

Decision 89 02 070 FEB 24 1989**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BUTTE COUNTY CELLULAR LICENSE)
 CORPORATION 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 Butte)
 County.)

Mailed

FEB 28 1989

Application 89-01-009
 (Filed January 10, 1989;
 amended February 8, 1989)

OPINIONSummary

Butte County Cellular License Corporation (Butte) is issued a certificate of public convenience and necessity (CPC&N) to construct and operate a new domestic public cellular radio telecommunication system to provide service throughout the Chico Metropolitan Statistical Area (MSA) encompassing all portions of Butte County, California. System coverage for the Chico cellular geographic service area (CGSA) is found to be adequate. Both the wholesale and retail rates proposed by Butte were found to be reasonable and are approved. Pursuant to Public Resources Code Section 21084, California Environmental Quality Act (CEQA) Guidelines Section 15301, and Public Utilities Rule 17.1(h) of the Commission's Rules of Practice and Procedure, a Class 1 categorical exemption to an environmental impact report (EIR) is granted.

Background

Butte currently operates as an agent of Cellisys, a reseller of cellular radiotelephone services in the Chico MSA. Cellisys purchases service at wholesale from Sacramento-Valley Limited Partnership, the cellular system wireline carrier in the

Chico MSA, and resells it to the public pursuant to tariffs filed with the Commission.

Butte County Cellular, Inc. (BCCI), formerly known as Cellular I of Chico, Inc., is the parent company of Butte. The Federal Communications Commission (FCC) selected it as the nonwireline cellular system carrier for the Chico MSA and on September 4, 1987, issued it authority to construct a cellular system to serve that area. The authority to construct three base radio stations (cell sites) in the Chico MSA was transferred to Butte on January 11, 1989. By this application Butte is seeking a CPC&N under Public Utilities (PU) Code § 1001 for authority to construct and operate a new domestic cellular radiotelephone service in the Chico MSA. Butte is also seeking immediate interim authority from this Commission to permit it to commence construction of the cellular system.

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 January 17, 1989. No protests to the granting of the application were filed.

Proposed System

The proposed cellular service will provide direct dialed mobile-to-land, land-to-mobile, and mobile-to-mobile service. The major components for the provision of such service are a mobile telephone switching office (MTSO), cell sites including antenna tower, building and radio equipment, interconnecting facilities (landline telephone facilities leased from Pacific Bell [Pacific], and/or microwave facilities leased or owned by Butte), and mobile and/or portable subscriber units. The MTSO controls the cellular system and interfaces with the landline telephone network microwave facilities (if and when utilized) and the cell sites. The radio

equipment at cell site interfaces with mobile and portable units operating within the cell site's geographic area. The interfacing between the cellular system and the public switched telephone network (PSTN) is undertaken through central office connecting circuits, known as PSTN interconnections. To link the cell sites to the MTSO and the MTSO to the PSTN central offices, dedicated private line facilities and/or microwave facilities will be used.

Each cell is assigned a designated set of frequencies which differ from neighboring cells to avoid interference. As a subscriber's cellular mobile unit moves from cell to cell, electronic equipment in the MTSO transfers the call from one cell to another which permits the maintenance of the service quality of a conversation throughout a wide geographic area without interruption.

Butte and Pacific entered into an interconnection agreement dated January 20, 1989 which provides for the necessary interconnection between the facilities operated by Butte and Pacific.

Butte intends to purchase its cellular mobile telephone system from NovAtel, Inc. (NovAtel). The estimated capital cost of equipment, construction, and installation for the initial service offering is \$1.2 million. An additional capital expenditure of \$1.04 million is expected during the second through fifth year of operation.

Butte's initial service proposal is based on a two-cell system covering over 900 square miles in the Chico MSA with a design criteria requiring 90% or greater probability that a signal will register -100 dBm at the cellular mobile unit. Such service is found to be adequate. The proposed two-cell configuration was developed with the aid of a computer program, which calculated the received signal levels in the desired Chico CGSA.

The two-cell sites thus developed are the Chico cell site and the Bloomer Mountain site. The Chico site is seven miles east

of Chico and the Bloomer Mountain site is located on Bloomer Mountain. The MTSO is co-located with the Chico site. The Chico cell consists of an existing approximately 175-foot high tower with an equipment building. Butte intends to place additional antennas on the tower and install a small modular building near the existing equipment building. The Bloomer Mountain site consists of a fairly substantial grouping of various private and public communication facilities in Bloomer Mountain. Butte intends to place two antennas and a microwave dish on the existing privately owned 120-foot tower. The transmission equipment will be installed in an existing equipment shelter at the base of the tower.

