

Decision 88 08 062 AUG 24 1988
**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 Redding Cellular Partnership for a )  
 Certificate of Public Convenience )  
 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 telecommunication service )  
 to the public in the Redding MSA )  
 encompassing Shasta County. )  
 (U-3020-C) )

 Application 88-07-008  
 (Filed July 6, 1988)
INTERIM OPINIONBackground

In 1982, the Federal Communications Commission (FCC) determined that a need for a cellular service had been established throughout the nation and that this service, with new cellular technology, would offer superior transmission quality and privacy with far greater capacity than conventional mobile radiotelephone service in use. Therefore, the FCC established a market structure for cellular systems (Memorandum Opinion and Order on reconsideration, 47 Fed. Reg. 1018, 1003-34: 89 FCC 2nd (1982)).

The FCC market structure allocates two blocks of frequencies within each Cellular Metropolitan Statistical Area (MSA): "A Block" frequencies and "B Block" frequencies. An FCC permit for the A Block frequencies within a MSA is designated to a non-wireline entity or individual. An FCC permit for the B Block frequencies within a MSA is designated to a wireline telephone company located within the MSA.

Application

Redding Cellular Partnership (applicant), a California general partnership, requests a certificate of public convenience and necessity (CPC&N) to construct and operate a new domestic

public cellular radio telephone service to the public within the Redding MSA, encompassing Shasta County. Applicant, a non-wireline entity, proposes to operate its cellular service on the A Block frequencies.

McCaw Communications of Redding, Inc. (McCaw Redding), which owns a 50.01% interest in the partnership, is applicant's majority partner. McCaw Redding is wholly owned by McCaw Cellular Communications, Inc. (McCaw Cellular), a diverse communications holding company which provides paging, traditional mobile telephone, and cellular radio telecommunications services. California affiliates of McCaw Cellular include Fresno Cellular Telephone Company and Sacramento Cellular Telephone Company. A complete list of applicant's partners is shown in Appendix A-1 to Exhibit A of the application.

Copies of the application have been served on the cities and county within the proposed service area and on other entities with which applicant's proposed service is likely to compete, as shown in the certificate of service attached to the application.

Notice of the application appeared in the Commission's Daily Calendar of July 11, 1988. Cellular Resellers Association, Inc. (CRA) filed a protest to the application on August 5, 1988.

#### FCC Permit

The FCC issued Kerry L. Hurlebaus the non-wireline permit to construct a cellular system on the A Block frequencies within the Redding MSA on March 31, 1987, Exhibit F to the application. Hurlebaus, with FCC approval, assigned the permit to Mobile Phone, Inc. on March 31, 1987. Subsequently, Mobile Phone, Inc. obtained FCC authority to assign the permit to applicant, effective September 14, 1987. The requisite FCC permit is assigned to applicant.

#### Expedited Ex Parte Authority

Applicant requests ex parte approval of its application by the Commission at the August 10, 1988 meeting. Applicant

represents that expedited authority is warranted because it will lose its FCC permit if the proposed cellular system is not constructed and ready to initiate service by September 30, 1988, its wireline competitor in the Redding MSA (Sacramento Valley Limited Partnership) is authorized to offer similar services, and no protests were filed when applicant's competitor proposed similar service in the Redding MSA.

Applicant's reasons for expedited authority are not persuasive. Although applicant represents that the FCC rules and regulations require a cellular system to be constructed and ready to initiate service within 18 months from the date a permit is issued, the FCC will grant an 8-month extension when state law permits construction before state certification is obtained. (47 CFR 22.43.)

Applicant presented no reason for filing its application 10 months after obtaining the requisite FCC permit and 2 months before the date the FCC requires the cellular system to be constructed. Applicant's wireline competitor concern is not supported. The wireline competitor has had authority to operate since March 1988. Regardless of applicant's belief that no protests will be filed, interested parties are provided thirty days to file a protest, pursuant to Rule 8.2 of the Commission's Rules of Practice and Procedure. As discussed previously, CRA did file timely a protest to this application.

