

Decision 89 08 018 AUG 3 1989

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
Action Cellular Rent-a-Phone for a )	
Certificate of Public Convenience )	
and Necessity to Operate as a )	Application 89-05-056
Reseller of cellular Radio )	(Filed May 25, 1989)
Telecommunications Services in the )	
State of California. )	

OPINION

Action Cellular Rent-a-Phone (Action) seeks a certificate of public convenience and necessity (CPC&N) to resell cellular radio telecommunications services within California. Action also requests relief from provisions of the Public Utilities (PU) Code regarding issuance of securities by public utilities and transfer and encumbrance of utility property.

Action served a copy of its application on cellular resellers in the greater San Francisco area. Notice of the application appeared in the Commission's Daily Calendar.

Action's application states it will provide cellular service to any customer requesting it, although its target market will be transient customers who will rent cellular equipment from Action on a short-term basis. Action states that it will not construct, own, or operate any cellular facilities; therefore, no environmental impact will result from its operations.

The application also states that Action's general partners have considerable experience in marketing, real estate development, and telephone equipment sales and service.

The rates to be charged for the proposed services are attached to the application. Tariffs setting forth the detailed rates, practices and classifications will be filed with the Commission upon exercise of the CPC&N.

Action's balance sheet shows that its combined net worth is approximately \$1 million and that its initial capital investment is \$20,000. Action expects first year net income to be \$61,000.

Action has provided adequate information for a grant of authority to provide cellular telecommunications services. Cellular resale markets in California are competitive. That competition will restrain Action from charging unreasonably high prices to customers.

Action's request for relief from the provisions of PU Code §§ 816-830 and 851-855 is consistent with our decisions in Decision (D.) 85-07-081 and D.85-11-044 which address non-dominant providers of telecommunications services.

Action should be subject to the fee system, as set forth in PU Code § 401 et seq., which is used to fund the costs of regulating common carriers and businesses related thereto and public utilities. By Resolution M-4752, dated May 26, 1989, the fee level for fiscal year 1989-90 for telephone corporations was set at one-tenth of 1% (0.10%) of revenue subject to the fee. Appropriate tariff rules should be incorporated in Action's tariff rules for the imposition of this surcharge.

As a telephone corporation operating as a cellular radio telecommunications reseller, applicant should also be subject to the three-tenths of one percent (0.3%) surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf. This surcharge became effective July 1, 1989, as set forth in Resolution T-13061 dated April 26, 1989 pursuant to PU Code § 2881.

#### Findings of Fact

1. Action requests a CPC&N to operate as a reseller of cellular telecommunications services in the San Francisco area during the first year of operation and throughout California in subsequent years.
2. No protest to the application has been received.

3. The proposed utility will be operated by officers with considerable experience in business and telecommunications.

4. The proposed operation is financially feasible.

5. Since no facilities are to be constructed, it can be seen with certainty that the proposed operation will not have a significant effect on the environment.

6. The proposed operation is economically feasible.

7. Public convenience and necessity require the granting of this application.

Conclusions of Law

1. Action is subject to the user fee system, as set forth in PU Code § 401 et seq.

2. Action should be granted a waiver of PU Code §§ 816-830 and 851-855, consistent with D.85-07-081 and D.85-11-044.

3. The user fee for the 1989-90 fiscal year should be 0.10%.

4. Action is subject to the three-tenths of one percent (0.3%) surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf, pursuant to Resolution T-13061, dated April 26, 1989.

5. Action should be subject to the provisions of the Commission's General Order 96-A, as modified by D.88-05-067.

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 those rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Action Cellular Rent-a-Phone (Action) to operate as a reseller of cellular telecommunications services in California.

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

3. Action is authorized to file, after the effective date of this order and in compliance with General Order 96-A, tariffs applicable to its cellular resale services. The tariffs shall become effective on not less than 5 days' notice. The rates and charges shall be as proposed in this application.

4. Action 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. Action is subject to the provision of General Order 96-A as revised by D.88-05-067.

6. Action shall keep its books and records in accordance with the Uniform System of Accounts for cellular telecommunications utilities prescribed by this Commission.

7. Action shall file an annual report, in compliance with General Order 104-A, on a calendar-year basis using the format specified by the Chief of the Auditing and Compliance Branch of the Commission Advisory and Compliance Division (see Attachment 1).

8. Action is subject to the user fee as a percentage of gross intrastate revenues under PU Code § 401 et seq.

9. The corporate identification number assigned to Action Cellular Rent-a-Phone is U-4077-C which shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

10. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.

11. Within 60 days of the effective date of this order, Action 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.


This order is effective today.

Dated AUG 3 1989, at San Francisco, California.

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

Commissioner Stanley W. Hulett,  
being necessarily absent, did not  
participate.

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

  
Victor Weissor, Executive Director

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



February 15, 1989

TO ALL CELLULAR RESELLER TELEPHONE UTILITIES:

Article 5 of the Public Utilities Code grants authority to the California Public Utilities Commission to require all public utilities doing business in California to file reports as specified by the Commission on the utilities' California operations.

A specific annual report form has not yet been prescribed for the California cellular resellers telephone utilities. However, you are hereby directed to submit an original and two copies of the information requested in attachment A no later than March 31, 1989.

Address your report to:

California Public Utilities Commission  
Auditing and Compliance Branch, Rm 3251  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

Failure to file this information on time may result in a penalty as provided for in sections 2107 and 2108 of the Public Utilities Code.

If you have any question concerning this matter, please call (415) 557-2484.

Very truly yours,

  
Kenneth K. Louie, Chief  
Auditing and Compliance Branch

ATTACHMENT A

Information Requested of California Cellular Reseller Telephone Utilities.

To be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3251, San Francisco, Ca 94102-3298 no later than March 31, 1989.

- (1) Exact legal name and U # of reporting utility.
- (2) Address.
- (3) Name, title, address, and telephone number of the person to be contacted concerning the reported information.
- (4) Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
- (5) Type of organization (e.g., corporation, partnership, sole proprietorship, etc.)  
If incorporated, specify:
  - (a) Date of filing articles of incorporation with the Secretary of State.
  - (b) State in which incorporated.
- (6) Commission Decision number granting operating authority and the date of that decision.
- (7) Date operations were begun.
- (8) Description of other business activities in which the utility is engaged.
- (9) A list of all affiliated companies and their relationship to the utility. State if the affiliate is a:
  - (a) Regulated Public Utility
  - (b) Publicly Held Corporation
- (10) Balance sheet as of December 31, 1988.
- (11) Income statement for California operations for the calendar year 1988.