The MTSO, a NovAtel 800 CM, is a fully automatic 800 MHz band cellular mobile telephone system which will manage and control Butte's entire Butte County cellular operation. The heart of the system is a NovAtel Satellite Mobile Center (SMC) which, along with the Master Mobile Center (MMC) and base station equipment, is developed, designed, and manufactured within the NovAtel group. The SMC will be co-located with the cell site base station equipment and it will employ a switch specifically programmed to perform cellular system call processing, maintenance, and administrative functions. The 800 CM system is a fully stored program control digital switching system. The SMC can control 12 cells. Additional SMCs can be added to increase the number of cell sites. The current maximum capacity of the MMC/SMC is 56,000. The MMC/SMC switching system has been utilized by a very substantial user base around the world and has been proven to be reliable. The MMC/SMC software possesses capability which permits simplified administrative functions, automatic self-diagnostics and testing, and centralized remote maintenance and administration. Power to operate the 800 CM system will be supplied by the local utility. Back-up power will be provided by batteries and a generator.

All the equipment necessary for the initial installation has been identified and its availability has been assured by

NovAtel. The 800 CM system software will be checked and debugged in test systems which are located in the NovAtel facilities in Norcross, Georgia. Butte personnel will be fully trained on the NovAtel equipment and software and will participate in the testing program, will work with NovAtel during installation, and will be performing acceptance tests on the entire system before commercial service begins.

Financial Feasibility

Butte has entered into an agreement with NovAtel whereby NovAtel will sell to Butte certain equipment and other components needed to construct and operate the cellular system consisting of two cell sites and a microwave facility. In connection with such a sale, NovAtel agrees to furnish certain engineering services and other services to be provided to begin revenue generating service on the system.

NovAtel agrees to loan Butte up to a maximum of one million six hundred and fifty thousand dollars (\$1,650,000) to be used as purchase money and up to seven hundred thousand dollars (\$700,000) to be used as working capital in support of the system's operations. Butte must execute notes for its borrowings. Interest on each note shall be applied at a rate recalculated on the first business day of each month for that month equal to 2% above the base rate on corporate loans at large U.S. money center commercial banks as published in the Wall Street Journal.

Attached to the application as Exhibit I are pro forma financial statements for Butte's consolidated operations. Tabulated below are the pro forma income statement and balance sheet for the consolidated operation:

INCOME STATEMENT

	Year 1	Year 2	Year 3	Year 4	Year 5
REVENUE:					
SUBSCRIBERS	\$133,000	\$524,000	\$1,080,000	\$1,770,000	\$2,666,000
ROAMERS	45,000	83,000	125,000	198,000	289,000
INITIALIZATION	4,000	13,000	15,000	23,000	32,000
EQUIPMENT SALES	124,000	269,000	285,000	386,000	456,000
TOTAL REVENUE	306,000	889,000	1,505,000	2,377,000	3,443,000
OPERATING EXPENSES:					
COST OF EQUIPMENT SALES	123,000	266,000	282,000	382,000	451,000
ACCESS	25,000	88,000	176,000	288,000	432,000
SALES & MARKETING	241,000	343,000	411,000	590,000	803,000
ADMINISTRATION	201,000	168,000	219,000	284,000	372,000
TOTAL OPERATING EXPENSES	590,000	865,000	1,088,000	1,544,000	2,058,000
OPERATING PROFIT (LOSS)	(284,000)	24,000	417,000	833,000	1,385,000
%	N/A	3%	28%	35%	40%
OTHER EXPENSES:					
INTEREST	0	217,000	217,000	195,000	171,000
DEPRECIATION	152,000	168,000	192,000	230,000	282,000
INCOME (LOSS) BEFORE TAX	(436,000)	(361,000)	8,000	408,000	932,000
INCOME TAXES	0	0	0	0	220,000
NET INCOME (LOSS)	(436,000)	(361,000)	8,000	408,000	712,000

