

ORIGINAL

Decision 88-02-012 February 10, 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Mission Bell Telecommunications)
 Corporation for a Certificate of)
 Public Convenience and Necessity to)
 Operate as a Reseller of Cellular)
 Radio Telecommunications Services)
 Within California. (U-4059-C))

Application 87-10-036
(Filed October 28, 1987)

OPINION

Mission Bell Telecommunications Corporation, a California corporation, requests a certificate of public convenience and necessity authorizing it to operate as a reseller providing cellular radio services within California.

Notice of the filing of the application appeared in the Commission's Daily Calendar on November 3, 1987. The application shows that copies of the application were served on 57 entities with which the requested service may be competitive. No protests to the application have been received.

Applicant does not intend to construct, own, or operate any cellular radio facilities. Rather, it will buy cellular radio telephone numbers from Pac Tel Cellular, a cellular carrier, in bulk at a discounted rate and resell those cellular radio telephone numbers to end users. Applicant intends to act as a reseller of cellular radio service in Los Angeles, and any other California cities where a cellular radio system may be licensed to operate.

Applicant states that it will be responsible for paying all charges it incurs to Pac Tel Cellular. Applicant will collect from its customers all charges incurred by the customer and owed Applicant.

Applicant proposes to resell cellular radio services in Los Angeles at the following rates:

effective after a reasonable waiting period determined by the Commission.

Applicant, pursuant to Sections 829 and 853 of the Public Utilities Code, also seeks an exemption from the provisions of Sections 816-830 and 851-855 which require Commission approval prior to issuance of debt equity or encumbrance of property by a public utility. Strict enforcement of these provisions would only impede competition while it would provide no attendant protection to consumers.

Upon certification, applicant should be subject to reporting requirements deemed appropriate by this Commission. One of these requirements relates to the manner in which applicant's records are maintained. Until a uniform system of accounts for cellular resellers has been prescribed, the Commission will not issue detailed account instructions. However, each cellular communications company is expected to maintain its books of account 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 subaccounts, 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, building expense, salaries,

CORRECTION

**THIS DOCUMENT HAS
BEEN REPHOTOGRAPHED**

TO ASSURE

LEGIBILITY

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Applicant states that it will be responsible for paying all charges it incurs to Pac Tel Cellular. Applicant will collect from its customers all charges incurred by the customer and owed Applicant.

Applicant proposes to resell cellular radio services in Los Angeles at the following rates:

Connection Charge	\$50.00
Monthly Access Charge	45.00
Peak Minute Usage	.45
Off-Peak Minute Usage	.27

Applicant states that its rates are derived from, and subject to, the wholesale rates set by the underlying cellular carrier from which it purchases cellular service. These wholesale rates are contained in the formal tariffs filed by the underlying cellular carrier. Applicant states that if it is required by the Commission as a condition of authority to operate, Applicant will file a formal tariff.

Applicant submits the following in support of its belief that the public convenience and necessity require Commission approval of its application:

- a. Applicant's proposed cellular resale services are designed to meet the cellular radio service needs of subscribers of all sizes, including residential and small business subscribers.
- b. Applicant's proposed resale of cellular service will provide competition in the cellular radio service market which will benefit the public at large and could lead to lower rates.
- c. Commission approval of the instant application and the principle of competition within the cellular radio service market will bring about long-term benefits to California cellular subscribers.

The Commission's order granting authority to Applicant will require the filing of tariffs setting forth the proposed services and charges offered by Applicant. Applicant contends that such rates, which need not be supported by cost data since the marketplace will dictate price, should become automatically

effective after a reasonable waiting period determined by the Commission.

Applicant, pursuant to Sections 829 and 853 of the Public Utilities Code, also seeks an exemption from the provisions of Sections 816-830 and 851-855 which require Commission approval prior to issuance of debt equity or encumbrance of property by a public utility. Strict enforcement of these provisions would only impede competition while it would provide no attendant protection to consumers.

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4. Expense accounts should be grouped to provide a total for sales and marketing expense. This would include, in subaccounts, 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, building expense, salaries,

insurance, and other appropriate subdivisions.

6. Other significant costs, such as unsold numbers inventory, should be separately identified.

Applicant should be directed to file an annual report with the Commission, in a form prescribed by this Commission. Applicant will be expected to have detailed operating information available in its records.

As one of many resellers of cellular service, Applicant contends that it will be a nondominant carrier. Applicant estimates that at the end of its first full year of operation, it will have 500 subscribers in California and by the end of its fifth full year of operation will have 10,000 customers. The proposed operation will have two primary sources of funding as shown by the application: two named individuals will advance to Applicant a total of \$115,000 and a St. Louis concern will advance to Applicant approximately \$750,000.