Applicant's request for expedited ex parte authority to construct and operate a cellular system is denied. However, because there is no protest to the construction of the proposed cellular facilities, this opinion will address applicant's proposed construction, cellular system, environmental report, and financial status. A subsequent decision will address the reasonableness of applicant's proposed rates and CRA's protest.

### Proposed Cellular System

Applicant proposes to provide mobile to land, land to mobile, and mobile to mobile cellular service. This cellular system will consists of a mobile telephone switching office (MTSO), cell sites, cell site connections, and mobile or portable subscriber units.

The MTSO will control the cellular system and will be interconnected with the land line telephone network, microwave facilities (if and when utilized), and the cell sites. Each cell site in the cellular system will consist of fixed radio equipment. The radio equipment will interface with mobile and portable units operating within the cell site's geographical area.

The cellular system and the land line telephone network will be connected through central office connecting circuits. The cell sites to the MTSO and the MTSO to the land line central offices will be connected through dedicated private-line facilities and/or microwave.

Applicant's system will initially consist of one cell site located at 310 Lake Boulevard, Redding (Lat. 40° 36' 37" N, Long. 122° 22' 44" W). Rather than constructing its own MTSO applicant will share Sacramento Cellular Telephone Company's (SCTC) Sacramento MTSO. Like applicant, SCTC is an affiliate of McCaw Cellular.

### Environmental Review

Applicant filed a Proposed Environmental Assessment (PEA) with its application pursuant to Rule 17.1(h) of the Commission's Rules of Practice and Procedure, Exhibit K to the application. Applicant requests that the Commission, acting as the lead agency under the California Environmental Act (CEQA), issue a finding that applicant is categorically exempt under CEQA.

The Commission staff has reviewed the environmental aspects of the proposed initial construction project for the cell site. The only construction involved in the proposed facilities

will consist of the installation of a cellular transmitter and receiver unit on an existing radio tower in Redding. The existing tower will be extended 13 feet to accommodate the new transmitter. The total height of the tower will not exceed the local permit control. Therefore, the Commission staff recommends that a categorical exemption to an environmental impact report be granted, pursuant to Public Resources Code Section 21084, CEQA Guidelines' Section 15301 and 15303, and Public Utilities Rule 17.1(h) of the Commission's Rules of Practice and Procedure.

Applicant's Environmental Impact Assessment Summary copied as Appendix B to this interim opinion should be adopted. A Notice of Categorical Exemption on applicant's project to construct a cellular system which will be sent to the Office of Planning and Research from this Commission is attached to this interim opinion as Appendix A.

#### Initial Construction Funding

Applicant will purchase its cellular mobile telephone system from Ericsson, Inc. (Ericsson), a distributor of cellular systems. Total capital requirements to construct and install the proposed facilities is projected to cost \$275,000. Applicant expects the need for an additional \$1.5 million by the end of the fifth year of operation.

The necessary funds to construct and operate the proposed system will be provided by applicant's partners. Applicant's majority shareholder, McCaw Redding, states in its Declaration of Partner Re Financing that, through McCaw Cellular, it is committed to provide the necessary capital contributions. To the extent that a minority partner does not contribute its share of the necessary capital, McCaw Redding will provide the noncontributing partner's share. Financial statements attached to this commitment show that, as of March 31, 1988, McCaw Cellular has a 3 to 1 current asset ratio, or \$203,822,000 more current assets than current

liabilities, and \$55,853,000 of equity. We find that applicant is financially qualified to construct the proposed facilities.

Conclusion

Applicant should be granted a limited CPC&N to construct its proposed cellular system. Such limited authority shall preclude applicant from operating its proposed cellular system pending further authorization from this Commission.

