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ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 PACIFIC WEST CELLULAR for a certi-)
 ficate of Public Convenience and)
 Necessity to Operate as a Reseller)
 of Cellular Radio Telecommunications)
 Services Within California.)
 (U-4061-C))

Application 87-12-039
 (Filed December 21, 1987;
 amended February 3, 1988)

OPINION

Applicant Gerhard Randel, doing business as Pacific West Cellular, seeks a certificate of public convenience and necessity (CPC&N) pursuant to Public Utilities (PU) Code Section 1001 to operate as a reseller of cellular telecommunications services in California. Initially applicant proposes to provide cellular resale service in the Santa Barbara Cellular Geographic Service Area (CGSA), in Santa Barbara County.

Applicant proposes to resell cellular radio telecommunications services furnished at wholesale rates by the Santa Barbara Cellular Systems, Ltd. (SBC), the cellular system nonwireline resale carrier in the Santa Barbara CGSA.

Applicant states he has three years of experience in sales and installation experience in the cellular service and equipment industry. Applicant estimates he will provide cellular resale services to 600 customers in his first year of operations, 800 in the second year of operations, and 1,000 in the third year of operations. Based on access charge revenues, applicant projects service to 4,800 customers in the fifth year of his operations. Applicant's pro forma income statement projects a profit in the first year of his operations.

Rates

Applicant proposes to conform his tariff rates to the retail rates being charged by SBC. Initially he proposes the rates and charges tabulated below. His proposed usage charges are the same as SBC's retail usage charges. His proposed connection charge is \$10 greater than SBC's and his access charge is \$5 per month less than SBC's.

General Resale Rates and Charges

Connection Charge	\$25.00
Monthly Access Charge	45.00
Peak Minute Usage	0.45
Off-peak Minute Usage	0.27

Pacific West Accessories, another sole proprietorship owned by applicant, has assets and a line of credit available to applicant as needed. Appendix A of the application contains financial statements for Pacific West Accessories. As of June 30, 1987, it showed assets of \$12,678, liabilities of \$1,696, a proprietary interest of \$10,982, and net income for six months ending June 30, 1987 of \$17,035.

By letter dated November 18, 1987, a representative of Wells Fargo Bank states that the bank would make available a business line of credit to Randel of up to \$30,000 at an interest rate on the line of credit equal to the bank's prime rate plus 2.75%. There would be a line of credit loan fee of \$250.

Decision (D.) 84-04-014 dated April 4, 1984 in Application (A.) 83-01-12 for a CPC&N to provide a cellular radio communications system in the Los Angeles area provided tariffs including rates for both wholesale and retail sale of cellular service. These tariff provisions were reviewed in detail before being authorized. It is our intent that such tariff provisions be used as a model for resellers in California. Consequently, we will require the filing of retail tariffs generally similar to the

retail provisions authorized by D.84-04-014 for all reseller applications.

We recognize that the tariffs actually filed may be somewhat abbreviated from those of the primary carrier; however, they must include the usual Table of Contents, Preliminary Statement, Rate Schedules, List of Contracts and Deviations, Rules, and Sample Forms, as prescribed in Section II of General Order Series 96 (GO 96). We will permit the initial filing to contain only the Preliminary Statement, Table of Contents, and Rate Schedules, to be effective on five days' notice, for the initial filing rather than the one-day notice requested by applicant. To comply with Commission Resolution T-12060 (dated January 13, 1988), applicant's initial rate schedule should include a special condition indicating at least a 50% reduction in chargeable time for cellular-initiated telephone calls which are not completed. The remaining material should be prepared promptly and transmitted to the Commission Advisory and Compliance Division by advice letter for review and filing per GO 96. The second filing should include a sample customer billing statement which clearly distinguishes charges for cellular-initiated telephone calls which are not completed from any other service charge on the billing invoice. We will authorize applicant to deviate from the page numbering system prescribed by GO 96, Section II.C.(1)(b), and to substitute at its election the system generally employed by the major wireline carriers, as described in Commission Resolutions U-275 (dated March 25, 1947) and T-4886 (dated February 26, 1962).