Findings of Fact

1. Applicant requests a certificate of public convenience and necessity to operate as a resale carrier providing cellular radio service within California.
2. No protests to the application were received.
3. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
4. Applicant has the ability and financial resources to perform the proposed service.
5. Applicant is a nondominant carrier.
6. Resellers have been granted an exemption from Sections IV, V, and VI of General Order (GO) 96-A and have been permitted to make requested tariff changes on 15 days' notice.

7. By Decision (D.) 85-07-081, and as modified by D.85-11-044 and D.86-08-057 nondominant carriers were granted specific exemptions from PU Code Sections 816-830 and 851-854.

8. Each cellular communications company is expected to maintain its books of account in such detail that financial data relating to its operations can be assembled upon request.

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

10. Public convenience and necessity require the grant of this application.

11. A public hearing is not necessary.

Conclusions of Law

1. The application should be granted to the extent provided in the following order.

2. Applicant should be exempt from the provisions of Sections IV, V, and VI of this Commission's GO Series 96 and allowed to file tariff revisions to become effective on 15 days' notice.

3. Applicant should be exempt from PU Code §§ 816-830, and, when the acquisition of controlling interest of a reseller or another public utility is not involved, should be subject to modified provisions of PU Code §§ 851-854 as set forth in D.86-08-057.

4. The fee (surcharge) which applicant is subject to for the 1987-1988 fiscal year should be .1%.

5. Because of the immediate need for 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 certificate 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 certificate or right.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Mission Bell Telecommunications Corporation (applicant) to operate as a reseller of cellular radio telecommunications services within California.

2. On or after the effective date of this order, applicant is authorized to file tariff schedules at the proposed rates as shown on page 3 of Application 87-10-036 for the resale of cellular mobile radiotelephone service purchased from Pac Tel Cellular in Southern California. Service may not be offered until tariffs are on file. Tariffs must be filed to comply with General Order (GO) Series 96, except that, applicant is authorized to employ the alternative method of page numbering described in Resolutions U-275 and T-4886, at its election.

3. The initial tariff filing authorized in Ordering Paragraph 2 shall contain at least the Preliminary Statement, Table of Contents, and Rate Schedules, the rates and charges to be those requested by Applicant in its application, together with the remaining retail tariff provisions authorized to Los Angeles SMSA Limited Partnership by D.84-04-014, the filing to be effective on not less than five days' notice. Applicant shall file the remaining tariff schedules, to include rules and forms as prescribed by GO Series 96, no later than 10 days following the effective date of this order, to be effective on not less than five days' notice. The tariff shall provide for a user fee surcharge of 0.10%. Failure to file the tariff may result in revocation of the authority granted here.

4. Applicant is authorized to file rates and charges for resale of services purchased from authorized underlying cellular telecommunications carriers in other areas of California, in accordance with the provisions of Section III of GO Series 96.

5. Applicant is exempted, in part, from the provisions of Sections IV, V, and VI or GO Series 96 and is authorized to make tariff revisions effective on 15 days' notice.

6. Applicant is exempted from the provisions of PU Code Sections 816-830.

7. Applicant is exempted from the provisions of PU Code Section 851 when the transfer or encumbrance of property serves to secure debt; and when the acquisition of a controlling interest of a reseller is not involved, is subject to modified requirements of PU Code Sections 851-854. However, in noncontroversial applications for authority to transfer assets or control under PU Code §§ 851-855, such authority may be granted by the Commission's Executive Director as specified in D.86-08-057.

8. Applicant shall maintain its books of account as detailed on pages 3 and 4 of this decision.

9. Applicant shall file an annual report with this Commission, in a form prescribed by this Commission.

10. Applicant is subject to the user fee as a percentage of gross intrastate revenue under PU Code Section 451, et seq.

11. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.

12. Within 20 days after this order is effective, applicant shall file a written acceptance of the certificate granted in this proceeding.

13. The corporate identification number assigned to applicant is U-4059-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.

14. The application is granted as set forth above.

This order is effective today.

Dated FEB 10 1988, at San Francisco, California.

STANLEY W. HULETT
President

DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
Commissioners

Commissioner John B. Ohanian
being necessarily absent, did not
participate.

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


Victor Weiszer, Executive Director

Decision _____

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8. Applicant shall maintain its books of account as detailed on pages 6 and 7 of this decision.

9. Applicant shall file an annual report with this Commission, in a form prescribed by this Commission.

10. Applicant is subject to the user fee as a percentage of gross intrastate revenue under PU Code Section 451, et seq.

11. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.

12. Within 20 days after this order is effective, applicant shall file a written acceptance of the certificate granted in this proceeding.

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