BALANCE SHEET

	Year 1	Year 2	Year 3	Year 4	Year 5
ASSETS:					
CASH	862,000	531,000	321,000	422,000	727,000
ACCOUNTS RECEIVABLE	25,000	73,000	124,000	195,000	283,000
PROPERTY & EQUIPMENT	1,219,000	1,340,000	1,538,000	1,841,000	2,259,000
ACCUMULATED DEPRECIATION	(152,000)	(320,000)	(512,000)	(742,000)	(1,024,000)
TOTAL ASSETS	1,954,000	1,624,000	1,471,000	1,716,000	2,245,000
LIABILITIES:					
ACCOUNTS PAYABLE	40,000	71,000	89,000	127,000	169,000
DEBT	2,350,000	2,350,000	2,171,000	1,970,000	1,745,000
TOTAL LIABILITIES	2,390,000	2,421,000	2,260,000	2,097,000	1,914,000
OWNER'S EQUITY:					
PAID-IN-CAPITAL	0	0	0	0	0
RETAINED EARNINGS	(436,000)	(797,000)	(789,000)	(381,000)	331,000
TOTAL OWNER'S EQUITY	(436,000)	(797,000)	(789,000)	(381,000)	331,000
TOTAL LIAB & O/E	1,954,000	1,624,000	1,471,000	1,716,000	2,245,000

The projected number of subscribers supporting the above income statement are as follows:

Year 1	800 subscribers
Year 2	1,500 "
Year 3	2,280 "
Year 4	4,650 "
Year 5	7,860 "

Proposed Rates

Upon certification, Butte will file the following rates competitive with those presently on file for the wireline carrier, serving the Chico MSA, Sacramento-Valley Limited Partnership:

	<u>Wholesale</u> <u>(50 + lines)</u>	<u>Retail</u>
Connect Charge	\$15.00	\$50.00 (1-5) 45.00 (6+)
Change or Add	10.00	15.00
Service Restoral		15.00
Access Charge/month		30.00 (1-5) 25.00 (6+)
up to 100 (min. initial order 50)	22.95	
over 100 (in blks of 10)	21.45	

Usage Rates

Peak Period (7 a.m.-7 p.m.)	
Up to and incl. 20,000 min/month	.288
Over 20,000 min/month	.284
Over 30,000 min/month	.280
Off-Peak Period (7 p.m.-7 a.m.)	
Up to and incl. 2,000 min/month	.205
2000-3000 min/month	.203
Over 3000 min/month	.100

Usage Rates

Peak Period	0.35
Off-Peak Period	0.25

The above rates appear reasonable and will, therefore, be adopted. We will closely monitor Butte's operations and take whatever action necessary to prevent excessive profits.

The customer estimates (Page 6) and Pro Forma Income Statements are accepted as only a forecast of expected market results and estimated costs. When the actual experience data is submitted, we will be in a much better position to judge the appropriateness of applicant's rates. We emphasize to the applicant the importance of filing annual reports of financial results. We intend to monitor these reports so that we can make sure that the return for the business is reasonable and commensurate with risk.

Decision (D.) 84-04-014 dated April 4, 1984 on the Los Angeles SMSA Limited Partnership's (Partnership) Application (A.) 83-01-12, for a CPC&N to provide a cellular radio communications system in the greater Los Angeles metropolitan area provided tariffs including rates for both wholesale and retail sale of cellular service. These tariff provisions were reviewed in detail by this Commission and its staff before being authorized by D.84-04-014. It is our intent that such tariff provisions be used as a model for other cellular operations in California. Consequently, we will require the filing of tariffs generally similar to those authorized by D.84-04-104.

Upon certification of this Commission, Butte will be subject to the reporting requirements of the Commission. One of these requirements is the manner in which records are kept. Butte will be required to keep its records in accordance with the Uniform System of Accounts for Cellular Communications Licensees prescribed by D.86-01-043 dated January 23, 1986.

Environmental Review

Butte 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 L to the application.

Butte is subject to the fee system set forth in PU Code §§ 401 et seq.¹ By Resolution, the Commission set the fee level for telephone corporations at 0.10 of 1% (0.0010) of revenue subject to the fee, prescribed the method of remitting the fee, and directed the application of a billing surcharge of 0.10% to customer billings. Butte will be ordered to provide in its tariff rules for the imposition of this surcharge.

Butte is also subject to a one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunication Devices for the Deaf pursuant to PU Code § 2881 as set forth in Resolution T-13005.

