

Decision 87 10 076

OCT 28 1987

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
of Telecom Cellular, Inc. for a )	
Certificate of Public Convenience )	Application 87-07-037
and Necessity Authorizing the )	(Filed July 24, 1987)
Provision of Long-Distance Telephone )	
Services Within California. )	
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OPINION

Telecom Cellular, Inc. (TCI) has filed an application requesting that the Commission issue a certificate of public convenience and necessity (CPC&N) under Public Utilities (PU) Code § 1001 to permit TCI to operate as a reseller of telephone services offered by communications carriers providing telecommunication services in California.

By order dated June 29, 1983, the Commission instituted an investigation to determine whether competition should be allowed in the provision of telecommunications transmission services within the State (OII 83-06-01). Numerous applications to provide competitive service were consolidated with that investigation and by Interim Decision (D.) 84-01-037 dated January 5, 1984 and subsequent decisions, these applications were granted, limited to the provision of interLATA service and subject to the condition that applicants not hold out to the public the provision of intraLATA service pending our decision in the Order Instituting Investigation (OII).

On June 13, 1984, we issued D.84-06-113 in OII 83-06-01 denying the applications to the extent not previously granted and directing persons not authorized to provide intraLATA telecommunications to refrain from holding out the availability of such services and to advise their subscribers that intraLATA

communications should be placed over the facilities of the local exchange company.

The application also states that TCI seeks authority to provide intrastate long-distance telephone services similar to the interstate services which it intends to offer, either on a resale basis or by means of facilities owned and operated by it, or by a combination of the two. TCI states that the intrastate service would be provided at rates which are more competitive than competing interexchange carriers such as AT&T Communications of California, Inc. and MCI Telecommunications Corp. Its proposed rate structure is based on monthly use in minutes, without differentiation by call, mileage, or time of day called as follows:

"Customers pay a \$50.00 processing fee. A \$125.00 prepaid deposit guarantees payment for monthly service. The total customer cost is \$175.00 to begin service."

"Customers pay \$25.00 monthly for a minimum of 100 minutes of service. Additional minutes up to 1000 cost 25 cents per minute, and over 1000 minutes monthly are charged at 21 cents per minute."

.TCI's billings would be to the nearest six seconds on each call. The total monthly time would be rounded up to the next full minute.

Access to TCI would be via switched access services, e.g. through feature group A, B, or D, obtained from exchange telephone companies serving present or future points of presence. TCI does not intend to provide cellular communications service in the subject application, but it would provide cellular access. TCI's principal switching offices within California would be located in Stockton and in San Bernardino.

TCI recognizes that D.84-06-113 limits its authorization to providing interLATA service only. While it accepts that restriction at this time it requests that its authorization be automatically extended to provide intraLATA service if the

Commission removes the restriction preventing resellers from providing intraLATA service.

Pacific Bell (Pacific) filed a protest to the part of the application that requests intraLATA authority. It does not oppose the granting of interLATA authority. Pacific also states that the application does not give a full description of TCI's system needed to accurately assess the application for a CPC&N. Pacific requests that TCI be required to furnish a general description of its operations. Pacific argues that if the Commission alters its decision on intraLATA competition, prospective providers of such services should be required to file applications with the Commission requesting authority to provide intraLATA service; prospective competitors should not receive automatic authorization to provide intraLATA service.

There is no basis for treating this applicant any differently than those which filed earlier. Therefore, this application will be granted to authorize interLATA service. TCI does not request authorization to provide intraLATA service at this time and no intraLATA authorization will be granted. Furthermore, if the Commission alters its position on intraLATA competition, its decision may contain conditions for applicants to seek authority to provide intraLATA service. TCI provided no basis for granting that authority. Consequently, TCI's contingent intraLATA authority request will be denied.

Consequently, Pacific's protest regarding the provision of intraLATA service now or in the future is moot since we are not authorizing TCI to provide such service.

TCI's request to provide service at uniform time based rates throughout California without differentiation by call mileage or time-of-day called is not inconsistent with our determination in D.84-06-113 that "each applicant file rates that are uniform on a

distance basis" (see mimeographed page 97a). Since the rates proposed are based on time used, they are not governed by PU Code § 461, which sets out distance-related rate criteria.

Findings of Fact

1. By D.84-01-037 the Commission authorized interLATA entry generally.

2. By D.84-06-113 the Commission denied applications to provide competitive intraLATA telecommunications service and required persons not authorized to provide intraLATA telecommunications service to refrain from holding out the availability of such services and to advise their subscribers that intraLATA communications should be placed over the facilities of the local exchange company.