Findings of Fact

1. Applicant requests a CPC&N to construct and operate a new domestic public cellular radio telephone service within the Redding MSA.
2. McCaw Redding owns a 50.01% interest in applicant.
3. Copies of the application have been served on the cities and county within the proposed service area and on other entities with which applicant's proposed service territory is likely to compete.
4. Notice of the application appeared in the Commission's Daily Calendar of July 11, 1988.
5. CRA filed a protest to the application.
6. The FCC permit was issued to Hurlebaus on March 31, 1987.
7. The requisite FCC permit was assigned to applicant on September 14, 1987.
8. The assignment of the FCC permit to applicant did not change the date construction must be completed under the FCC rules.
9. The FCC rules and regulations require a cellular system to be constructed and ready to initiate service within 18 months from the date a permit is issued.
10. Construction must be completed by September 30, 1988.
11. The proposed operation is technically feasible.
12. The Commission is the lead agency under CEQA for determination of environmental effects of the project under consideration.

13. The Commission staff recommends that applicant be granted a categorical exemption under CEQA.

14. The necessary funds to construct and operate the proposed system will be provided by applicant's partners.

15. McCaw Redding will provide its share of the necessary funds to construct and operate the proposed facilities. McCaw Redding will also provide any noncontributing partner's share of necessary funds.

16. McCaw Cellular is McCaw Redding's parent corporation.

17. McCaw Cellular has a 3 to 1 current asset ratio and \$55,853,000 of equity, as of March 31, 1988.

18. Applicant is financially qualified to construct the proposed cellular system.

19. Public Convenience and Necessity require the grant of a limited CPC&N to construct applicant's proposed facilities.

Conclusions of Law

1. Applicant should not be granted expedited ex parte authority to construct and operate a new domestic public cellular radio telephone service within the Redding SMA.

2. Applicant should be granted a CPC&N limited to authority to construct public utility radio telecommunications facilities with one cell site located in Redding, as identified in the application.

3. A categorical exemption under CEQA, attached as Appendix A to this interim opinion, should be adopted.

4. Applicant should be required to send a copy of this decision to concerned local permitting agencies.

5. The following interim order should be effective on the date the interim order is signed because public convenience and necessity requires prompt construction of applicant's cellular system.

INTERIM ORDER

IT IS ORDERED that:

1. Redding Cellular Partnership's (applicant) request for expedited ex parte authority to construct and operate a new domestic public cellular radio telephone service within the Redding Metropolitan Statistical Area is denied.

2. A certificate of public convenience and necessity is granted to Redding Cellular Partnership limited to the construction of a cell site at 310 Lake Boulevard, Redding (Lat. 44° 36' 37" N, Long. 122° 22' 44" W).

3. Applicant shall not operate this system in service to the public without further authorization from this Commission.

4. A categorical exemption under the California Environmental Act as set forth in Appendix A to this interim decision is approved.

5. For future antenna sites which would allow the system to serve a larger area, applicant shall submit environmental information to the Commission prior to construction of such antennas. The Commission 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.

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

7. Applicant shall send a copy of this decision to concerned local permitting agencies not later than 30 days from today.

8. The Commission does not, by this interim order, determine that applicant's construction program is necessary or reasonable



for ratemaking purposes. These issues are normally tested in general rate making proceedings.

9. The corporate identification number assigned to Redding Cellular Partnership is U-3020-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.


This order is effective today.

Dated AUG 24 1988, 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 Weiss, Executive Director  
*JS*

APPENDIX A  
NOTICE OF EXEMPTION

TO: Office of Planning and Research  
1400 - 10th Street, Room 121  
Sacramento, CA 95814

FROM: California Public Utility Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

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Project Title

Redding Cellular Partnership Telephone Project

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Project Location - Specific

310 Lake Blvd.

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Project Location - City

Redding

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Project Location - County

Shasta

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Description of Nature, Purpose, and Beneficiaries of Project

The California Public Utility Commission is proposing to grant a certificate of Public Convenience and Necessity for the installation of a cellular telephone transmitter/receiver unit on an existing radio tower in Redding. The installation of this system will allow the expansion of cellular telephone service to the northern Sacramento Valley area. The existing tower will be extended by 13 feet to accommodate the new transmitter. The total height of the tower will not exceed the local permit conditions.

