be qualified as an expert who is so testifying.

That's all I'm asking.

COMMISSIONER SHANNON: Mr. Macaulay.

WITNESS HENDERSON: Okay. I can address that question. Maybe not to your satisfaction, but we work in this business everyday, and I think you've gone to great lengths to specify that some of the other gentlemen here representing Afton came up through the school of hard knocks, so to speak, and are self-made men, and I admire them for that.

And I, too, am aspiring to that goal. And for that reason, based on my experience in this industry, I can attest to the FCC rules. We have approximately one hundred fifty applications, to date, on file with over one hundred granted.

BY MR. MACAULAY: (Continuing)

Q Are these applications you have

1  
2 filed with the FCC for yourself?

3 A For my customers. That's correct.

4  
5 MR. CRANWELL: I object to  
6 him testifying as to what the FCC  
7 rules and regulations might be and  
8 what the license qualification might  
9 be. There is no testimony that he  
10 has ever testified before the FCC;  
11 there is no testimony he is familiar  
12 with the rules and regulations; there  
13 is no testimony he belongs to the  
14 Association that this man does, or  
15 anything.

16 Angus is like a brother. I  
17 would do anything for him, and I  
18 respect this man aspiring to great  
19 heights. I just don't want him to  
20 run over me on the way up there.

21 MR. MACAULAY: I don't know.  
22 I think the gentleman deals daily with  
23 the FCC, and he knows what kind of  
24 applications they grant and knows those  
that they don't grant. It seems to me  
he can testify for whatever it's worth.

1  
2 COMMISSIONER SHANNON: What is --  
3 let me ask you a few questions. What  
4 is your relationship with the Federal  
5 Communications Commission?

6 WITNESS HENDERSON: As a supplier  
7 of equipment, we are a go-between for our  
8 customer. We have an office that we retain  
9 in Washington, D. C., a law and engineering  
10 firm, that sends in applications for our  
customers and through this avenue --

11 COMMISSIONER SHANNON: Is this  
12 office, are you directly connected with  
13 the office in Washington that you say  
14 supplies law and engineering data for  
the FCC?

15 WITNESS HENDERSON: I'm not on  
16 their payroll or anything of this nature.

17 COMMISSIONER SHANNON: But you  
18 say "we". I guess that's what I'm  
19 asking.

20 WITNESS HENDERSON: I'm sorry,  
21 sir. Meaning my Company.

22 BY MR. MACAULAY: (Continuing)

23 Q Your Company employs this firm in  
24

connection with the FCC matters?

A That's right. We prepare the applications, we submit them to this firm. They file them with the Commission. It's standard practice in the land mobile radio industry.

COMMISSIONER SHANNON: Does this require your familiarity with the rules of the Federal Communications --

WITNESS HENDERSON: Very much so.

COMMISSIONER SHANNON: In preparing applications?

WITNESS HENDERSON: Yes, sir.

COMMISSIONER SHANNON: And do you keep up to date with all the supplements that are issued to the FCC rules?

WITNESS HENDERSON: I receive them every time they are issued, because I subscribe to them from the Federal Register.

COMMISSIONER SHANNON: I think that's sufficient. Go ahead and proceed.

MR. MACAULAY: All right, sir.

1  
2 BY MR. MACAULAY: (Continuing)

3 Q Go ahead and proceed with your  
4 answer.

5 A Okay. I will just quickly run  
6 through this and you can stop me --

7 MR. CRANWELL: I would like to  
8 note my exception.

9 COMMISSIONER SHANNON: I under-  
10 stand it's continuing. We will accept  
11 that, Mr. Cranwell.

12 But, go ahead.

13 WITNESS HENDERSON: I --

14 COMMISSIONER SHANNON: Mr. Macaulay,  
15 didn't you have a question?

16 BY MR. MACAULAY: (Continuing)

17 Q Go ahead.

18 A Okay. If you have a question, please  
19 stop me. I made some notes here.

20 COMMISSIONER SHANNON: I'm sure  
21 Mr. Cranwell will.

22 WITNESS HENDERSON: Yes, sir. The  
23 FCC has two divisions, the domestic public  
24

1  
2 land radio service -- and I don't mean  
3 to say only two divisions. One of them  
4 is domestic public land radio service  
5 under which fall the rules for governing  
6 the radio common carriers in this nation.

7 We, the State of Virginia, of  
8 course, grants the authorization to operate  
9 here in this State. There is another  
10 division called the safety and special  
11 radio services. This entails the alloca-  
12 tion of frequencies for the private land  
mobile services.