3. There is no basis for treating this applicant differently than those which filed earlier.

4. Because of the public interest in effective competition interLATA this order should be effective today.

5. As a telecommunications service supplier, TCI should be subject to the 4% interim surcharge on gross intrastate interLATA revenues and the conditions set forth in D.87-07-090.

6. Applicant should be subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435. The fee is currently 0.1% for the 1987-88 fiscal year.

Conclusions of Law

1. Rates proposed by TCI are consistent with D.84-06-113 and with § 461 of the PU Code.

2. This application should be granted in part to the extent set forth below.

O R D E R

IT IS ORDERED that:

1. The application of Telecom Cellular, Inc. (TCI) is granted to the limited extent of providing the requested service on an interLATA basis, subject to the condition that applicant refrain from holding out to the public the provision of intraLATA service and subject to the requirement that it advise its subscribers that intraLATA communications should be placed over the facilities of the local exchange company.

2. To the extent that the application requested authorization to provide intraLATA telecommunications services, the application is denied.

3. TCI is authorized to file with this Commission, 5 days after the effective date of this order, tariff schedules for the provision of interLATA service. TCI may not offer service until tariffs are on file. If TCI has an effective Federal Communications Commission (FCC)-approved tariff, it may file a notice adopting such FCC tariff with a copy of the FCC tariff included in the filing. Such adoption notice shall specifically exclude the provision of intraLATA service. If TCI has no effective FCC tariffs, or wishes to file tariffs applicable only to California intrastate interLATA service, it is authorized to do so, including rates, rules, regulations, and other provisions necessary to offer service to the public. Such filing shall be made in accordance with General Order Series 96 (GO 96), excluding Sections IV, V, and VI, and shall be effective not less than 1 day after filing.

4. TCI is authorized to deviate on an ongoing basis from the requirements of GO 96 in the following manner: (a) to deviate from the pagination requirements set forth in paragraph II.C.(1)(b) which requires consecutive sheet numbering and prohibits the reuse of sheet numbers, and (b) to deviate from the requirements set

forth in paragraph II.C.(4) that "a separate sheet or series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Evaluation and Compliance Division's Telecommunications Branch.

5. If TCI fails to file tariffs within 30 days of the effective date of this order, applicant's certificate may be suspended or revoked.

6. The requirements of GO 96 relative to the effectiveness of tariffs after filing are waived in order that changes in FCC tariffs may become effective on the same date for California interLATA service for those companies that adopt the FCC tariffs.

7. TCI is subject to the 4% interim surcharge applicable to the gross revenues of intrastate interLATA services as outlined in Decision 87-07-090 in Order Instituting Investigation 83-11-05 dated July 29, 1987. The 4% interim surcharge collected shall be retained in an interest-bearing account pending further order of the Commission.

8. TCI is subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435.

9. The corporate identification number assigned to Telecom Cellular, Inc. is U-5135-C, which should be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

**CORRECTION**

**THIS DOCUMENT HAS**

**BEN REPHOTOGRAPHED**

**TO ASSURE**

**LEGIBILITY**

forth in paragraph II.C.(4) that "a separate sheet or series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Evaluation and Compliance Division's Telecommunications Branch.

5. If TCI fails to file tariffs within 30 days of the effective date of this order, applicant's certificate may be suspended or revoked.

6. The requirements of GO 96 relative to the effectiveness of tariffs after filing are waived in order that changes in FCC tariffs may become effective on the same date for California interLATA service for those companies that adopt the FCC tariffs.

7. TCI is subject to the 4% interim surcharge applicable to the gross revenues of intrastate interLATA services as outlined in Decision 87-07-090 in Order Instituting Investigation 83-11-05 dated July 29, 1987. The 4% interim surcharge collected shall be retained in an interest-bearing account pending further order of the Commission.

8. TCI is subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435.

9. The corporate identification number assigned to Telecom Cellular, Inc. is U-5135-C, which should be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.



10. The application is granted in part and denied in part as set forth above.

This order is effective today.

Date OCT 28 1987, at San Francisco, California.

STANLEY W. HULETT  
President

DONALD VIAL  
FREDERICK R. DUDA  
C. MITCHELL WILK  
JOHN B. OHANIAN  
Commissioners

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

  
Victor Weissert, Executive Director

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