

Decision 87 11 061 NOV 25 1987**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 STOCKTON CELLULAR TELEPHONE COMPANY)
 for a Certificate of Public Conven-)
 ience and Necessity under Section)
 1001 of the Public Utilities Code of)
 the State of California for authority)
 to construct and operate a new)
 domestic public cellular radio tele-)
 communication service to the public)
 in Stockton encompassing San Joaquin)
 County. (U-5012-C))

Application 87-06-019
 (Filed June 10, 1987)

OPINION

Stockton Cellular Telephone Company, a California general partnership, seeks a certificate of public convenience and necessity (CPC&N) to construct and operate a domestic public cellular radio telecommunications service to the public throughout the Stockton Metropolitan Statistical Area (MSA), which encompasses all or a portion of San Joaquin County.

Applicant is a California general partnership duly organized under the laws of the State of California and is comprised of the following entities:

	Percentage Share in <u>Partnership</u>
McCaw Communications of Stockton, Inc.	48.4848%
National Material Corporation	6.0606
Cellular Technology, Inc.	6.0606
Telecellular Corporation	6.0606
International Cellular Systems	6.0606
Comstar Cellular Limited Partnership	6.0606
Cellular Communications and Cable	6.0606
Lextel, Inc.	6.0606
Pinnacle Communications, Inc.	6.0606
Stockton Celcom Associates	<u>3.0304</u>

100.0000%

Applicant maintains its principal place of business in the City of Stockton, California.

An affiliate of applicant, Fresno Cellular Telephone Company currently operates as a reseller of cellular radio services under a certificate granted by the Commission in Decision (D.) 86-10-007 dated October 1, 1986 (Application (A.) 86-08-009 filed August 6, 1986). Fresno Cellular filed Advice Letter 4, effective August 15, 1987 to expand its service territory to serve both Stockton and Sacramento.

In D.87-10-036 dated October 16, 1987 in A.87-03-051, we stated "In Decision 85-04-015 we stated 'PacTel Mobile Services should not be authorized to function as a reseller of services which would compete with similar services offered, directly or indirectly, by its affiliate, PacTel Mobile Access'. Since this has been our stated policy, it should apply to Fresno as well as PacTel Mobil Services." Therefore, at the time its affiliate Stockton Cellular Telephone Company begins operations as a wholesaler and retailer of cellular services for the Stockton area, its affiliate Fresno should surrender its authority to resell in the Stockton area. In the alternative, Fresno may petition to modify D.87-10-036 by making a showing that surrender of its resale authority for the Stockton area should not be required.

Applicant has been selected as the nonwireline (frequency block "A") cellular system carrier by the Federal Communications Commission (FCC) to provide domestic public cellular radio telecommunications service in the Stockton MSA.

On February 13, 1987, the FCC issued authority to applicant to construct three base radio stations (cell sites) in the Stockton MSA. Applicant intends to provide its initial cellular service with two base stations pursuant to said construction permits. Other than construction permits obtained from the FCC, approvals from the Federal Aviation Authority (FAA), the certificate requested herein, and local permits to construct

and operate antennas or facilities were required, there are no outstanding franchises or health and safety-related permits required by public authorities for the proposed system.

Description of Proposed
Construction and System

Cellular radio is a new technology that has expanded rapidly in recent years and will continue to expand the use of mobile and portable telephones throughout the United States. The FCC has ruled that two blocks of frequencies for cellular radio services should be allocated to each major metropolitan area, one block for the wireline and one block for the nonwireline. Applicant is one of the two carriers selected for the Stockton MSA. The other carrier, Sacramento-Valley Limited Partnership, is already providing service to the Stockton MSA and was able to expand its service to include Stockton simply by filing an advice letter (Advice Letter 7, effective May 12, 1986) to serve an adjacent unserved territory.

The area served by a cellular system is known as a Cellular Geographic Service Area (CGSA). Each CGSA is divided into smaller geographic areas known as cells. Each cell is assigned a set of frequencies, in a coordinated manner, with neighboring cells assigned to a different set of frequencies to control interference and to facilitate frequency reuse. As a subscriber cellular unit moves from cell to cell, electronic equipment in the mobile telephone switching office (MTSO) transfers the call from one cell site to another. This automatic transferring maintains the service quality throughout a conversation as subscriber equipment moves from cell to cell. A cellular system can serve many times the capacity of the older existing radiotelephone utilities.

As public demand for cellular service increases, cellular service has the ability to increase the capacity of the system in a number of ways, including adding channels, implementing sophisticated propagation use techniques, and through "cell

splitting". Under the "cell splitting" method, existing cells are reconfigured to form a grid of smaller cells.

The proposed system includes direct-dialed mobile-to-land, land-to-mobile, and mobile-to-mobile service. The cellular system will have four major components:

1. A MTSO;
2. Cell sites (radio equipment);
3. Cell site connections (some of which may be landline telephone facilities leased from Pacific Bell and some of which may be microwave facilities leased or owned by applicant);
4. Mobile or portable subscriber units.

The MTSO controls the cellular system and interconnects with the landline telephone network, microwave facilities (if and when utilized), and the cell sites.

There are essentially two types of interconnection facilities that are required to link the telephone equipment with the operational cellular system. The interfacing between the cellular system and the public switched telephone network (PSTN) is undertaken through central office connecting circuits, known as PSTN interconnections. Linking the cell sites to the MTSO and the MTSO to the PSTN central offices will be dedicated private line facilities and/or microwave (both voice and data).

Financial Feasibility

Applicant estimates the total capital required to build the facilities necessary to commence operation of the system in 1987 is \$1.4 million. With expected growth, additional capital in the amount of \$1.6 million will be invested during years two to five for expansion of the system. Funding for the construction of the proposed system will be provided principally by loans from Provident National Bank. In the unlikely event that the Provident funds were not made available and other sources of loans were also

not available, each of applicant's partners would be in a position to contribute the necessary capital according to the declarations of the financial officers of the individual partners attached to Exhibit G of the application.