Findings of Fact

1. Butte currently operates as an agent of Cellisys, a reseller of cellular radiotelephone services in the Chico MSA.
2. The FCC selected BCCI as the nonwireline cellular system carrier for the Chico MSA and on September 4, 1987 issued its authority to construct a cellular system to serve that area.
3. The FCC authority to construct cell sites in the Chico MSA was transferred from BCCI to Butte on January 11, 1989.
4. Butte is seeking a CPC&N to construct and operate a new domestic cellular radiotelephone service in the Chico MSA.
5. Notice of the application appeared in the Commission's Daily Calendar of January 17, 1989 and no protests to the granting of the application were received.
6. Butte and Pacific entered into an interconnection agreement dated January 20, 1989 which provides for the necessary interconnection between the facilities operated by Butte and Pacific.

1 In D.84-04-014 in A.83-01-012, we determined that resellers of cellular service are telephone corporations under PU Code §§ 216(b), 233, and 234, and are subject to our jurisdiction.

CORRECTION

**THIS DOCUMENT HAS
BEEN REPHOTOGRAPHED**

TO ASSURE

LEGIBILITY

Butte requests that the Commission, acting as the lead agency under the CEQA, issue a finding that applicant is categorically exempt under CEQA.

The proposed project consists of the licensing of a new cellular telephone system by the Commission to serve Butte County. The project will result in the installation of cellular telephone equipment (antennas, a small equipment building, etc.) at existing radio/communication facilities at two remote sites in the foothills east of Oroville and Chico, respectively. The project involves only minor modifications to these existing transmission facilities. This project will not require the construction of any new radio towers.

Representatives from both the Commission's Advisory and Compliance Division (CACD) and the General Services Administration have inspected the sites and have concluded that because the project involves only minor construction activities, it should be exempt from further review. Consequently, CACD recommends that a categorical exemption to an EIR 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.

Further, CACD recommends that Butte's Environmental Impact Assessment Summary, copied as Appendix B to this order, should be adopted. By letter dated January 26, 1989, the Commission's Executive Director, Victor Weisser, sent a Notice of Categorical Exemption (Appendix A to this order) for the project to the Office of Planning and Research.

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7. Butte's initial service proposal is based on a two-cell system covering over 900 square miles in the Chico MSA with a design criteria requiring 90% or greater probability that a signal will register -100 dBm at the cellular portable unit.

8. The MTSO, a NovAtel 800 CM, is a fully automatic 800 MHz band cellular mobile telephone system which will manage and control Butte's entire Butte County cellular system.

9. The MTSO system possesses capability which permits simplified administrative functions, automatic self-diagnostics and testing, and centralized remote maintenance and administration.

10. Power to operate the MTSO will be supplied by the local utility with batteries and a generator to serve as back-up.

11. Butte has entered into agreements with NovAtel whereby NovAtel will sell to Butte certain equipment and other components needed to construct and operate the cellular system consisting of two cell sites and a microwave facility.

12. NovAtel agrees to loan Butte up to maximum of one million six hundred and fifty thousand dollars (\$1,650,000) to be used as purchase money and up to seven hundred thousand dollars (\$700,000) to be used as working capital in support of the system's operations.

13. Interest on the loan agreements described in Finding of Fact 12 will be applied at a rate recalculated on the first business day of each month for that month equal to 2% above the base rate on corporate loans at large U.S. money center commercial banks as published in the Wall Street Journal.

14. Butte projects that operating profit will range from a negative \$284,000 to a positive \$1,350,000 for the first five years of operation and that for the same period its capitalization requirements will vary from \$1,954,000 to \$2,245,000.

15. Butte is financially qualified to construct the proposed cellular system and the necessary funds will be furnished by NovAtel.

16. The proposed rates are reasonable and the rate structure is in accord with Commission policy.

17. Butte should file tariffs generally similar to those authorized by D.84-04-104 for the Partnership.

18. Public convenience and necessity require the service proposed by Butte.

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

20. CACD recommends that Butte be granted a categorical exemption under CEQA.

21. Butte should be subject to a user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435. The fee is currently 0.1% for the 1988-89 fiscal year.

22. Butte should be subject to a one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunication Devices for the Deaf pursuant to PU Code § 2881 as set forth in Resolution T-13005.