13 Okay. These are two different  
14 divisions entirely. Now, we are working  
15 with the domestic public land mobile  
16 radio service under that division. So,  
17 upon that foundation, if you look in  
18 Part 21 of the rules, as we were talking  
19 about awhile ago, there is a couple of  
factors here we need to bring to light.

20 The first factor being inter-  
21 ference. Now, I don't think it was  
22 clarified about the exhibit -- and I  
23 don't know which exhibit it is, Mr.  
24 Macaulay, but Vernon might be able to  
bring that out. What exhibit is that?



Exhibit 4.

COMMISSIONER SHANNON: Mr.  
Cranwell.

MR. CRANWELL: I don't mind him,  
if the Court is going to let him be an  
expert as far as the FCC rules go, but  
when he starts talking about interference,  
he's getting into the area of engineering.

And, I mean, just how far is the  
Court going to let him go? Are they  
going to let him testify to engineering  
data, too?

COMMISSIONER SHANNON: I'm going  
to see what he is going to say. He just  
said interference. I don't know how far  
he is going to go yet.

WITNESS HENDERSON: All I would  
like to do is clarify that exhibit, Mr.  
Cranwell. I don't think it was completely  
clarified for everyone in this room.

That exhibit only shows that a  
DPLMRS, the domestic public land mobile  
radio service station, at that location  
cannot, or does not, provide or serve to  
interfere with that Hazard, Kentucky RCC  
station. Now, this goes to support the

1  
2 evidence that Doctor Baker put into  
3 the hearing, the fact that you could not  
4 have over ten watts of power, according  
5 to the FCC rules, Part 21, 505. And  
6 that's what that supports and it does  
7 not support anything else but that fact,  
8 about the interference rule.

9 COMMISSIONER HARWOOD: Do you  
10 think the application falls under 21-507,  
11 or 505?

12 WITNESS HENDERSON: 505, sir. It  
13 starts at 502 and it goes to 505, and it  
14 may include 506. I would have to see the  
15 rules.

16 COMMISSIONER HARWOOD: It  
17 doesn't fall under 21-507?

18 WITNESS HENDERSON: Not what  
19 we are discussing here. It does not. No,  
20 sir.

21 COMMISSIONER HARWOOD: I mean,  
22 just what is pertinent to this case?

23 WITNESS HENDERSON: Yes, sir. I  
24 think Mr. Griffin, in his testimony,  
alluded to the fact, or actually stated  
the fact, that there had to be a practical

1  
2 approach to the system proposed. And  
3 this is exactly what we are talking  
4 about here, a practical approach.

5 And it's not a matter of expertise  
6 and it -- of course, the engineering and  
7 the rules support the practical approach.  
8 And this is what Paging, Inc., in my  
9 opinion, is doing, is the practical ap-  
10 proach based on their experience in this  
11 industry.

12 I might add that the equipment  
13 that Afton has proposed will certainly  
14 work and cover the area and the engineering  
15 data that they have submitted on that  
16 certainly supports that.

17 The only contention that we  
18 have, or that I have, the question that  
19 I raised in favor of Paging, is the fact  
20 that the FCC does have their interference  
21 rule and it will have to be adhered to  
22 for licensing in the domestic public  
23 land mobile radio service. I think this --  
24 if we keep in mind the objective of this  
hearing, and that is to provide service  
for the citizens of the area applied for,

So, upon that FCC limitation rule, that's why his system has been designed as it has.

Explain to the Commission what type

1  
2 of service industries, or whatever industry, industrial  
3 concerns, use these types of equipment.

4 A It has been our experience, based  
5 on what we've seen in our business and other cohorts and  
6 companies in this business, that the best -- probably the  
7 largest number of customers is the small businessmen, the  
8 small business itself. Large factories and manufacturing  
9 firms, if they have the paging system, if they want  
10 paging, one-way paging, if they get above five or six  
11 units in their system, it's usually more feasible to go  
12 to a private system which a lot of them have.

13 And, besides that --

14 Q That's an entirely different wave  
15 length?

16 A Yes, sir. That's licensed in the  
17 Safety and Special Services Bureau under the land mobile  
18 radio rules, not under the public rules as we are ad-  
19 dressing ourselves to here.

20 Q And they are not providing common  
21 carrier service; they are providing a service for them-  
22 selves and for themselves only, right?

23 A Private.

24 COMMISSIONER SHANNON: That's  
in a different frequency band, too, isn't  
it?

WITNESS HENDERSON: It's in the same band, Your Honor, but it is a different frequency in itself. Yes, sir.

BY MR. MACAULAY: (Continuing)

Q Go on and give us some examples.

