

Decision 89 11 015 NOV 3 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ELI BOULOS, d/b/a Tristar Cellular)
Services, for a Certificate of)
Public Convenience and Necessity to)
operate as a reseller of cellular)
radio telecommunications service in)
California.)

Application 89-07-012
(Filed July 3, 1989)

ORIGINALOPINION

Eli Boulos (applicant), dba Tristar Cellular Services, requests a certificate of public convenience and necessity to operate as a telephone corporation reselling cellular radio telecommunications service. A reseller does not construct, own, or operate any fixed cellular radio equipment or facilities, but sells to its customers the services provided by wholesale cellular carriers. Its operations will be governed by the general scheme of regulation set forth in Decision (D.) 84-04-014 and D.84-11-029.

Applicant intends to operate initially in the Los Angeles market. However, it eventually plans to operate throughout the state. It appears to seek a statewide certificate.

Notice of the filing appeared in the Commission's Daily Calendar on July 11, 1989. No protests have been received.

Applicant served copies of all of the application, less his personal financial statement, on competitors. The application explained that applicant was reluctant to serve personal financial data on competitors. However, the original and copies filed with the Commission did include all required financial information. The application included a statement to that effect.

On September 15, applicant filed a motion to be relieved of any obligation to serve such data on competitors. He recognizes that any member of the public, including competitors can have

access to the data by asking to view the original filed with the Commission; he has not requested any special handling to prevent such disclosure.

We note that any potential protestant could easily have examined the filed data if the information would have been useful in filing a protest. We are aware of no inquiries. For that reason, and since the protest period has expired, there is no reason to require applicant to provide copies of the financial data to the served parties.

Applicant has requested an exemption from the Commission's financial jurisdiction under Public Utilities (PU) Code §§ 816-830. Our Commission Advisory and Compliance Division has recommended that this exemption be granted. ✓

Applicant also wishes to file an initial tariff which contains "a preliminary statement and rates, with remaining provisions to be filled in later." It also wishes to have its tariffs "effective without usual notice provisions." It has not, however, provided any showing that normal tariff filing requirements will pose any significant impediment to its operations.

Based on the applicant's allegations, the Commission issues the following findings and conclusions.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. The proposed service will result in increased competition in the cellular resale market and may result in lower priced service, increased ability of customers to choose between service providers, a wider variety of service packages, and more efficient use of the facilities of underlying carriers.
3. Applicant has the ability, including financial ability, to conduct the proposed operations.

4. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

5. Public convenience and necessity require that the application be granted for statewide operations.

6. The public interest does not require the Commission to exercise the jurisdiction provided by PU Code §§ 816-830 over this class of utility.

7. Applicant has not provided any justification for his request for other than normal tariff requirements.

8. Applicant gave notice that served parties could review financial information by examining the filed copies of the application.

9. There have been no inquiries or requests to view the financial information during the protest period.

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

Conclusions of Law

1. The application should be granted.

2. Applicant is subject to the user fee provided in PU Code §§ 431-435. The fee is currently 0.1% of gross intrastate revenue for the 1989-90 fiscal year.

3. Applicant is subject to the surcharge for service to the hearing-impaired, currently set at 0.30% by Resolution T-13061 dated April 26, 1989.

4. Applicant is not subject to the surcharge for universal telephone service (ULTS).

5. Applicant should be exempted from the requirements of PU Code §§ 816-830.

6. Applicant should not be authorized to deviate from tariff filing requirements.

7. It would serve no useful purpose to require applicant to furnish copies of financial data to persons who were served with the remaining portions of the application.

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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity to operate as a telephone corporation as defined in PU Code § 234, to operate as a reseller of cellular radiotelephone services within California is granted to Eli Boulos (applicant).

2. Applicant is authorized to file with the Commission after the effective date of this order initial tariff schedules and rates on 5 days' notice. Subsequent tariff filings are subject to the standard notice requirements set forth in General Order (GO) 96-A, effective on not less than 30 days' notice to the public and Commission. Service may not be offered until tariffs are on file. This filing shall comply with GO Series 96, except that, applicant is authorized to employ the alternative method of page numbering described in Resolutions U-275 and T-4886, at its election. The tariff shall describe and provide for all applicable surcharges. Failure to file the tariff may result in revocation of the authority granted here.

3. Applicant shall be subject to the provisions of GO 96-A including Sections IV, V, and VI, as revised in D.88-05-067.

4. The corporate identification number assigned to applicant is U-4081-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.

5. 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.

6. 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.

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

8. Applicant is exempted from PU Code §§ 816-830.

This order is effective today.

Dated NOV 3 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.

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

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Applicant has requested an exemption from the Commission's financial jurisdiction under Public Utilities (PU) Code §§ 816-830. Our Commission Advisory and Compliance Division has recommended that this exemption be granted for all similar utilities.

Applicant also wishes to file an initial tariff which contains "a preliminary statement and rates, with remaining provisions to be filled in later." It also wishes to have its tariffs "effective without usual notice provisions." It has not, however, provided any showing that normal tariff filing requirements will pose any significant impediment to its operations.

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