A pro forma balance sheet accompanying the application shows total liabilities and equity at \$3,279,941 in year one of operation, increasing to \$6,208,665 in year five. The same pro forma statement estimates an increase in current assets from \$105,415 in year one to \$2,379,911 in year five.

The pro forma consolidated income statement estimates that the operation will become profitable as of the third year of operation. It shows net income at -\$695,290 for the first year, -\$230,004 for the second year, and increases thereafter from a positive \$354,032 in year three to an estimated \$1,688,986 in year five.

It is noted that the pro forma estimated net income for year five to the fifth year estimate for fixed assets is roughly 76%. Such rate of return far exceeds rates of return currently awarded telecommunications utilities or any utility for that matter. However, because at this point we are dealing with a startup business, no present adjustment to proposed rates is necessary based solely on applicant's fifth year income estimates. The information supplied with the application amply demonstrates financial fitness. Table 1 shows applicant's consolidated pro forma balance sheet and Table 2 shows its consolidated pro forma income statement, presented in its application.

According to the application, public demand for this service was forecast on the basis of actual sales results and market research. A resale operation in Stockton has established a significant subscriber base from which to perform extensive market research and develop demand forecasts. After four months of cellular resale operation, applicant has established a distribution system which is capable of delivering subscribers to the service at

a predictable rate. The following is an estimate of applicant's subscribers to be served during the first five years of operation in the Stockton CGSA:

<u>Year</u>	<u>Retail</u>	<u>Resellers</u>	<u>Total Wholesale</u>
1	757	38	495
2	1,569	130	1,669
3	2,356	273	2,629
4	3,130	477	3,607
5	4,226	808	5,034

In defining the Stockton CGSA, the partnership evaluated a number of factors including statistical definitions of the metropolitan area, communities of interest, vehicular traffic flow, population density, and land use. To determine the most likely areas of strong demand, communities of interest in which applicant's target customers work, live, play, and drive were identified. This was accomplished by locating high concentrations of such target customers. A concentrated usage pattern was identified clustered about Stockton and its major highways, such as Highway 99 and Interstate 5.

Applicant will market cellular service via two types of distribution channels--dealers and resellers which are served through two separate units of the applicant. Offering cellular service through different types of distribution channels will have a benefit to the end user who will have numerous providers and service plans from which to choose.

TABLE 1

STOCKTON CELLULAR TELEPHONE COMPANY

Consolidated Pro Forma Balance Sheet

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Assets:					
Current Assets:					
Cash	\$ 47,583	\$ (35,323)	\$ 38,889	\$ 637,850	\$1,823,928
Accts Receiv.	<u>57,833</u>	<u>171,033</u>	<u>289,084</u>	<u>407,995</u>	<u>555,982</u>
Total	105,415	135,710	327,972	1,045,844	2,379,911
Property, Plant, & Equipment	1,413,400	1,586,361	1,972,638	2,398,937	2,958,188
Less: Accum. Deprec.	<u>(117,783)</u>	<u>(236,287)</u>	<u>(370,093)</u>	<u>(536,256)</u>	<u>(738,498)</u>
Subtotal	1,295,617	1,350,074	1,602,545	1,862,681	2,219,690
Other Assets:					
Intangibles	1,946,374	1,946,374	1,946,374	1,946,374	1,946,374
Less: Amort.	<u>(67,461)</u>	<u>(134,922)</u>	<u>(202,383)</u>	<u>(269,844)</u>	<u>(337,705)</u>
Subtotal	1,878,913	1,811,452	1,743,991	1,676,530	1,609,069
Total Assets	<u>3,279,945</u>	<u>3,297,236</u>	<u>3,674,508</u>	<u>4,585,055</u>	<u>6,208,670</u>
Liabil. & Equity:					
Current Liabil.					
Accts. Payable	91,715	118,169	138,762	159,191	189,275
Int. Payable	<u>13,700</u>	<u>17,541</u>	<u>20,190</u>	<u>21,124</u>	<u>21,985</u>
Subtotal	105,415	135,710	158,952	180,314	211,261
Notes Payable	<u>1,923,446</u>	<u>2,140,446</u>	<u>2,140,446</u>	<u>2,065,531</u>	<u>1,969,210</u>
Total Liabilities	2,028,861	2,276,156	2,299,398	2,245,845	2,180,471
Equity:	<u>1,251,080</u>	<u>1,021,078</u>	<u>1,375,113</u>	<u>2,339,207</u>	<u>4,028,194</u>
Total Liabilities and Equity	3,279,941	3,297,235	3,674,511	4,585,052	6,208,665

(Red Figure)

TABLE 2

STOCKTON CELLULAR TELEPHONE COMPANY

Consolidated Pro Forma Income Statement

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
Revenue:					
Retail	\$ 390,801	\$1,125,098	\$1,869,381	\$2,596,548	\$3,484,535
Wholesale	<u>14,489</u>	<u>62,929</u>	<u>149,794</u>	<u>277,842</u>	<u>475,756</u>
Total	405,290	1,188,027	2,019,175	2,874,390	3,960,291
Expenses:					
Cellular Facil.	138,258	275,415	399,096	502,957	606,782
Operations	75,900	80,420	84,525	90,105	95,583
Administration	131,945	165,288	180,584	199,156	219,921
Reseller-related					
Services	58,421	84,574	111,224	142,086	200,095
Retail Expenses	322,430	381,716	398,132	426,449	534,294
Depre. & Amort.	185,244	185,965	201,267	233,624	269,703
Interest Exp.	164,401	210,493	242,282	253,482	263,823
State/Local Taxes	<u>23,982</u>	<u>34,161</u>	<u>48,032</u>	<u>62,431</u>	<u>81,104</u>
Total	<u>1,100,580</u>	<u>1,418,031</u>	<u>1,665,143</u>	<u>1,910,290</u>	<u>2,271,305</u>
Income (Loss)	<u>(695,290)</u>	<u>(230,004)</u>	<u>354,032</u>	<u>964,100</u>	<u>1,688,986</u>

