

Decision 90 03 022 MAR 14 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Ray Windle d/b/a CELCAL, for a)
Certificate of Public Convenience)
and Necessity to Operate as a)
Reseller of Radio Telecommunications)
Service Within California.)

Official
Application 90-01-035
(Filed January 19, 1990)

O P I N I O N

This is an application in which Ray Windle, doing business as CELCAL (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 of January 26, 1990. 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 an individual doing business as CELCAL, with his principal place of business in Dallas, Texas.
3. Applicant has an extensive background in the electronic industry, in the radio communications carrier area. He is Chairman of the Board of NMI Corporation.
4. Applicant proposes to operate as a resale carrier of cellular radiotelephone service at any location in California and initially in the Los Angeles cellular geographic service area (CGSA). Applicant proposes to resell for facilities-based certificated carriers operating in the Los Angeles CGSA including

the Los Angeles SMSA Limited Partnership and the Los Angeles Cellular Telephone Company.

5. As a reseller, applicant will not construct, own, or operate any fixed cellular radio equipment or facilities but will sell to end users the services provided by carriers which do operate the fixed facilities necessary to transmit cellular telephone traffic. Applicant will purchase services from these carriers at their tariffed wholesale rates and will resell these services initially at the following rates:

General Resale

Connection Charge	\$50.00
Monthly Access Charge	45.00
Peak Minute Usage	.45
Off-Peak Minute Usage	.27

6. Applicant has provided a pro forma balance sheet which indicates assets of \$50,000 as of inception of service. A pro forma income statement projects a net loss of \$463,511 for the year and a profit \$14,637 beginning the fourth quarter of the second year. He estimates a profit of \$636,648 at the end of the third year of operation. He has furnished a personal financial statement current as of July 31, 1989 which shows assets of \$4,853,000 and a net worth of \$4,703,000.

7. Applicant has the ability, including financial ability, to conduct the proposed operations.

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

9. 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 among service providers and a wide variety of service packages, and increased use of the existing facilities of the underlying carriers resulting in greater efficiency.

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

11. Applicant requests that it be authorized to file tariffs five days after the effective date of this order to be effective on one day's notice.

12. Applicant did not file proposed tariff pages with its application. It is reasonable to require that the initial tariffs filed by applicant be filed on not less than 15 days' notice before they become effective to allow time for appropriate review by the Commission Advisory and Compliance Division and other interested parties. This is consistent with our treatment of other resellers (e.g. Decision (D.) 89-05-006).

13. 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 1989-90 fiscal year.

14. As a telephone corporation operating as a telecommunications service supplier, applicant should 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 and issued pursuant to PU Code § 2881.

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

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.

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 Public Utilities (PU) Code § 234 for the purpose of operating as a reseller of cellular radiotelephone services within California is granted to Ray Windle doing business as CELCAL (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 15 days' notice to the public and the 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 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 General Order 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-4085-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 with 12 months after the effective date of this order if applicant has not filed tariffs and commenced operations by that date.

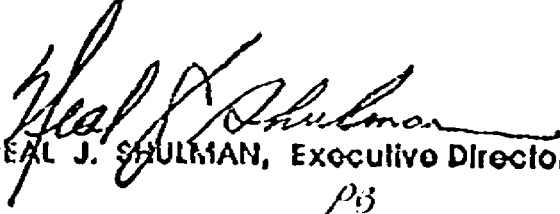
8. Within 20 days after this order is effective, applicant shall file a written acceptance of the certificate granted in the proceeding.

This order is effective today.

Dated MAR 14 1990, at San Francisco, California.

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

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


NEAL J. SHULMAN, Executive Director

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