

Decision 89 04 070 APR 26 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Graham Tenneson and Pacific)
Aerie Corporation d/b/a The Cellular)
Service Partnership for a certificate)
of public convenience and necessity)
to operate as a reseller of cellular)
radio telecommunications services)
within California.)

Application 88-12-030
(Filed December 13, 1988)

O P I N I O N

Graham Tenneson and Pacific Aerie Corporation (applicants), doing business as The Cellular Service Partnership, seek a certificate of public convenience and necessity to operate as a reseller of radiotelephone service within California. Graham Tenneson is an individual and Pacific Aerie Corporation, a California corporation, is owned by Kenneth D. Lame.

Copies of the application were served on all existing cellular facilities-based and resale carriers, Exhibit E to the application. Notice of the application appeared in the Commission's Daily Calendar of December 21, 1988. No protests to the application were filed; therefore a public hearing is not necessary.

Tenneson has owned and operated Celluland of San Francisco since April 1987, and Lame has operated Celluland of Walnut Creek since January 1987. Tenneson and Lame have jointly operated Celluland of Santa Clara since September 1988. Presently, each of the Cellulands serves the needs of the consuming public for the sale, installation, and maintenance of cellular telephone equipment. Both Celluland of Walnut Creek and Celluland of San Francisco serve as agents for PacTel Mobile Services, a certificated reseller operating in San Francisco, San Jose, and in contiguous Metropolitan Statistical Areas. Applicants represent

that their Celluland business establishes that they possess the necessary experience and knowledge to serve the public as a certificated cellular reseller.

Applicants seek authority to provide cellular resale service within California. Initially, applicants will resell in the Napa, Sonoma, and Solano Metropolitan Statistical Area (MSA) which encompasses an area outside of their agency agreement with PacTel Mobile Services. As a reseller, applicants will not construct, own, or operate any fixed cellular radio equipment or facilities. Accordingly, it can be seen with reasonable certainty that the grant of this application will not result in a significant effect upon the environment.

Applicants' August 31, 1988 pro forma balance sheet, Exhibit D to the application, shows that applicants' cash reserve of approximately \$20,000 and equity of approximately \$260,000 are sufficient to support their entry into the resale market. In the first year of operation, applicants expect to serve 4,845 customers and to incur a \$72,516 operating loss. By the fifth year of operation, applicants expect to serve 10,195 customers and to operate with a net profit of \$10,490,530 before income taxes.

Upon commencing resale, applicants will purchase services from facilities-based carriers at such carriers' tariffed wholesale rates and will resell these services to the general public at the following rates:

General Resale

Connection Charge	\$25.00
Monthly Access Charge	45.00
Peak Minute Usage	0.45
Off-Peak Minute Usage	0.20

Applicants represent that the grant of this application is in the public interest because their proposed services will enhance competition in the cellular retail market and will benefit cellular customers through lower priced services and the ability to choose between service providers. Applicants also represent that

the proposed services will increase utilization of the existing facilities of the underlying carriers.

Applicants should be subject to the fee system as set forth in Public Utilities (PU) Code § 401 et seq. which is used to fund the cost of regulating common carriers and businesses related thereto and public utilities. By Resolution M-4750 dated May 25, 1988, the fee level for fiscal year 1988-89 for telephone corporations was set at 0.10 of 1% (0.0010) of revenue subject to the fee. Appropriate tariff rules should be incorporated in applicants' tariff rules for the imposition of this surcharge.

As a telephone corporation operating as a cellular radio telecommunications reseller, applicants should also be subject to the 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 pursuant to PU Code § 2881.

Findings of Fact

1. Copies of the application were served on all existing cellular facilities-based and resale carriers.
2. Notice of the application appeared in the Commission's Daily Calendar of December 21, 1988.
3. No protests to the application have been filed.
4. Applicants seek authority to provide cellular resale service within California.
5. It can be seen with certainty that there is no possibility that the grant of this application may have a significant effect on the environment.
6. The proposed operation is economically feasible.
7. Public convenience and necessity require the grant of this application.
8. Applicants are subject to the fee system as set forth in PU Code § 401 et seq.

9. Applicants are subject to a surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf as set forth in Resolution T-13005 dated July 22, 1988 pursuant to PU Code § 2881.

Conclusions of Law

1. Applicants should be granted the requested operating authority.

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

Only the amount paid to the State for operating 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 Graham Tenneson and Pacific Aerie Corporation (applicants).

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

3. Applicants are authorized to file, after the effective date of this order and in compliance with GO 96-A, tariffs applicable to the service authorized containing rates, charges, and rules applicable to their cellular resale services. The tariffs shall become effective on not less than 5 days' notice. The rates and charges shall be as proposed for service in the application.

4. Applicants shall notify the Commission Advisory and Compliance Division Director in writing of the date service is first rendered to the public as authorized herein, within 5 days after service begins.

5. Applicants are subject to the provisions of GO 96-A including Sections IV, V, and VI as revised in D.88-05-067.

6. Applicants are subject to a 0.10% user fee as a percentage of gross intrastate revenue pursuant to PU Code § 431 et al.

7. Applicants are subject to the one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunications for the Deaf pursuant to Resolution T-13005 dated July 22, 1988 and issued pursuant to PU Code § 2881.

9. Within 60 days after the effective date of this order, applicants shall prepare and issue to each employee who, in the course of employment, enters a customer's or subscriber's premise an identification card in a distinctive format having a photograph of the employee. Applicants shall require each employee to present the identification card when requesting entry into any building or structure of a customer or subscriber pursuant to PU Code § 708.

10. The corporate identification number assigned to Graham Tenneson and Pacific Aerie Corporation is U-4073-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.


11. The authority granted in this order will expire if not exercised within 12 months after the effective date of this order.

This order is effective today.

Dated APR 26 1989, at San Francisco, California.

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

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


Victor Weiszer, Executive Director

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