(Red Figure)

Tariffs and Rate Structure

Applicant proposes the following two pricing tariffs:

Proposed Wholesale Rates

Rates - Bulk and Wholesale

A. Basic Service

1. Number Activation

To process an order for activation of an access number, per number, per order \$15.00

2. Change

To add optional features or change an access number, per access number affected, per order \$10.00

3. Access Charge

Per Month

a. For each access number up to 100 numbers (minimum initial order of 50, and subsequent orders in blocks of 10 numbers) \$15.30

b. For each access number over 100 numbers (in blocks of 10 numbers) \$14.30

4. Usage Rates

Per Minute

a. Peak Period

For usage up to and including 20,000 minutes per month (minimum average of 100 minutes per number per month is required) \$.206

For usage over 20,000 minutes per month \$.203

b. Off-peak Period

For usage up to and including 2,000 minutes per month (minimum average of 10 minutes per number per month is required) \$.123

For usage over 2,000 minutes \$.122

Proposed Retail Rates

A. Service

1. Service Establishment

To process an order for activation of 1 -5 access numbers per customer	\$50.00
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To process an order activation of six or more access numbers per customer	\$45.00
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2. Change

To add or remove optional features or temporarily suspend service per a customer's request, or change an access number affected per order	\$15.00
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3. Service Restoral Charge

Reactivation of service which has been temporarily suspended due to nonpayment of billed charges	\$15.00
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B. Basic Plan

1. Access Charge

Per Month

1 - 5 access numbers per customer	\$20.00
6+ access numbers per customer	\$18.00

2. Usage Rates

Per Minute

Peak Period	\$ 0.25
Off-peak Period	\$ 0.15

Governmental Authorizations

On February 13, 1987, the FCC issued authority to applicant to construct three base radio stations (cell sites) in the Stockton MSA. Applicant intends to provide its initial cellular service with two base stations pursuant to said construction permits. Site No. 1 will be located in north Stockton at an elevation of 35 feet where an antenna, 291 feet in height, will be used; at site No. 2, located at Manteca, at an elevation of 68 feet where an antenna, 184 feet in height, will be used. Other

than construction permits obtained from the FCC, approvals from the Federal Aviation Authority, the certificate requested herein, and local permits to construct and operate antennas or facilities were required, there are no outstanding franchises or health and safety-related permits required by public authorities for the proposed system.

Environmental Analysis

Applicant alleges that the construction and operation of the project proposed in its Proponent's Environmental Assessment (PEA) would not result in environmental impacts that are significant as defined by the California Environmental Quality Act (CEQA). Of the basic physical elements of the proposed system, only the towers needed to support the radio antennas at certain cell sites would have a potential environmental impact. For the sites at which towers would be visible from the surrounding areas, the visual impacts of the towers would be mitigated by the careful location of the tower. Other environmental issues that could result from the construction and operation of the cellular system are short term or otherwise insignificant. Applicant's proposed system will be the second cellular telephone system in the San Joaquin County area.

Under FCC rules, the proposed cellular project is not a major action and does not require the preparation of a federal environmental impact statement under the National Environmental Policy Act.

The Division of Ratepayer Advocates (DRA) has examined applicant's PEA and agrees that the project, as presented, has no significant effect on the environment. As a result, staff prepared a Negative Declaration. A Notice of Preparation of Negative Declaration was sent to property owners and published in the Stockton Record on August 6 and 13, 1987, thus complying with Rule 17.1(f) No. 1A of the Commission's Rules of Practice and Procedure. The PEA, confirmed by staff study, served as the initial study for

the project. The Negative Declaration is attached as Appendix B. The following mitigation measures are imposed:

1. The applicant will consult with appropriate local public agencies on project details such as the design, color, and type of materials used in the antenna towers, the specific configuration of equipment on each facility site, and any other relevant community building codes, providing such conditions or requirements do not render the project unfeasible. While it is the PUC's intent that local concerns be incorporated into the design, construction, and operation of this system, no additional permits from local authorities are required as a condition of this certificate. In the event that any certified facilities do not conform with any applicable local codes, ordinances, etc. (other than those codes requiring local permits), the applicant shall inform the Commission Advisory and Compliance Division (CACD) in writing of such noncompliance prior to construction of the affected component.
2. For future expansion antenna sites to serve other portions of this market area, the Applicant shall submit environmental information to the CACD prior to construction of such antennas. The CACD will review this material and determine at that time whether any supplemental environmental documentation is required in accordance with the provisions of the California Environmental Quality Act.

No adverse comments on the potential environmental impact of the project were directly received from property owners or any public agency.

Findings of Fact

1. The Stockton CGSA for the proposed system will provide service for the City of Stockton and adjacent areas of the San Joaquin Valley.

2. The cellular system to be constructed by applicant would initially consist of two cell sites, or transmitting/receiving stations, located in Stockton and Manteca in the San Joaquin Valley.

3. Applicant's proposed system will initially consist of two service areas, called cells, each with its own radio receiver and low transmitter. One cell site will be located in Stockton, the other to be located in Manteca. The two-cell system will cover approximately 500 square miles in the Stockton MSA service area.

4. The 5-year forecast of number of customer units applicant expects to serve is 4,226 retail customer units.

5. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service.

6. Public convenience and necessity require the service proposed by applicant.

7. Applicant should file a set of tariffs similar in scope to the tariffs set forth in this application. The rates and charges set forth above are reasonable.