A Okay. As far as the two-way radio telephone service, the factories and industry that was brought up, in my opinion, would not have any great need as far as numbers are concerned for two-way radio service.

Q But what are the kind of industries do they service, or industrial? You said small business. Give us an example of what you are talking about.

A Well, real estate companies are great users of radio common carrier service.

Q Why? I'm pretty sure it's evident, but what does it provide them?

A Because they are out on the road with their clients a lot. They are in and out of the office, and they need to be in communications, either two-way or one-way.

Q Any other particular ones?

1 Henderson - Direct 258  
2 A Well, it comes to mind, doctors  
3 and lawyers privately subscribe to the radio common  
4 carrier service. A great many of them.

5  
6 COMMISSIONER SHANNON: What  
7 about the V.P.I. Athletic Association?

8 WITNESS HENDERSON: That is  
9 a present user of Paging, Inc.

10 COMMISSIONER SHANNON: What do  
11 they use it for?

12 WITNESS HENDERSON: They have  
13 one-way paging. And -- well, for instance,  
14 they have people all over the campus,  
15 specifically the athletic portion of the  
16 campus and they want to be able to contact  
17 those people and call them to an office or  
18 call them to the phone for an important  
19 call when they are needed. And with a  
20 one-way paging system they can do that.

21 BY MR. MACAULAY: (Continuing)

22 Q You can't call a play in a huddle  
23 with one of these things can you?

24 COMMISSIONER SHANNON: That was

## CROSS EXAMINATION

BY MR. CRANWELL:

Q You can relax; I'm not going to bite you. Okay?

A I'm fine.

Q You talked about the engineering data that Paging has and the feasibility of that as opposed to what Afton had, and you said certainly Afton's engineering data and equipment they had would provide the service, and certainly the engineering that the program had, in your opinion, was going to be a better system; is that about what was said?

A You will have to repeat the end of that.

Q Well, didn't you indicate you thought the engineering data that Paging had provided, indicated they were going to have a better system than Afton?

A According to the FCC rules, they will have a system initially that will cover the area. That's correct. And is licensable, in my opinion.

Q I've got it down here -- maybe I was wrong. I might get the court reporter to read it back to me. I thought you said based on the engineering



1  
2 data that you thought, provided by Paging, that they  
3 had the best application.

4 Now, if you didn't say that, is  
5 that your opinion?

6 A Yes. That's my opinion, based  
7 on what has been introduced into this hearing.

8 Q All right. Now, you tell me what  
9 engineering data you are talking about that Paging has  
10 introduced. I mean, you've seen Afton's. You've seen  
the equipment we propose.

11 A Yes, sir. And that's the engineer-  
12 ing data.

13 Q The height of the tower, the power  
14 we are going to have, everything.

15 Now, you tell me what equipment  
16 they are going to have and how high their tower is going  
17 to be, and all that kind of stuff on the engineering  
18 data. I mean, where is that in that report that you  
19 say you reviewed, and what in there makes you think  
that it's better?

20 A Well, I'm basing my opinion upon  
21 what I know will be installed.

22 Q All right. Let's get back to the  
23 good old boys, then. It's nothing in here. You are just  
24 saying that Doctor Baker is a good old boy, and he's doing

1 a good job, and you know that, and you've known it for  
2 a long time, and you know he is going to do a good job,  
3 so you think he's going to do better than these people,  
4 don't you? That's what you are saying, isn't it?

5 If it's not, then, you put that  
6 record right there and you tell me where it's in there.  
7 This engineering data you are talking about, that you are  
8 hanging your hat on, because I want to see it.

9 A Mr. Cranwell, I think you are on a  
10 fishing expedition here, because engineering data doesn't  
11 have anything to do with whether Mr. Baker's organization  
12 can provide a better service to the public than Afton's  
13 does.

14 Q Let me tell you, my friend, I'm not  
15 on a fishing expedition. But I'm not a sucker either,  
16 and ya'll are not going to hook me.

17 Now, I want to ask you again if  
18 your opinion is that the engineering data that theirs  
19 is based on is better than ours. I want you to read me  
20 the page and verse and chapter in this report.

21 I mean, this record that has been  
22 filed where Paging gives some -- any kind of engineering  
23 data that even these, the engineers for the Corporation  
24 Commission could look at and tell these people what kind  
of system you are going to have?

A It's true, it's not in the report.

Q Right.

A But they have systems in operation. They have a track record. They have the equipment. It has been approved and licensed by the Commission. Based on that experience, that's what will go in the Norton/Wise area.

