

Decision 84 C9 C24 SEP 6 1984

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Mobilecomm
Cellular Services Group, Inc.,
for a Certificate of Public
Convenience and Necessity to
Resell Cellular Radiotelephone
Service in the Los Angeles
Cellular Geographic Service Area.)

Application 84-07-037
(Filed July 11, 1984)

O P I N I O N

Mobilecomm Cellular Services Group, Inc. (Mobilecomm), a wholly owned subsidiary of Mobile Communications Corporation of America (MCCA), seeks a certificate of public convenience and necessity (CPC&N) to resell cellular radio-telephone service in the Los Angeles Cellular Geographic Service Area (LACGSA). Mobilecomm's radiotelephone utility (RTU) affiliates are presently acting as resellers of cellular service as authorized by advice letter filings made pursuant to Decision (D.) 84-04-014 dated April 4, 1984, on the Los Angeles SMSA Limited Partnership's (Partnership) Application (A.) 83-01-12 for a CPC&N for a cellular system.

Mobilecomm intends to purchase cellular service from the Partnership and resell it throughout the LACGSA. Attached to the application were proposed rates and conditions of service for the resale of cellular service by Mobilecomm. These proposed tariffs are essentially similar to the Partnership's retail tariffs on file with this Commission and will be authorized for Mobilecomm.

Mobilecomm's initial capitalization is \$1,000; i.e. the par value of its 1,000 issued and outstanding shares of common stocks. Start-up funding will be provided by means of an inter-company advance by MCCA. A balance sheet submitted with the application indicated that as of December 31, 1983 MCCA had assets totaling \$82,892,132, liabilities totaling \$12,488,680, and stockholders' investment of \$34,758,188. Projected earnings for Mobilecomm indicated a pretax operating loss of \$734,474 for the first year of operations and a pretax operating profit of \$205,304 for the fifth year of operations.

In Interim D.83-06-080 on the Partnership's A.83-01-12, we stated in Finding 25:

"25. A resale plan that constitutes a viable business opportunity and thereby permits the nonwireline carrier to enter the marketplace as a bona fide competitor is necessary to mitigate any adverse effects of the early entry into the cellular marketplace of a wireline carrier in advance of a nonwireline carrier." (Mimeo. page 38.)

Mobilecomm's proposed operations, as well as the operations of other resellers in the area, dovetail with the resale concept envisioned in the above-quoted Finding 25.

Upon certification by this Commission, Mobilecomm will be subject to reporting requirements deemed appropriate by this Commission. One of these requirements is the manner in which records are kept.

The Commission is currently developing a Uniform System of Accounts for cellular communications companies. Until a uniform accounting system for cellular companies has been prescribed, the Commission will not issue detailed account

instructions. Each cellular communications company will, however, be expected to maintain its books in such detail that financial data relating to its operations can be assembled upon request:

1. Revenue and expenses of utility operations should be segregated from nonutility operations.
2. Charges from affiliates should be broken down so that each kind of charge can be identified.
3. Revenue accounts should be appropriately subdivided (access, peak, off-peak, service order charges, custom calling, directory listing, etc.).
4. Expense accounts should be grouped to provide a total for sales and marketing expense. This would include, in sub-accounts, advertising, promotion and incentives, sales salaries and commissions, sales vehicle expense, etc.
5. General and administrative expenses should be subdivided to identify rent and lease expense, billing expense, salaries, insurance, and other appropriate subdivisions.
6. Other significant costs, such as unsold numbers inventory, should be separately identified.

Mobilecomm will be directed to file an annual report with the Commission, in a form prescribed by the Commission. Although Mobilecomm will be expected to have detailed operating information available in its records, for competitive reasons it may not be required to disclose such detail in its filed annual reports.

Other resellers of cellular services have asked that the Commission exempt them from the requirements of General Order (GO) 96-A, Sections IV, V, and VI.

There is merit to the arguments presented by resellers that the Commission consider some modifications of GO 96-A. The basic purpose of Sections IV, V, and VI of GO 96-A is to provide an orderly procedure to control the rates and services of a monopoly utility. These rules are subject to revision where the Commission deems necessary.

In this case, we are not dealing with a monopoly situation. At this time, it appears that the cellular market will be a highly competitive one. The basic scheme established by the Federal Communications Commission allowing two major carriers, one wireline and one nonwireline, to operate in the same territory, coupled with the provisions for the wholesale marketing of this service, is designed to promote vigorous competition in cellular markets.