8. Applicant plans to offer both wholesale and retail services.

9. Applicant projects that its operating profit will range from a negative \$695,290 to a positive \$1,688,986 in the first five years of operation and that, for the same period, capitalization requirements will vary from \$1,251,080 to \$4,028,194.

10. The Commission is the lead agency under CEQA for determination of environmental effects of the project under consideration.

11. The proposed project will have no significant effect on the environment due to circumstances and mitigation measures peculiar to the project as set forth in the Negative Declaration.

12. As no comments to the Negative Declaration issued by the Commission have been received, a public hearing is not necessary.

13. The Commission has reviewed the Negative Declaration attached as Appendix B.

Conclusions of Law

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

2. Applicant is subject to the fee system set forth in PU Code Section 401, et seq.

3. The appropriate surcharge pursuant to Conclusions of Law 2 is 0.1¢ for the fiscal year 1987-1988.

4. The wholesale and retail tariffs set forth in Appendix A should be adopted.

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

6. The Commission should approve the Negative Declaration attached as Appendix B, including the mitigation measures identified therein.

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.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Stockton Cellular Telephone Company to construct and operate a cellular mobile telecommunications system in the Stockton cellular geographic service area.

2. On or after the effective date of this order, applicant is authorized to file wholesale and resale tariff schedules substantially in accordance with Exhibit K to Application

87-06-019. Rates and charges shall be as set forth in this decision. The filing shall comply with General Order Series 96 and shall be effective on not less than five days after filing.

3. Applicant shall maintain accounting records in conformity with the Uniform System of Accounts for cellular communications companies.

4. Applicant shall notify the Commission in writing of the date it commences service.

5. Applicant shall pay a user fee as a percentage of gross intrastate revenues pursuant to PU Code Sections 431-435.

6. In constructing its system, applicant shall undertake the environmental mitigation measures identified in the Negative Declaration as lawfully required by local authority.

7. Applicant shall construct and operate the system to meet Federal Communications Commission coverage requirements.

8. The Negative Declaration as set forth in Appendix B to this decision is approved including the mitigation measures set forth therein:

9. The applicant shall consult with appropriate local public agencies on project details such as the design, color, and type of materials used in the antenna towers, the specific configuration of equipment on each facility site, and any other relevant community building codes, providing such conditions or requirements do not render the project unfeasible. While it is our intent that local concerns be incorporated into the design, construction, and operation of this system, no additional permits from local authorities are required as a condition of this certificate. In the event that any certified facilities do not conform with any applicable local codes, ordinances, etc. (other than those codes requiring local permits), the applicant shall inform the CACD in writing of such noncompliance prior to construction of the affected component.

10. For future expansion antenna sites to serve other portions of this market area, the Applicant shall submit environmental information to the CACD prior to construction of such antennas. The PUC will review this material and determine at that time whether any supplemental environmental documentation is required in accordance with the provisions of the California Environmental Quality Act.

11. The Executive Director, as required by Public Resources Code § 21108, shall file with the Office of Planning and Research a Notice of Determination as set forth in Appendix A to this decision.

12. The corporate identification number assigned to Stockton Cellular Telephone Company is U-5012-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.

13. The application is granted as set forth above.

This order is effective today.

Dated NOV 25 1987, at San Francisco, California.

STANLEY W. HULETT
President

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

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


Victor Wanser, Executive Director

APPENDIX A

NOTICE OF DETERMINATION

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From : California Public
Utilities Commission
505 Van Ness Avenue
San Francisco, CA
94102

Subject: Filing of Notice of Determination in compliance with
Section 21108 of the Public Resources Code.

Project Title: Stockton Cellular Telephone Company

State Clearinghouse Number: N.A.

Contact Person: Mike Burke (916) 322-7316

Project Location: Stockton, San Joaquin County

Project Description: Construction and operation of a cellular mobile radiotelephone system with two cell site transmitter stations.

This is to advise that the California Public Utilities Commission has approved the above described project on November 25, 1987, and has made the following determinations regarding the above described project:

1. The project will not have a significant effect on the environment.
2. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the project.
4. A statement of Overriding Considerations was not adopted for this project.

This is to certify that the Negative Declaration with comments and responses and record of project approval is available to the General Public at the CPUC, State Building, 505 Van Ness Avenue, San Francisco, CA 94102.

Date received for Filing and Posting at OPR

Space to be fill
out.

Victor Weissner, Executive Director

.APPENDIX B

NEGATIVE DECLARATION

PURSUANT TO DIVISION 13
CALIFORNIA PUBLIC RESOURCES CODE

Project Description: The California Public Utilities Commission (PUC) proposes to grant a Certificate of Public Convenience and Necessity to the Stockton Cellular Telephone Company for the installation and operation of a mobile telephone system to serve the greater San Joaquin County area. The proposed project consists of the installation of two cellular telephone antennas. The system will use an existing mobile telephone switching office in Sacramento.

Findings: An Initial Environmental Study (attached) was prepared to assess the project's potential effects on the environment and the significance of those effects. Based upon the initial study, the project will not have any substantial adverse effects on the environment. This conclusion is supported by the following findings:

1. The proposed project will not have a significant effect on the geology, geomorphology, soils, climate, hydrology, aesthetics, vegetation, or wildlife of the antenna sites.
2. The project will have no significant effect on municipal or social services, utility services, or community structure.
3. The project will not have a significant adverse effect on air or water quality, the existing circulation system, ambient noise levels, or public health.
4. Because the individual systems operate at a low power level in frequency bands well-separated from television and ordinary broadcasting frequencies, no significant interference with radio or television reception is anticipated.
5. While the new towers will be visible from some surrounding areas, the visual impacts are expected to be minimal because of the distance between most viewers and the antenna sites, the specific locations of the antennas (rural settings), and their design. All the antenna sites have been selected so as to minimize their respective environmental impact, while still providing the precise radio coverage requirements of the proposed cellular system.