Q You are a dealer in equipment, are you not?

A Yes, sir.

Q All right. RCA?

A Yes, sir.

Q Are you expecting to sell these people a little equipment if they get this convenience and necessity certification?

A I would hope to, but they are also looking at General Electric.

Q Do you serve them in any other areas?

A No, sir.

Q None at all?

A No, sir.

Q Have you given them any bids on equipment as to what it will take to do this area down there?

1  
2 A Yes, sir, we have.

3 Q You mean, ya'll got that information  
4 and they didn't submit it as an exhibit? You mean, the  
5 same information that my people submitted as to the  
6 equipment that is going to go down there has been made  
7 available to these people and ya'll haven't submitted it  
8 to the Commission?

9 MR. MACAULAY: Mr. Cranwell,  
10 I would like to interrupt. Just for  
11 the record, I didn't get your prefiled  
12 testimony until Friday afternoon in  
13 my office; and included with that this  
14 catalog that you included that came to  
15 the Commission was not included in that.  
16 And that's nothing but a bunch of catalog  
17 pages, I think, if the Commission will just  
18 look at it.

19 MR. CRANWELL: Was that an  
20 objection, or was that a comment?

21 MR. MACAULAY: I think the record  
22 ought to show that I, as counsel for one  
23 of the Applicants, was not given a com-  
24 plete application.

MR. CRANWELL: If that's not an

1  
2 objection, then, I would like to say  
3 at this point in time that argument  
4 of this case at this place and time  
5 is out of order, and I would ask the  
6 Court to instruct Mr. Macaulay not  
7 to interrupt me in cross examination  
8 and argue his case at the appropriate  
9 time.

10 COMMISSIONER SHANNON: Let's  
11 not argue back and forth. We've gotten  
12 along pretty well, considering every-  
13 thing.

14 It's getting late in the day,  
15 so let's wind this down in a harmonious  
16 note, Mr. Cranwell.

17 MR. CRANWELL: I will try my  
18 best if he will just let me.

19 WITNESS HENDERSON: What was  
20 your original question again?

21 BY MR. CRANWELL: (Continuing)

22 Q My original question, then, it is  
23 to my understanding that you have made a list of equipment  
24 available, prospective, to be purchased by these people  
to be used at High Knob.

A That's not exactly true.

MR. VERNON BAKER: No.

MR. CRANWELL: Your Honor,  
would you instruct Mr. Baker not to  
answer the questions for the witness?

COMMISSIONER SHANNON: Mr.  
Baker, you shouldn't speak out.

WITNESS HENDERSON: Let me  
amplify. I will be glad to answer your  
question.

BY MR. CRANWELL: (Continuing)

Q I would like for you to, because  
I've been at it two times now; another strike and you  
are out.

A Okay. The equipment that we  
provided prices on, as every two-way dealer will, every-  
body will ask him to provide a quote, is for his use.  
And I don't know where he is going to use it at.

Q Did you quote him the kind of  
transmitter that he is going to have up on top of High  
Knob?

A I don't know where he is planning  
on using it. He has other -- he has applications in other

1  
2 areas also, you know. He is going to provide service,  
3 as you said, in Wytheville, Marion, Abingdon. So I  
4 don't know where he is going to use this equipment.

5 Q Are you going to get all of those  
6 contracts with him?

7 Are you hoping to sell him all  
8 that equipment?

9 A We are a land mobile dealer. We  
10 will sell if someone buys. That's a normal course of  
11 events in the business world. You know that.

12 Q If I had known that, man, you were  
13 for hire we might have talked to you about buying equip-  
14 ment and you would have been testifying for us instead  
15 of them. Is that fair? No, that's not fair. It's not  
16 even a question.

17 A Mr. Cranwell, I think I'm  
18 testifying on the fact that we have a tower on High  
19 Knob, and that's the only thing.

20 Q Have you entered into any prospective  
21 negotiations to sell him his equipment for Marion,  
22 Abingdon and Wytheville, and High Knob, and Pennington  
23 Gap? Have -- are you hoping to get all of that business?

24 A It would be natural for me to hope  
to get that business.

Q Okay.

A Okay.

Q The thought of that great big profit motivated you to come down here and testify, hasn't it?

A Well, sure it has.

Q All right. Also, if you know what he is proposing in these areas, what kind of wattage on the transmitters is he proposing? Now, you know we proposed one hundred and you say that that can't happen.

Now, what have you proposed for him to use on High Knob?

A Transmitters of less than twenty-five watts output power.

Q I thought he said it couldn't be greater than ten?