Conclusions of Law

1. Public convenience and necessity require granting the application as set forth in the order.

2. Butte is subject to the fee system set forth in PU Code §§ 401 et seq.

3. The appropriate surcharge pursuant to Conclusion of Law 2 is 0.1% for the 1988-89 fiscal year.

4. Butte is subject to the one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf (Resolution T-13005, dated July 22, 1988; PU Code § 2881, as amended by SB 2268 signed June 30, 1988).

5. The wholesale and retail tariff rates set forth in the amended application are reasonable.

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

7. Butte should be required to send a copy of this decision to concerned local permitting agencies.

8. Because of the immediate need for service, the order should be effective today.

9. Applicant's proposed operations constitute a start-up business. Revenue and expense projections are entirely pro forma. It is necessary and reasonable to employ marketing projections to set initial rates. While market projections are useful for estimating call volumes, which in turn are the basis for setting rates to recover costs, they are no substitute for actual volume figures. As experience develops with this offering, the applicant's revenues should be examined, and rates should be adjusted to reasonable levels. Applicant's annual financial reports should enable us to make sure future rates provide a return that is reasonable and commensurate with risk.

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 Butte County Cellular License Corporation (Butte) to construct and operate a cellular mobile telecommunications system in the Chico Metropolitan Statistical Area (MSA).

2. On or after the effective date of this order, Butte is authorized to file wholesale and retail rates in accordance with the application and wholesale and retail tariffs generally similar to those authorized by D.84-04-104 for the Los Angeles SMSA Limited

Partnership. The filing shall comply with the General Order 96 series and shall be effective not earlier than 5 days after filing. The tariff shall provide for a user fee surcharge of 0.10% and for a monthly surcharge of 0.50% to fund Telecommunication Devices for the Deaf as required by PU Code § 2881 and Resolution T-13005.

3. Butte shall keep its records in accordance with the Uniform System of Accouts for Cellular Communications Licenses prescribed by D.86-01-043.

4. Butte shall notify the Commission in writing of the day it commences service.

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

6. Butte shall construct and operate the system to meet Federal Communications Commission coverage requirements.

7. A categorical exemption under California Environmental Quality Act (CEQA), attached as Appendix A to this opinion, is approved.

8. For future antenna sites which will 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 CEQA.

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

10. The corporate identification number assigned to Butte is U-3022-C, which shall be included in the caption of all original filings with this Commission and in titles of other pleadings filed in existing cases.



11. Applicant shall file annual financial reports concerning the operations permitted by this decision. Applicant's actual financial performance will provide the basis for ensuring that applicant's future rates provide a return that is reasonable and commensurate with risk.

12. The application is granted as set forth above.

This order is effective today.

Dated February 24, 1989, at San Francisco, California.

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

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



Victor Weisber, Executive Director

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APPENDIX A
NOTICE OF EXEMPTION

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

FROM: CA Public Utilities Commission
505 Van Ness
San Francisco, CA 94102

Project Title

Butte County Cellular Corporation Cellular Telephone System License

Project Location

Existing radio tower facilities located seven miles east of Chico in the foothills on Doe Mill Ridge and on Bloomer Hill northeast of Lake Oroville.

Project Location - City
NA

Project Location - County
Butte

Description of Nature, Purpose, and Beneficiaries of Project

The proposed project consists of the licensing of a new cellular telephone system by the Commission to serve Butte County. The project will result in the installation of cellular telephone equipment (antennas, a small equipment building, etc.) at existing radio/communication facilities at two remote sites in the foothills east of Oroville and Chico, respectively. Project involves only minor modifications to these existing transmission facilities. This project will not require the construction of any new radio towers.

Name of Public Agency Approving Project

California Public Utilities Commission

Name of Person or Agency Carrying Out Project

California Public Utilities Commission

Exempt Status:

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

Reasons Project Is Exempt

Project involves minor construction activities associated with the installation of radio transmission equipment at two existing transmission facilities.

