

Decision S9 05 006 MAY 10 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Advanced Communications)
Resources, LP for a certificate)
of Public Convenience and Necessity)
to Operate as a Reseller of Cellular)
Radio Telecommunications Services)
Within California.)

MAY 11 1989

Application 88-12-040
(Filed December 20, 1988)

OPINION

This is an application in which Advanced Communications Resources, LP (applicant) seeks a certificate of public convenience and necessity to operate as a reseller of cellular radio telecommunications services.

Notice of the filing of the application appeared in the Commission's Daily Calendar on December 28, 1988. There are no protests.

The Commission makes the following findings and conclusion.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. Applicant is a newly formed California limited partnership. Steven L. Cogswell, Inc., a California corporation, is the general partner. Steven L. Cogswell, Inc. is owned by Steven L. Cogswell, Michelle Cogswell, as the Co-Trustees of a Revocable Trust of Steven Lloyd Cogswell and Michelle Barbara Cogswell. Steven L. Cogswell is President and Chairman of the Board and Michelle Cogswell is Secretary and Chief Financial Officer of Steven L. Cogswell, Inc. Steven L. Cogswell will serve as general manager of applicant. He has a Bachelor of Science Degree in Business Administration and Administrative Management from California State University at Los Angeles. He is the founder

and President of Cogswell Video Services, Inc. which provides technical services to film production companies.

3. Applicant proposes to operate as a reseller of cellular radio telephone service within California pursuant to the general scheme of regulation established by the Commission in Decision (D.) 84-04-014, issued April 4, 1984 and D.84-11-029 issued November 7, 1984, respectively. A reseller of cellular radio services does not construct, own or operate any fixed cellular radio equipment or facilities, but sells to end users the services provided by wholesale cellular carriers which operate the fixed facilities necessary to transmit cellular telephone traffic. Initially, it will provide service in the Los Angeles Cellular Geographic Service Area (CGSA).

4. Applicant proposes to resell for facilities-based certificated carriers operating in the Los Angeles CGSA including the Los Angeles SMSA Limited Partnership (LASMSA) and the Los Angeles Cellular Telephone Co. (LACTC). Applicant will purchase services from these carriers at their tariffed wholesale rates and will resell these services to the general public.

5. Applicant has provided a pro-forma balance sheet which indicates assets of \$490,000 as of January 1, 1989. A pro-forma income statement projects a net loss for the first year of operations, a smaller net loss for the second year 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. Applicant's proposed resale of cellular service will enhance competition in the cellular retail market and may result in providing lower priced service, increased ability of customers to choose between service providers and a wide variety of service

packages, and increased utilization of the existing facilities of the underlying carriers, which would enable the underlying carriers to use their system more efficiently.

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

10. A statement of proposed rates is included in the application, but proposed tariff pages, which are not mandatory, were not provided. It is reasonable to require that the initial tariffs filed by applicant be filed on not less than 20 days' notice before they become effective to allow time for appropriate review by the Commission Advisory and Compliance Division and other interested parties.

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 General Order (GO) 96-A relate to filed and effective dates, procedures and the filing of tariffs 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 tariffs sheets which do not increase rates or 30 days after filing an authorized increase unless Commission authorization for a shorter period is obtained.

13. As a telephone corporation operating as a telecommunications service supplier, applicant should be subject to the one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf. This surcharge became effective on October 1, 1988 as set forth in Resolution T-13005 dated July 22, 1988 and issued pursuant to PU Code § 2881.

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

Conclusion of Law

The application should be granted.

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 feature 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 Advanced Communications Resources, LP (applicant) in accordance with the terms of the application.
2. Applicant is authorized to file with the Commission after the effective date of this order, on not less than 20 days' notice to the public and Commission the tariff schedules and rates for the proposed service. 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. 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.
3. Applicant is subject to the provisions of GO 96-A including Sections IV, V, and VI, as revised in D.88-05-067.
4. Applicant is subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435.

5. The corporate identification number assigned to applicant is U-4074-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.

6. Within 60 days of the effective date of this order, applicant shall comply with PU Code § 708, Employee Identification Cards, and notify, in writing, the Chief of the Telecommunications Branch of the Commission Advisory and Compliance Division of compliance.

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 May 10, 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 Weiss, Executive Director

and President of Cogswell Video Services, Inc. which provides technical services to film production companies.

3. Applicant proposes to operate as a resale carrier of cellular radio telephone service within California pursuant to the general scheme of regulation established by the Commission in Decision (D.) 84-04-014, issued April 4, 1984 and D.84-11-029 issued November 7, 1984, respectively. A reseller of cellular radio services does not construct, own or operate any fixed cellular radio equipment or facilities, but sells to end users the services provided by wholesale cellular carriers which do not operate the fixed facilities necessary to transmit cellular telephone traffic. Initially, it will provide service in the Los Angeles Cellular Geographic Service Area (CGSA).

4. Applicant proposes to resell for facilities-based certificated carriers operating in the Los Angeles CGSA including the Los Angeles SMSA Limited Partnership (LASMSA) and the Los Angeles Cellular Telephone Co. (LACTC). Applicant will purchase services from these carriers at their tariffed wholesale rates and will resell these services to the general public.

5. Applicant has provided a pro-forma balance sheet which indicates assets of \$490,000 as of January 1, 1989. A pro-forma income statement projects a net loss for the first year of operations, a smaller net loss for the second year 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. Applicant's proposed resale of cellular service will enhance competition in the cellular retail market and may result in providing lower priced service, increased ability of customers to choose between service providers and a wide variety of service

packages, and increased utilization of the existing facilities of the underlying carriers, which would enable the underlying carriers to use their system more efficiently.

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

10. A statement of proposed rates is included in the application, but proposed tariff pages, which are not mandatory, were not provided. It is reasonable to require that the initial tariffs filed by applicant be filed on not less than 20 days' notice before they become effective to allow time for appropriate review by the Commission Advisory and Compliance Division and other interested parties.

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 General Order (GO) 96-A relate to filed and effective dates, procedures and the filing of tariffs 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 tariffs sheets which do not increase rates or 30 days after filing an authorized increase unless Commission authorization for a shorter period is obtained.

13. As a telephone corporation operating as a telecommunications service supplier, applicant should be subject to the one-half percent (1/2%) surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf. This surcharge became effective on October 1, 1988 as set forth in Resolution T-13005 dated July 22, 1988 and issued pursuant to PU Code § 2881.

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

Conclusion of Law

The application should be granted.

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 feature 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 Advanced Communications Resources, LP (applicant) in accordance with the terms of the application.
2. Applicant is authorized to file with the Commission after the effective date of this order, on not less than 20 days' notice to the public and Commission the tariff schedules and rates for the proposed service. 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. 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.
3. Applicant is subject to the provisions of GO 96-A including Sections IV, V, and VI, as revised in D.88-05-067.
4. Applicant is subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435.