To assure that significant adverse effects do not occur as a result of this project, the following conditions are incorporated into this Negative Declaration:

1. The applicant will consult with appropriate local public agencies on project details such as the design, color, and type of materials used in the antenna towers, the specific configuration of equipment on each facility site, and any other relevant community building codes, provided such conditions or requirements


do not render the project infeasible. While it is the PUC's intent that local concerns be incorporated into the design, construction, and operation of this system, no additional permits from local authorities are required as a condition of this certificate. In the event that any certified facilities do not conform with any applicable local codes, ordinances, etc. (other than those codes requiring local permits), the applicant shall inform the Commission in writing of such noncompliance prior to construction of the affected component.

2. For future expansion antenna sites to serve other portions of this market area, the Applicant shall submit environmental information to the PUC prior to construction of such antennas. The PUC will review this material and determine at that time whether any supplemental environmental documentation is required in accordance with the provisions of the California Environmental Quality Act.

Copies of this Negative Declaration and Initial Study may be obtained by addressing a request to the preparer:

California Public Utilities Commission
1107 - 9th Street, Suite 710
Sacramento, CA 95814

Attention: Mike Burke
(916) 322-7316



Mike Burke, Regulatory and Environmental Coordinator
California Public Utilities Commission

APPENDIX B

CALIFORNIA PUBLIC UTILITIES COMMISSION
INITIAL ENVIRONMENTAL STUDY
CHECKLIST

Project Title: Stockton Cellular Telephone Company

Study Date: July 28, 1987

I. BACKGROUND INFORMATION

A. Name of Project:

Stockton Cellular Telephone Company System.

B. Project Description:

The Stockton Cellular Telephone Company has applied to the California Public Utilities Commission (PUC) for a Certificate of Public Convenience and Necessity for the installation and operation of a mobile telephone system to serve the Stockton Metropolitan Statistical Area. This cellular system would initially consist of two cell sites or transmitting/receiving stations located in the company's geographic service area. The system's mobile telephone switching office will utilize an existing facility at 1750 Howe Avenue in Sacramento.

The proposed cellular system is intended to provide a wide variety of local and long distance communications between fixed (office/home) and mobile (automobiles) sites or between two mobile bases. Cellular telephones can be used for regular business and personal telephone conversations, as well as for emergency services such as police, hospital, and fire agencies. This system would function as an extension of the present telephone network in the San Joaquin County area.

On April 9, 1981, the FCC adopted rules for the provision of the installation and operation of cellular telephone systems. The provisions include:

1. There will be two cellular systems per market area. Each defined market area is based upon standard metropolitan statistical areas.
2. Twenty (20) MHz is held in reserve for all land mobile services.
3. There are no limits on the number of markets that can be served by a single cellular mobile radio service (CMRS) operator.
4. Licensees and affiliates of licensees are allowed to manufacture radio equipment.
5. Telephone companies will be required to establish a fully separate subsidiary to provide CMRS.
6. Wire line companies must provide equal interconnection to all cellular systems.
7. The FCC will preempt the State jurisdictions with regard to licensing but will not regulate rates.

APPENDIX B

8. The FCC has found that point-to-point microwave and other regular cellular telephone radio transmissions do not pose a human health hazard.

The California Public Utilities Commission's Rule 17.1 of Practice and Procedure entitled "Special Procedure for Implementation of the California Environmental Quality Act of 1970" and the California Environmental Quality Act (CEQA) require an environmental review of all developmental projects before the PUC can issue a Certificate of Public Convenience and Necessity for a project, such as the proposed San Joaquin County mobile telephone system.

Depending upon demand, the Company may consider expanding this system to provide cellular telephone service to other portions of the project area in the future. The installation of antennas not covered in this document would require additional environmental review by the California Public Utilities Commission.

C. Project Setting:

As noted above, the proposed cellular telephone system will consist of two antennas. This system will use an existing mobile telephone switching office in Sacramento. The following is a description of the two project sites and the equipment that will be installed at each:

1. Cell 1 - Northwest corner of the intersection of Micke Grove Road and 8 Mile Road, San Joaquin County.

The antenna site for this cell is located in a 10 acre parcel of pasture land adjacent to the property owner's home. Land use adjacent to this parcel includes residential units (north, east, and west sides) and farmland. The Assessor's Parcel Number is 059-092-53 for this parcel. The parcel is zoned GA-10. See Figure 1 for the location of this site.

The proposed structure at this site will be a 280 foot guyed tower with omni-directional 11 foot antennas mounted on top. All associated electronic equipment will be sheltered in a modular structure that will be constructed at the base of the tower.

The use of this site will require construction of an access road 12 feet wide approximately 550 feet long, the grading and recompaction of the soil under the shelter foundations, and installation of a 6 foot high security fence. The area inside the fence will be covered with a 6-inch layer of gravel. A parking area will be provided in fenced area for service personnel.

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2. Cell 2 - East side of Murphy Road approximately 1,000 feet north of Mello Road, San Joaquin County.

The proposed tower site is on a vacant agricultural parcel zoned GA-40. The site is bounded by Highway 120 (north), Murphy Road (west), Mello Road (south), and Wagner Road (east). Land use in this area is predominately agricultural. The Assessor's Parcel Number for this site is 245-014-19. See Figure 2 for the location of this site.

The proposed structure at this site will be a 200 foot self-supporting tower with omni-directional 10.5 foot antennas mounted on top. All associated electronic equipment will be sheltered in a modular structure that will be constructed at the base of the tower.

Construction of this antenna will require a new driveway 12 feet wide by 30 feet long, the grading and recompaction of the foundation soils, and installation of a 6 foot high security fence. A low soil dike will be built up around the tower base to prevent flooding from the irrigation of adjacent lands. The area inside the fenced area will be covered with 6-inches of gravel and will provide parking for service personnel.