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Name of Public Agency Approving Project

California Public Utilities Commission

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Name of Person or Agency Carrying Out Project

California Public Utilities Commission

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Exempt Status:

- ☐ Ministerial (Sec. 15073)
- ☐ Declared Emergency (Sec. 15071 (a))
- ☐ Emergency Project (Sec. 15071 (b) and (c))
- ☒ Categorical Exemption. Class 1, Section 15301 and Class 3, Section 15303

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Reasons why project is exempt:

The proposed project consists of the installation of cellular telephone communication equipment on an existing radio tower.

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Contact Person	Area Code	Telephone	Extension
Elaine N. Russell	(916)	324-6195	

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Date Received for Filing

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Victor Weisser  
Executive Officer

(END OF APPENDIX A)

## APPENDIX B

ENVIRONMENTAL IMPACT ASSESSMENT SUMMARY / CHECKLISTENVIRONMENTAL CHECKLISTENVIRONMENTAL IMPACTS

(Explanations of all "YES" and "MAYBE" answers are provided following)

	YES	MAYBE	NO
1. <u>EARTH</u> . Will the proposal result in:			
a. Unstable earth conditions or in changes in geological substructures?	—	—	<u>X</u>
b. Disruptions, displacements, compaction or overcovering of the soil?	—	—	<u>X</u>
c. Change in topography or ground surface relief features?	—	—	<u>X</u>
d. Destruction, covering or modification of unique geological or physical features?	—	—	<u>X</u>
e. Any increase in wind or water erosion of soils, either on or off site?	—	—	<u>X</u>
f. 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?	—	—	<u>X</u>
g. Exposure of people or property to geological hazards such as earthquakes, landslides, mudslides, ground failure or similar hazards?	—	—	<u>X</u>
2. <u>AIR</u> . Will the proposal result in:			
a. Substantial air emissions or deterioration of ambient air quality?	—	—	<u>X</u>
b. The creation of objectionable odors?	—	—	<u>X</u>
c. Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?	—	—	<u>X</u>

	YES	MAYBE	NO
3. <u>WATER</u> . Will the proposal result in:			
a. Changes in currents, or the course or direction of water movements, in either marine or fresh waters?	—	—	X
b. Changes in absorption rates, drainage patterns, or the rate and amount of surface water runoff?	—	—	X
c. Alterations to the course or flow of flood waters?	—	—	X
d. Change in the amount of surface water in any water body?	—	—	X
e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?	—	—	X
f. Alteration of the direction or rate of flow of ground waters?	—	—	X
g. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations?	—	—	X
h. Substantial reduction in the amount of water otherwise available for public water supplies?	—	—	X
i. Exposure of people or property to water-related hazards such as flooding or tidal waves?	—	—	X
4. <u>PLANT LIFE</u> . Will the proposal result in:			
a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)?	—	—	X
b. Reduction of the numbers of any unique, rare or endangered species of plants?	—	—	X
c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?	—	—	X

	YES	MAYBE	NO
d. Reduction in acreage of any agricultural crop?	—	—	<u>X</u>
5. <u>ANIMAL LIFE</u> . Will the proposal result in:			
a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms, insects)?	—	—	<u>X</u>
b. Reduction of the numbers of any unique, rare or endangered species of animals?	—	—	<u>X</u>
c. Introduction of new species of animals into an area, or a barrier to the migration or movement of animals?	—	—	<u>X</u>
d. Deterioration to existing fish or wild-life habitat?	—	—	<u>X</u>
6. <u>NOISE</u> . Will the proposal result in:			
a. Increases in existing noise levels?	—	—	<u>X</u>
b. Exposure of people to severe noise levels?	—	—	<u>X</u>
7. <u>LIGHT &amp; GLARE</u> . Will the proposal produce new light or glare?	—	—	<u>X</u>
8. <u>LAND USE</u> . Will the proposal result in a substantial alteration of the present or planned land use of an area?	—	—	<u>X</u>
9. <u>NATURAL RESOURCES</u> . Will the proposal result in:			
a. Increase in the rate of use of any natural resource?	—	—	<u>X</u>
b. Substantial depletion of any non-renewable natural resource?	—	—	<u>X</u>
10. <u>RISK OF UPSET</u> . Will the proposal involve:			
a. Risk of an explosion or the release of hazardous substances (including, but not limited to, oil, pesticides, chemicals, or radiation) in the event of an accident or upset conditions?	—	—	<u>X</u>