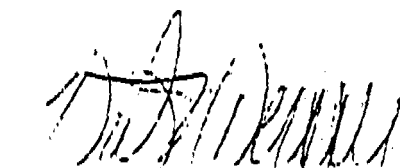
Contact Person

Elaine Russell

Telephone

(916) 324-6195

Date Received for Filing



Victor Weisser
Executive Officer

IV. ENVIRONMENTAL IMPACT ASSESSMENT SUMMARY / CHECKLIST

ENVIRONMENTAL CHECKLIST

ENVIRONMENTAL IMPACTS

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

	<u>YES</u>	<u>MAYBE</u>	<u>NO</u>
1. <u>Earth</u> . Will the proposal result in:			
a. Unstable earth conditions or in changes in geologic 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 geologic 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 geologic 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>

APPENDIX B

Page 2

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

APPENDIX B

Page 3

	<u>YES</u>	<u>MAYBE</u>	<u>NO</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 wildlife 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 and 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>

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	<u>YES</u>	<u>MAYBE</u>	<u>NO</u>
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>

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	<u>YES</u>	<u>MAYBE</u>	<u>NO</u>
15. <u>Energy.</u> Will the proposal result in:			
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?	—	—	

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	<u>YES</u>	<u>MAYBE</u>	<u>NO</u>
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>

(END OF APPENDIX B)

The above rates appear reasonable and will, therefore, be adopted. We will closely monitor Butte's operations and take whatever action necessary to prevent excessive profits.

Decision (D.) 84-04-014 dated April 4, 1984 on the Los Angeles SMSA Limited Partnership's (Partnership) Application (A.) 83-01-12, for a CPC&N to provide a cellular radio communications system in the greater Los Angeles metropolitan area provided tariffs including rates for both wholesale and retail sale of cellular service. These tariff provisions were reviewed in detail by this Commission and its staff before being authorized by D.84-04-014. It is our intent that such tariff provisions be used as a model for other cellular operations in California. Consequently, we will require the filing of tariffs generally similar to those authorized by D.84-04-104.

Upon certification of this Commission, Butte will be subject to the reporting requirements of the Commission. One of these requirements is the manner in which records are kept. Butte will be required to keep its records in accordance with the Uniform System of Accounts for Cellular Communications Licensees prescribed by D.86-01-043 dated January 23, 1986.

Environmental Review

Butte 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 L to the application. Butte requests that the Commission, acting as the lead agency under the CEQA, issue a finding that applicant is categorically exempt under CEQA.

The proposed project consists of the licensing of a new cellular telephone system by the Commission to serve Butte County. The project will result in the installation of cellular telephone equipment (antennas, a small equipment building, etc.) at existing radio/communication facilities at two remote sites in the foothills east of Oroville and Chico, respectively. The project involves

only minor modifications to these existing transmission facilities. This project will not require the construction of any new radio towers.

Representatives from both the Commission's Advisory and Compliance Division (CACD) and the General Services Administration have inspected the sites and have concluded that because the project involves only minor construction activities, it should be exempt from further review. Consequently, CACD recommends that a categorical exemption to an EIR 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.

Further, CACD recommends that Butte's Environmental Impact Assessment Summary, copied as Appendix B to this order, should be adopted. By letter dated January 26, 1989, the Commission's Executive Director, Victor Weisser, sent a Notice of Categorical Exemption (Appendix A to this order) for the project to the Office of Planning and Research.

Butte is subject to the fee system set forth in PU Code §§ 401 et seq.¹ By Resolution, the Commission set the fee level for telephone corporations at 0.10 of 1% (0.0010) of revenue subject to the fee, prescribed the method of remitting the fee, and directed the application of a billing surcharge of 0.10% to customer billings. Butte will be ordered to provide in its tariff rules for the imposition of this surcharge.

Butte is also subject to a one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunication

1 In D.84-04-014 in A.83-01-012, we determined that resellers of cellular service are telephone corporations under PU Code §§ 216(b), 233, and 234, and are subject to our jurisdiction.

Devices for the Deaf pursuant to PU Code § 2881 as set forth in Resolution T-13005.