COMMISSIONER SHANNON: I thought he said eighteen, around eighteen.

WITNESS HENDERSON: These transmitters of less than twenty-five watts are variable output power, as accepted in DPLMRS, and they can be adjusted to the maximum allowable by the Commission that they will license and that's the way they are type accepted. You cannot take a hundred --



1  
2 BY MR. CRANWELL: (Continuing)

3 Q Isn't the Motorola equipment  
4 the same way? Can't it be type adjusted to the maximum  
5 allowed by the FCC?

6 A Not entered into this hearing. It  
7 will not be type accepted. A hundred watts transmitter  
8 cannot be variably tuned down to eighteen watts. It will  
9 have to be a lower type acceptable output.

10 Q Assuming Motorola is wrong and you  
11 are right about the one hundred watt transmitter, okay,  
12 I mean, you are telling us that Motorola doesn't know  
13 what they are talking about. But, just assume that they  
14 are not right and you are right, whichever one of these  
15 two Applicants gets the certificate of convenience and  
16 necessity are going to have to comply to the period with  
17 the FCC.

18 Isn't that correct?

19 A Sure. Certainly.

20 Q So, what we are really talking about  
21 here, then, is just like you said, as to which one of  
22 these two parties is going to provide the best service.

23 Isn't that what we are talking  
24 about?

A Sure.

Q And all of this engineering stuff

1  
2 is a bunch of who shot John and it's kind of like things  
3 that happen on Halloween when people try to scare people,  
4 isn't it?

5 A You will have to comply with all  
6 the laws to provide the service adequately. And being  
7 the nature of the radio common carrier business, it is  
8 a very engineering oriented business.

9 Q How old are you?

10 A Thirty-two.

11 Q When did you graduate from V.P.I.?

12 A 1970.

13 Q When did you start in business for  
14 yourself?

15 A I incorporated Professional  
16 Communications, Incorporated in 1976.

17 Q 1976?

18 A Uh-huh.

19 Q And prior to that you didn't have  
20 any experience in this field; is that right?

21 A That's an incorrect statement.

22 Q Well, did you have some prior to  
23 that?

24 A Yes, sir.

Q What was that in?

A That was in the sales and service

of land mobile communications equipment.

Q Have you ever testified before the Federal Communications Commission?

A No, sir.

Q Have you ever drawn up an application that has been filed before the FCC?

A Certainly.

Q Do you do it, or do the people in Washington do it for you?

A We do it in our office.

Q And you send it to Washington for a review?

A Some of them. We have submitted approximately seventy of the applications ourselves. We have submitted approximately fifty or so through our Washington office because of the complications that surround the application.

Q Are they proposing two transmitters on High Knob, one for the area already certificated and one for the area proposed to be certificated here today?

A No, sir, not on High Knob.

Q One single transmitter to service both the areas? Excuse me, Brumley Mountain, Brumley Mountain, Brumley Mountain.

A I can't answer that question on

Brumley Mountain.

Q You don't know?

A I don't know.

Q How about the Kentucky area? Are you familiar with that? Aren't you?

A Only to the extent of that map.

Q You are just familiar with what they are proposing to serve from Brumley Mountain, what they are intending to serve from Pennington Gap; right?

A I'm familiar with what is going to be on High Knob. Let's put it that way. What is proposed to be on High Knob.

Q I thought you, when you first got up there, you said that you wanted to correct me as to what kind -- or inform me as to what this map was, to show the coverage from Kentucky, and the fact you wouldn't be over into Kentucky. Isn't that what you were going to do from Brumley?

A No, sir. I'm sorry.

Q I stand corrected, then. That's not what you said?

A No, sir.

Q What did you say?

A I want to clarify some previous statements concerning that map. I thought it would be

1  
2 beneficial for everyone. The map shows that there  
3 is no interference from that transmitter to the  
4 transmitter coverage area from the RCC in Kentucky,  
5 and that stands in evidence to the FCC of their  
6 interference rule, that it will not interfere.

7 And I wanted to try to show that  
8 the interference rule did exist in the rules.

9 Q Then, you had seen this before  
10 today?

11 A Yes, sir. Sure.

12 Q So, you have been kind of working  
13 with these people all along helping them put this  
14 package together?

15 A No, sir. Doctor Baker put this  
16 together himself. I did not work with him on that.

17 Q But you had seen it before today?

18 A Yes, sir.

19 Q And you are an independent business  
20 man in business by yourself?

21 A Yes, sir.

22 Q Have you ever testified in any of  
23 these hearings before for Doctor Baker?

24 A No, sir.

Q This is the first time?

A Yes, sir.