	YES	MAYBE	NO
b. Possible interference with an emergency response plan or an emergency evacuation plan?	—	—	<u>X</u>
11. <u>POPULATION</u> . Will the proposal alter the location, distribution, density, or growth rate of the human population of an area?	—	—	<u>X</u>
12. <u>HOUSING</u> . Will the proposal affect existing housing, or create a demand for additional housing?	—	—	<u>X</u>
13. <u>TRANSPORTATION/CIRCULATION</u> . Will the proposal result in:			
a. Generation of substantial additional vehicular movement?	—	—	<u>X</u>
b. Effects on existing parking facilities, or demand for new parking?	—	—	<u>X</u>
c. Substantial impact upon existing transportation systems?	—	—	<u>X</u>
d. Alterations to present patterns of circulation or movement of people and/or goods?	—	—	<u>X</u>
e. Alterations to waterborne, rail or air traffic?	—	—	<u>X</u>
f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	—	—	<u>X</u>
14. <u>PUBLIC SERVICES</u> . Will the proposal have an effect upon, or result in a need for new or altered governmental services in any of the following areas:			
a. Fire protection?	—	—	<u>X</u>
b. Police-protection?	—	—	<u>X</u>
c. Schools?	—	—	<u>X</u>
d. Parks or other recreational facilities?	—	—	<u>X</u>
e. Maintenance of public facilities, including roads?	—	—	<u>X</u>
f. Other governmental services?	—	—	<u>X</u>
15. <u>ENERGY</u> . Will the proposal result in:			

	YES	MAYBE	NO
a. Use of substantial amounts of fuel or energy?	—	—	<u>X</u>
b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?	—	—	<u>X</u>
16. <u>UTILITIES</u> . Will the proposal result in a need for new systems, or substantial alterations to the following utilities:			
a. Power or natural gas?	—	—	<u>X</u>
b. Communications systems?	—	—	<u>X</u>
c. Water?	—	—	<u>X</u>
d. Sewer or septic tanks?	—	—	<u>X</u>
e. Storm water drainage?	—	—	<u>X</u>
f. Solid waste and disposal?	—	—	<u>X</u>
17. <u>HUMAN HEALTH</u> . Will the proposal result in:			
a. Creation of any health hazard or potential health hazard (excluding mental health)?	—	—	<u>X</u>
b. Exposure of people to potential health hazards?	—	—	<u>X</u>
18. <u>AESTHETICS</u> . Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?	—	—	<u>X</u>
19. <u>RECREATION</u> . Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?	—	—	<u>X</u>
20. <u>CULTURAL RESOURCES</u>			
a. Will the proposal result in the alteration of or the destruction of a prehistoric or historic archaeological site?	—	—	<u>X</u>

	YES	MAYBE	NO
b. Will the proposal result in adverse physical or aesthetic effects to a prehistoric or historic building, structure, or object?	—	—	<u>X</u>
c. Does the proposal have the potential to cause physical change which would affect unique ethnic cultural values?	—	—	<u>X</u>
d. Will the proposal restrict existing religious or sacred uses within the potential impact area?	—	—	<u>X</u>
21. <u>MANDATORY FINDINGS OF SIGNIFICANCE.</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 the major periods of California history or prehistory?	—	—	<u>X</u>
b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.)	—	—	<u>X</u>
c. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)	—	—	<u>X</u>
d. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	—	—	<u>X</u>