Sections IV, V, and VI of GO 96 relate to filed and effective dates, procedures in filing tariff sheets which do not increase rates or charges, and procedures in filing increased rates, respectively. In general, these provisions require a showing before this Commission justifying any increase and provide that rates will become effective 40 days after filing tariff sheets which do not increase rates, or 40 days after filing an authorized

increase unless Commission authorization for a shorter period is obtained.

At this time, the considerations repeated in several recent decisions on applications of cellular radiotelephone service resellers still hold. It appears that the cellular market will be a highly competitive one. The basic scheme established by the Federal Communications Commission (FCC) 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.

Our traditional tariff filing requirement of a 40-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 resellers to make the requested tariff changes on 15 days' notice.

Applicant is subject to the fee system set forth in PU Code Section 401, et seq. and will be ordered to provide in its tariff rules for the imposition of the billing surcharge prescribed for the required fee by Resolution M-4743. Applicant will be required to keep its records as described here.

Until a uniform accounting system for cellular resellers 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, e.g.:

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, billing expense, salaries, insurance, and other appropriate subdivisions.
6. Other significant costs, such as unsold numbers, should be listed.

Applicant will be directed to file an annual report with the Commission, in a form prescribed by the Commission. Although applicant 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.

Applicant states there would be no impact on the environment from its resale operations. No external construction is necessary to implement applicant's resale proposal.

There are no protests.

Findings of Fact

1. Applicant has the ability, experience, and financial resources to perform the proposed service.
2. Public convenience and necessity require the service proposed by applicant.

3. Applicant should file a set of tariffs similar in scope to the retail tariffs set forth in D.84-04-014 modified to comply with Resolution T-12060.

4. The time constraints of Sections IV, V, and VI of GO 96 are unduly restrictive at this time.

5. At this time, it appears that the cellular market will be highly competitive.

6. Applicant's proposed operations will provide competition in the cellular radio service market which will benefit the public at large.

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

8. Applicant should keep its records as described in the body of this decision.

9. A public hearing is not necessary.

Conclusions of Law

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

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

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

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

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 applicant Gerhard Randel to operate as a reseller of cellular radio telecommunication 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 in the amendment to its application for the resale of cellular mobile radiotelephone service in the Santa Barbara Geographic Service Area purchased from the Santa Barbara Cellular Systems, Ltd, modified to comply with Resolution T-12060 as discussed above. Service may not be offered until tariffs are on file. This filing shall comply with General Order Series 96 (GO 96), except that applicant is authorized to employ the alternate method of page numbering described in Resolutions U-275 and T-4886 at his election. The initial filing shall contain at least the Preliminary Statement, Table of Contents, and Rate Schedules, the rates and charges to be those requested by applicant in his application, together with the remaining retail tariff provisions authorized for the Los Angeles SMSA Limited Partnership by Decision 84-04-014 modified to conform with Resolution T-12060. The filing is to be effective on not less than 5 days' notice. Applicant shall file the remaining tariff schedules, to include rules and forms as prescribed by GO 96, no later than 10 days following the effective date of this order, to be effective on not less than 5 days' notice. This filing shall contain the sample customer billing form conforming to Resolution T-12060. 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.

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

3. Applicant shall keep its records as detailed in the body of this order.

4. The certificate of public convenience and necessity is granted as set forth above. Applicant is exempted, in part, from the provisions of Sections IV, V, and VI of GO 96. The certificate granted and the authority to render service under the rates, rules, and charges authorized will expire if not exercised within 12 months after the effective date of this order.

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

6. The corporate identification number assigned to applicant is U-4061-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.


7. The application is granted as set forth above.
This order is effective today.

Dated April 13, 1988, at San Francisco, California.

STANLEY W. HULETT
President
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

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


Victor Weisser, Executive Director