Under these circumstances, our traditional tariff filing requirement of a 30-day review period should not be necessary. Indeed, in a new and dynamic market such as cellular telephone, this requirement could impede the provision of rates and services which are responsive to customer needs. We, of course, will monitor the cellular market and if we find abusive or unfair practices by resellers, we will take corrective action aimed at eliminating such practices. Therefore, we will permit all resellers to make the requested tariff changes on 15 days' notice.

Mobilecomm is not an RTU as defined in Public Utilities (PU) Code Section 4902.^{1/} Therefore, it is not subject to the fee system prescribed by PU Code Sections 4905, et seq., but is instead subject to the fee system set forth in PU Code Section 401, et seq. By Resolution M-4735, the Commission set the fee level for telephone corporations at 0.10 of 1% (0.0010) of revenue subject to the fee, prescribed the method of remitting the fee, and directed the application of a billing surcharge of 0.10% to customer billings. Mobilecomm will be ordered to provide in its tariff rules for the imposition of this surcharge.

Findings of Fact

1. Mobilecomm has the ability, experience, equipment, and financial resources to perform the proposed service.
2. Public convenience and necessity require the service proposed by Mobilecomm.
3. Mobilecomm should file a set of tariffs similar in scope to the retail tariffs set forth in D.84-04-014 for the Partnership.
4. At this time it appears that the cellular market will be a highly competitive one.
5. Mobilecomm's proposed operations will provide competition in the cellular radio service market which will benefit the public at large.

^{1/} In D.84-04-014 in A.83-01-12, we determined that resellers of cellular service are telephone corporations under PU Code Sections 216(b), 233, and 234, and are subject to our jurisdiction. However, they are not RTUs as defined in Section 4902, because they do not furnish "domestic public land mobile radio service" as described in 47 CFR 22, but instead furnish "domestic public cellular radio telecommunications service".

6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

7. Mobilecomm should keep its records in the detail described on pages 2 and 3 of this decision.

8. Other resellers of cellular service are being exempted from Sections IV, V, and VI of GO 96-A and authorized to make tariff revisions on 15 days' notice.

9. A public hearing is not necessary.

Conclusions of Law

1. The application should be granted as provided in the order which follows.

2. Mobilecomm is not an RTU as defined in PU Code Section 4902.

3. Mobilecomm is subject to the fee system set forth in PU Code Sections 401, et seq.

4. The appropriate surcharge pursuant to Conclusion of Law 3 is 0.1% for the fiscal year 1984-1985.

5. Because of the immediate need for the service, the order should become effective today.

The certificate hereinafter granted is subject to the provision of law that the Commission shall have no power to authorize the capitalization of this CPC&N or the right to own, operate, or enjoy such CPC&N in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such CPC&N or right.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Mobilecomm Cellular Services Group, Inc. (Mobilecomm) to operate as a reseller of cellular radio telecommunications services within California.

2. On or after the effective date of this order Mobilecomm is authorized to file tariff schedules for the resale of cellular mobile radiotelephone service in the Los Angeles area purchased from the Los Angeles SMSA Limited Partnership. These tariffs shall be essentially similar to those attached to the application, shall comply with General Order (GO) 96-A, shall provide for a user fee surcharge of 0.1% for the fiscal year 1984-1985, and shall be effective on not less than five days' notice. ✓

3. Mobilecomm is to keep its records as detailed on pages 2 and 3 of this decision.

4. Mobilecomm is exempted from the provisions of Sections IV, V, and VI of GO 96-A and is authorized to make tariff revisions effective on 15 days' notice.

5. The application is granted as set forth above.

This order is effective today.

Dated SEP 6 1984, at San Francisco, California.

LEONARD M. GRIMES, JR.
President

VICTOR CALVO

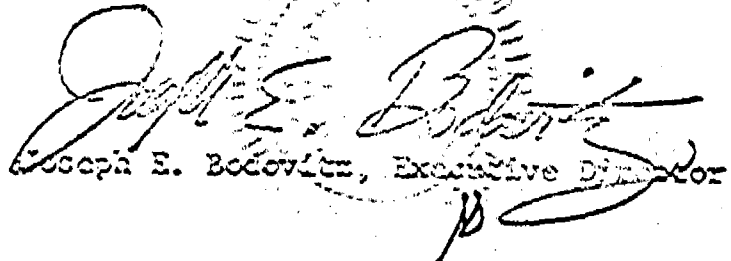
PRISCILLA C. GREW

DONALD VIAL

WILLIAM T. BAGLEY

Commissioners

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


Joseph E. Bodovitz, Executive Director

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