D. Lead Agency Contact Person:

Mr. Mike Burke
Energy Resources Branch
California Public Utilities Commission
1107 - 9th Street, Suite 710
Sacramento, CA 95814
(916) 322-7316

E. Lead Agency:

California Public Utilities Commission
505 Van Ness
San Francisco, CA 94102

F. Responsible Agencies:

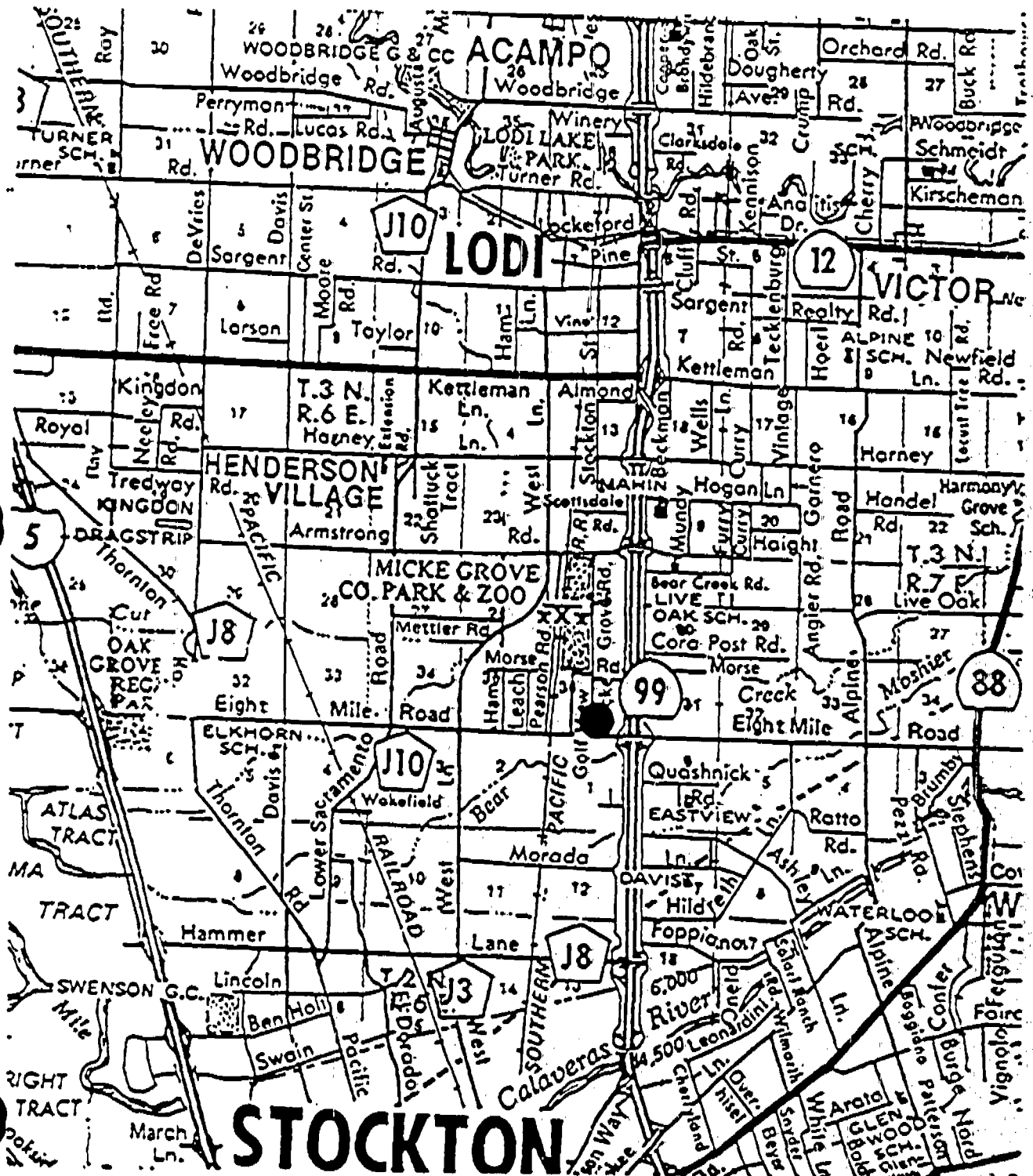
Except for the California Public Utilities Commission, no other State or local agencies have discretionary approval over cellular telephone systems.

FIGURE 1

NORTH STOCKTON



Cellular One



Cellular One



APPENDIX B

II. ENVIRONMENTAL IMPACTS

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
A. <u>Geology/Geomorphology.</u> Will the proposal result in:			
1. Unstable earth conditions or changes in geologic substructures?	—	—	X
2. Changes in topography or any unique geologic or physical features of the site?	—	—	X

The foundations for the towers will require a minor amount of grading. This grading will result in a minor, insignificant modification of the existing topography of project sites.

3. Exposure of people or property to major geologic hazards (earthquakes, slides, subsidence, liquefaction, volcanism)?	—	—	X
B. <u>Soils.</u> Will the proposal result in:			
1. Disruptions, displacements, compaction or overcovering of the soil?	—	—	X

Project will involve a very minor amount of grading for foundations.

