

Decision **88 10 022**

OCT 14 1988

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CELLULAR SYSTEMS )  
INTERNATIONAL, INC., a California )  
Corporation for a Certificate of )  
Public Convenience and Necessity )  
to Resell Cellular Radiotelephone )  
Service in California. )

Application 88-06-002  
(Filed June 1, 1988)

### OPINION

This is an application in which Cellular Systems International, Inc. (applicant) seeks authority to operate as a reseller of radiotelephone service within California.

Notice of the filing of the application appeared in the Commission's Daily Calendar on June 7, 1988. There are no protests.

The Commission makes the following findings and conclusions.

#### Findings of Fact

1. A public hearing is not necessary in this matter.
2. Applicant is a newly formed California corporation. The majority of its shares are owned by Barry Goodwin of Santa Rosa.
3. Applicant proposes to operate as a resale carrier of radio telephone service within California. Initially, it will provide service to the San Francisco-San Jose Cellular Geographical Service Area (CGSA), the Santa Rosa-Petaluma CGSA, the Napa-Vallejo CGSA, the Sacramento-Stockton CGSA and the Monterey-Salinas CGSA.
4. Applicant proposes to resell service systems operated by various cellular carriers, including: Cagal Cellular Communications Corporation (Santa Rosa Cellular), Bay Area Cellular Telephone Company (BACTC), GTE Mobilnet of San Francisco and San Jose Limited Partnership (GTE Mobilnet) and Sacramento Cellular.

5. Applicant has provided a pro-forma balance sheet which indicates assets of \$146,537 as of April 30, 1988. A pro-forma income statement projects a net loss for the first year of operations and continually increasing net income thereafter.

6. Applicant has the ability, including financial ability, to conduct the proposed operations.

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. The Federal Communications Commission (FCC) has decided that only two cellular carriers will be allowed to operate in each CGSA, and that one of those two licenses should be awarded to a provider of conventional wireline telephone service and the other license to a non-wireline company. In many cellular markets, the FCC has awarded the wireline license years before it has chosen the non-wireline licensee, resulting in longstanding monopolies on the wholesale level. The Commission has recognized the role of cellular resellers in creating competition, so that consumers will be offered the best cellular service at the lowest price.

9. Public convenience and necessity require that the application be granted.

10. Although not mandatory, applicant attached proposed tariff pages to the application as Exhibit E. The Commission Advisory and Compliance Division (CACD) and other interested parties have had time for appropriate review of applicant's proposed tariff. CACD objects to Special Condition C because it is discriminatory. New subscribers or persons who have moved would be denied the benefit of this provision. It is reasonable to permit the filing of the tariff on not less than 5 days' notice provided Special Condition C is deleted or made available to all subscribers.

11. Applicant should be subject to the user fee as a percentage of gross intrastate revenue pursuant to Public Utilities

(PU) Code §§ 431-435. The fee is currently 0.1% for the 1988-89 fiscal year.

12. Sections IV, V, and VI of GO 96-A relate to filed and effective dates, procedures and the filing of tariff sheets which do not increase rates or charges, as well as procedures and filing to increase rates, respectively. In general, these provisions require a showing before this Commission justifying any increase and provide in the case of cellular resellers that rates will become effective 30 days after filing tariff sheets which do not increase rates or 30 days after filing an authorized increase unless Commission authorization for a shorter period is obtained.

13. Applicant's request for an exemption from the provisions of Sections IV, V, and VI of GO 96-A predated this Commission's recent modification of those sections. In D.88-05-067 the Commission specified that the Sections IV and V timeframe applicable to cellular resellers is 30 days. Applicant's exemption request is inconsistent with the Commission's determination in D.88-05-067. Applicant is also subject to the Commission's determination in D.88-05-067 exempting cellular resellers from the revenue limitation provisions of Section VI of GO 86-A.

Conclusions of Law

1. The application should be granted as provided herein.

2. Applicant should be subject to the provisions of this Commission's GO 96-A including Sections IV, V, and VI which have been modified by D.88-05-067.

3. Applicant is subject to a one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf. This surcharge becomes effective on October 1, 1988 as set forth in Resolution T-13005, dated July 22, 1988. (PU Code § 2881, as amended by SB 2268, signed June 30, 1988.)

4. Because of the public interest in effective competition, this order should be effective on the date of issuance.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly features of these rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity to operate as a telephone corporation as defined in PU Code § 234 for the purpose of operating as a reseller of cellular radiotelephone services within California is granted to Cellular Systems International, Inc. (applicant) in accordance with the terms of the application.

2. Applicant is authorized to file the tariff schedules and rates proposed in the application. Service may not be offered until tariffs are on file. This filing shall comply with General Order (GO) Series 96, except that, applicant is authorized to employ the alternative method of page numbering described in Commission Resolutions U-275 and T-4886, at its election.

3. Applicant is authorized to file with this Commission, after the effective date of this order, on not less than 5 days' notice to the public and Commission, the tariff schedules for its proposed service as shown in the application provided, however, that Special Condition C shall either be deleted or made available to all subscribers. 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 subject to the provisions of GO 96-A including Sections IV, V, and VI, as revised in D.88-05-067.

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

6. The corporate identification number assigned to applicant is U-4067-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 certificate of public convenience and necessity granted by this order shall expire within 12 months after the effective date of this order if applicant has not filed tariffs and commenced operations by that date.

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

This order is effective today.

Dated OCT 14 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.

*John Weiser*  
John Weiser, Executive Director

JB