Findings of Fact

1. Butte currently operates as an agent of Cellisys, a reseller of cellular radiotelephone services in the Chico MSA.
2. The FCC selected BCCI as the nonwireline cellular system carrier for the Chico MSA and on September 4, 1987 issued its authority to construct a cellular system to serve that area.
3. The FCC authority to construct cell sites in the Chico MSA was transferred from BCCI to Butte on January 11, 1989.
4. Butte is seeking a CPC&N to construct and operate a new domestic cellular radiotelephone service in the Chico MSA.
5. Notice of the application appeared in the Commission's Daily Calendar of January 17, 1989 and no protests to the granting of the application were received.
6. Butte and Pacific entered into an interconnection agreement dated January 20, 1989 which provides for the necessary interconnection between the facilities operated by Butte and Pacific.
7. Butte's initial service proposal is based on a two-cell system covering over 900 square miles in the Chico MSA with a design criteria requiring 90% or greater probability that a signal will register -100 dBm at the cellular portable unit.
8. The MTSO, a NovAtel 800 CM, is a fully automatic 800 MHz band cellular mobile telephone system which will manage and control Butte's entire Butte County cellular system.
9. The MTSO system possesses capability which permits simplified administrative functions, automatic self-diagnostics and testing, and centralized remote maintenance and administration.
10. Power to operate the MTSO will be supplied by the local utility with batteries and a generator to serve as back-up.
11. Butte has entered into agreements with NovAtel whereby NovAtel will sell to Butte certain equipment and other components

needed to construct and operate the cellular system consisting of two cell sites and a microwave facility.

12. NovAtel agrees to loan Butte up to maximum of one million six hundred and fifty thousand dollars (\$1,650,000) to be used as purchase money and up to seven hundred thousand dollars (\$700,000) to be used as working capital in support of the system's operations.

13. Interest on the loan agreements described in Finding of Fact 12 will be applied at a rate recalculated on the first business day of each month for that month equal to 2% above the base rate on corporate loans at large U.S. money center commercial banks as published in the Wall Street Journal.

14. Butte projects that operating profit will range from a negative \$284,000 to a positive \$1,350,000 for the first five years of operation and that for the same period its capitalization requirements will vary from \$1,954,000 to \$2,245,000.

15. Butte is financially qualified to construct the proposed cellular system and the necessary funds will be furnished by NovAtel.

16. The proposed rates are reasonable and the rate structure is in accord with Commission policy.

17. Butte should file tariffs generally similar to those authorized by D.84-04-104 for the Partnership.

18. Public convenience and necessity require the service proposed by Butte.

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

20. CACD recommends that Butte be granted a categorical exemption under CEQA.

21. Butte should be subject to a user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435. The fee is currently 0.1% for the 1988-89 fiscal year.

22. Butte should be subject to a one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunication Devices for the Deaf pursuant to PU Code § 2881 as set forth in Resolution T-13005.

Conclusions of Law

1. Public convenience and necessity require granting the application as set forth in the order.
2. Butte is subject to the fee system set forth in PU Code §§ 401 et seq.
3. The appropriate surcharge pursuant to Conclusion of Law 2 is 0.1% for the 1988-89 fiscal year.
4. Butte is subject to the one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf (Resolution T-13005, dated July 22, 1988; PU Code § 2881, as amended by SB 2268 signed June 30, 1988).
5. The wholesale and retail tariff rates set forth in the amended application are reasonable.
6. A categorical exemption under CEQA, attached as Appendix A to this opinion, should be adopted.
7. Butte should be required to send a copy of this decision to concerned local permitting agencies.
8. Because of the immediate need for service, the order should be 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 Butte County Cellular License Corporation (Butte) to construct and operate a cellular mobile telecommunications system in the Chico Metropolitan Statistical Area (MSA).

2. On or after the effective date of this order, Butte is authorized to file wholesale and retail rates in accordance with the application and wholesale and retail tariffs generally similar to those authorized by D.84-04-104 for the Los Angeles SMSA Limited Partnership. The filing shall comply with the General Order 96 series and shall be effective not earlier than 5 days after filing. The tariff shall provide for a user fee surcharge of 0.10% and for a monthly surcharge of 0.50% to fund Telecommunication Devices for the Deaf as required by PU Code § 2681 and Resolution T-13005.

3. Butte shall keep its records in accordance with the Uniform System of Accounts for Cellular Communications Licenses prescribed by D.86-01-043.

4. Butte shall notify the Commission in writing of the day it commences service.

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

6. Butte shall construct and operate the system to meet Federal Communications Commission coverage requirements.

7. A categorical exemption under California Environmental Quality Act (CEQA), attached as Appendix A to this opinion, is approved.

8. For future antenna sites which will 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 CEQA.

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

10. The corporate identification number assigned to Butte is U-3022-C, which shall be included in the caption of all original filings with this Commission and in titles of other pleadings filed in existing cases.

11. The application is granted as set forth above.

This order is effective today.

Dated FEB 24 1989, at San Francisco, California.

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