2. Increased erosion from wind or water?	—	—	X
3. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	—	—	X
C. <u>Air Quality/Climate.</u> Will the proposal result in:			
1. Substantial air emissions or deterioration of ambient air quality?	—	—	X
2. Creation of objectionable odors?	—	—	X
3. Alteration of air movement, moisture, temperature, or any change in climate, either locally or regionally?	—	—	X

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	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
D. <u>Water.</u> Will the proposal result in:			
1. Degradation of water quality?	—	—	X
2. Degradation or depletion of ground water resources, or interference with ground water recharge?	—	—	X
3. Depletion or contamination of public water supply?	—	—	X
4. Erosion, siltation, or flooding?	—	—	X
5. A change in the amount of surface water in any water body?	—	—	X
6. Alterations to the course or flow of flood waters?	—	—	X
E. <u>Vegetation.</u> Will the proposal result in:			
1. A change in the diversity of species, or numbers of any species of plants (including trees, shrubs, grass, crops, microflora and aquatic plants)?	—	—	X
2. A reduction of the numbers of any unique, rare or endangered species of plants?	—	—	X
3. The introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?	—	—	X
4. A reduction in acreage of any agricultural crop?	—	—	X
F. <u>Wildlife.</u> Will the proposal result in:			
1. A change in the diversity of species, or numbers of any species of animals (birds and animals, including reptiles, fish and shellfish, benthic organisms, insects or microfauna)?	—	—	X
2. A reduction of the numbers of any unique, rare or endangered species of animals?	—	—	X

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	Yes	Maybe	No
3. Introduction of new species of animals into an area?	—	—	X
4. Deterioration to existing fish or wildlife habitat, or interference with the movement of resident or migratory fish or wildlife?	—	—	X
G. <u>Land Use</u> . Will the proposal result in:			
1. A substantial alteration of the present or planned land use in the area?	—	—	X
The project components will be installed on vacant rural sites.			
2. A conflict with Local, State or Federal land use plans or elements to those plans?	—	—	X
The project components are allowable uses with appropriate permits at both sites.			
H. <u>Visual Quality</u> . Will the proposal result in:			
1. Obstruction of any scenic vista or view now observed from public areas?	—	—	X
2. Creation of an aesthetically offensive site open to public view?	—	—	X
Aesthetic considerations for the towers and equipment modules were evaluated for both cell sites. The 2 cell antennas, which will be a total of 291 feet high, will be visible from neighboring properties. However, the potential visual impacts of these towers have been adequately minimized by selection of the respective project sites, the design of each antenna, and the use of appropriate building materials and colors. The visual effects of the towers are also minimized by their rural, open agricultural settings and the distance of most viewers from the antennas.			
3. New light or glare substantially impacting other properties?	—	—	X

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	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
I. <u>Human Population.</u> Will the proposal result in:			
1. Growth inducement or concentration of population?	—	—	X
2. Relocation of people (involving either housing or employment)?	—	—	X
J. <u>Housing.</u> Will the proposal affect existing housing, or create a demand for additional housing?	—	—	X
K. <u>Transportation/Circulation.</u> Will the proposal result in:			
1. An increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system?	—	—	X
2. Effects on existing parking facilities, or demand for new parking?	—	—	X
3. A substantial increase in transit demand which cannot be accommodated by current transit capacity?	—	—	X
4. An increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	—	—	X
5. Alterations to present patterns of circulation or movement of people and/or goods?	—	—	X
6. Alterations to waterborne, rail or air traffic?	—	—	X
L. <u>Noise.</u> Will the proposal result in:			
1. An increase in ambient noise levels?	—	—	X
2. An effect on noise sensitive receptors near or on project site?	—	—	X

The project will generate short-term noise increases during construction of the various project components. These increases are not expected to have a significant effect on adjacent residents.

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
M. <u>History/Archaeology.</u> Will the proposal result in:			
1. Alteration or destruction of a prehistoric or historic archaeological site?	—	—	X
2. Adverse physical or aesthetic effects to a prehistoric or historic building, structure or object?	—	—	X
3. A physical change which would affect unique ethnic cultural values?	—	—	X
4. Restriction of existing religious or sacred uses within the potential impact area?	—	—	X
N. <u>Public Services.</u> Will the proposal result in:			
1. Increased demand for fire or police protection?	—	—	X
2. Increased demand for schools, recreation or other public facilities?	—	—	X
3. Increased maintenance of public facilities, including roads?	—	—	X
O. <u>Utilities.</u> Will the proposal result in:			
1. Expansion or alteration of water, sewer, power, storm water drainage or communication facilities?	—	—	X
2. A breach of published national State or local standards relating to solid waste or litter control?	—	—	X
P. <u>Energy/Natural Resources.</u> Will the proposal result in:			
1. Use of substantial amounts of fuel or energy?	—	—	X
2. Substantial increase in demand on existing sources of energy?	—	—	X
3. Substantial depletion of any nonrenewable natural resource?	—	—	X

Yes Maybe No

Q. Hazards. Will the proposal result in:

1. Creation of a potential health hazard or exposure of people to potential health hazards?

— — X

The Federal Communications Commission has determined that the microwave and other radio transmissions associated with cellular telephone systems do not pose a risk to humans. The towers that will be necessary for this system will be designed and constructed so that they are not subject to failure from anticipated natural forces.

2. Interference with emergency response plans or emergency evacuation plans?

— — X

The proposed cellular telephone system will improve the emergency communications system in the San Joaquin County area by providing individuals with mobile telephones the ability to contact police, fire, and other public safety agencies from their cars or mobile units.

III. MANDATORY FINDINGS OF SIGNIFICANCE

	<u>Yes</u>	<u>Maybe</u>	<u>No</u>
A. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of a major period of California history or prehistory?	—	—	X
B. Does the project have the potential to achieve short-term, to the disadvantage of long-term environmental goals?	—	—	X
C. Does the project have impacts which are individually limited, but cumulatively considerable?	—	—	X
D. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	—	—	X

IV. REFERENCES

1. Proponent's Environmental Assessment, Stockton Cellular Telephone Company, before the Public Utilities Commission of the State of California, and supplemental information provided by applicant.
2. Federal Communications Commission, FCC 87-63, Gen. Docket No. 79-144, February 12, 1987 and May 5, 1987.

V. PERSONS AND/OR AGENCIES CONSULTED

1. Michael Burke
California Public Utilities Commission
1107 - 9th Street, Suite 710
Sacramento, CA 95814
2. E. C. Fishel, Director
Engineering and Operations
Cellular One
1750 Howe Avenue, Suite 102
Sacramento, CA 95815

VI. DETERMINATION (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- X I find the proposed project COULD NOT have a significant effect on the environment. A NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in this Initial Study have been added to the project. A NEGATIVE DECLARATION will be prepared.
- I find the proposed project MAY have significant effects on the environment and an ENVIRONMENTAL IMPACT REPORT is required.

Date

7/31/87

(Signature)

Mike Burke

Mike Burke

Regulatory & Environmental Coordinator
(Title)

than construction permits obtained from the FCC, approvals from the Federal Aviation Authority, the certificate requested herein, and local permits to construct and operate antennas or facilities were required, there are no outstanding franchises or health and safety-related permits required by public authorities for the proposed system.

Proponent's Environmental Assessment

Applicant alleges that the construction and operation of the project proposed in its Proponent's Environmental Assessment (PEA) would not result in environmental impacts that are significant as defined by the California Environmental Quality Act (CEQA). Of the basic physical elements of the proposed system, only the towers needed to support the radio antennas at certain cell sites would have a potential environmental impact. For the sites at which towers would be visible from the surrounding areas, the visual impacts of the towers would be mitigated by the careful location of the tower. Other environmental issues that could result from the construction and operation of the cellular system are short term or otherwise insignificant. Applicant's proposed system will be the second cellular telephone system in the San Joaquin County area.

Under FCC rules, the proposed cellular project is not a major action and does not require the preparation of a federal environmental impact statement under the National Environmental Policy Act. Applicant has applied the following general criteria in the selection of sites for each of the cells:

1. Sites will be selected to minimize environmental impact, while providing the precise radio coverage requirements of the proposed cellular system;
2. The review, permitting, and approval processes of each of the individual responsible agencies will be followed throughout; and

3. Where, in the judgment of the responsible agency or agencies with jurisdiction over a particular site which would result in significant environmental impact, such site will be discontinued and replaced if any viable replacement sites can be found.

Local approvals that may be required by the responsible agencies with jurisdiction over each of the cell sites call for site approval and building permits from the County of San Joaquin for the two cell sites located in the north Stockton and Manteca.

The staff has examined applicant's PEA and the findings of the local agencies and agrees that the project, as presented, has no significant effect on the environment. As a result, staff prepared a Negative Declaration. A Notice of Preparation of Negative Declaration was sent to property owners and published in the Stockton Record on August 6 and 13, 1987, thus complying with Rule 17.1(f) No. 1A of the Commission's Rules of Practice and Procedure. The PEA, confirmed by staff study, served as the initial study for the project.

No adverse comments from the potential environmental impact of the project were directly received from property owners or any public agency.

Findings of Fact

1. The Stockton CGSA for the proposed system will provide service for the City of Stockton and adjacent areas of the San Joaquin Valley.
2. The cellular system to be constructed by applicant would initially consist of two cell sites, or transmitting/receiving stations, located in Stockton and Manteca in the San Joaquin Valley.
3. Applicant's proposed system will initially consist of two service areas, called cells, each with its own radio receiver and low transmitter. One cell site will be located in Stockton, the

other to be located in Manteca. The two-cell system will cover approximately 500 square miles in the Stockton MSA service area.

4. The 5-year forecast of number of customer units applicant expects to serve is 4,226 retail customer units.

5. Applicant has the ability, experience, equipment, and financial resources to perform the proposed service.

6. Public convenience and necessity require the service proposed by applicant.

7. Applicant should file a set of tariffs similar in scope to the tariffs set forth in this application. The rates and charges set forth above are reasonable.

8. Applicant plans to offer both wholesale and retail services.

9. Applicant projects that its operating profit will range from a negative \$695,290 to a positive \$1,688,986 in the first five years of operation and that, for the same period, capitalization requirements will vary from \$1,251,080 to \$4,028,194.

10. The Commission is the lead agency under CEQA with respect to the determination of environmental consideration in connection with the project under consideration.

11. The proposed project will have no significant effect on the environment due to circumstances peculiar to the project as set forth in a Negative Declaration by staff.

12. As no comments to the Negative Declaration issued by the Commission have been received, a public hearing is not necessary.

Conclusions of Law

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

2. Applicant is subject to the fee system set forth in PU Code Section 401, et seq.

3. The appropriate surcharge pursuant to Conclusions of Law 2 is 0.1% for the fiscal year 1987-1988.

4. The wholesale and retail tariffs set forth in Appendix A should be adopted.

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.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Stockton Cellular Telephone Company to construct and operate a cellular mobile telecommunications system in the Stockton cellular geographic service area.

2. On or after the effective date of this order, applicant is authorized to file wholesale and resale tariff schedules substantially in accordance with Exhibit K to Application 87-06-019. Rates and charges shall be as set forth in this decision. The filing shall comply with General Order Series 96 and shall be effective on not less than five days after filing.

3. Applicant shall maintain accounting records in conformity with the Uniform System of Accounts for cellular communications companies.

4. Applicant shall notify the Commission in writing of the date it commences service.

5. Applicant shall pay a user fee as a percentage of gross intrastate revenues pursuant to PU Code Sections 431-435.

6. In constructing its system, applicant shall undertake the environmental mitigation measures identified in the Negative Declaration as lawfully required by local authority.

7. Applicant shall construct and operate the system to meet Federal Communications Commission coverage requirements.

8. The Executive Director shall file a Notice of Determination as required by Public Resources Code with the Office of Planning and Research as set forth in Appendix A to this decision.

9. The corporate identification number assigned to Stockton Cellular Telephone Company is U-5012-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 as set forth above.

This order is effective today.

Dated NOV 25 1987, at San Francisco, California.

STANLEY W. HULETT
President

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