

ALJ/DBJ/cac

Decision 90 03 038 MAR 14 1990

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 DIGITAL CELLULAR INC. for a )  
 certificate of public convenience )  
 and necessity to operate as a )  
 reseller of cellular radio )  
 telecommunications service in )  
 California. )

Application 89-10-023  
 (Filed October 12, 1989)

O P I N I O N

This is an application in which Digital Cellular, Inc. (Digital) seeks a certificate of public convenience and necessity to operate as a telephone corporation for the purpose of reselling cellular radio telecommunications in California.

Notice of the filing of the application appeared in the Commission's Daily Calendar on October 26, 1989. Digital did not include in the application the financial data required by Rule 18. Instead, it filed a motion requesting that it be allowed to file the information as confidential information under seal. The information was included with the original application only as Exhibit V, purportedly under seal. On October 31, 1989, the assigned administrative law judge (ALJ) issued a ruling denying the motion and placed the contents of Exhibit V in the formal file. The ALJ's ruling also directed Digital to serve a copy of Exhibit V on each person or entity shown in the proof of service attached to the application. On November 3, 1989, Digital filed a proof of service indicating that it had complied with the ALJ's ruling. There are no protests to the application as augmented.

The Commission makes the following findings and conclusion.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. Digital is a California corporation. It was formerly known as Auto Sound Electronics, Inc.
3. Digital proposes to offer cellular mobile telecommunications service to commercial and residential customers in the State of California. Initially, it intends to serve customers in the Los Angeles metropolitan area. Digital will purchase telephone numbers on a bulk basis from basic cellular telecommunications carriers authorized to construct and to operate cellular telecommunications systems in the relevant market. It will then resell these telephone numbers to commercial and residential subscribers at retail rates set forth in tariffs to be filed if the application is granted.
4. As an adjunct to its proposed utility business, Digital intends to sell or lease cellular mobile radio equipment to its customers. Its preliminary studies indicate a high level of interest among prospective business and residential users of cellular mobile telecommunications service. These prospective subscribers represent a broad cross-section of the cellular market, and, given the dispersion of business activity and lengthy commute times in the area initially sought to be served, there is a strong predisposition toward effective mobile communications. By offering a full range of equipment and services, Digital intends to provide single-source convenience to its customers who require cellular mobile telecommunications service.
5. Digital is familiar with the cellular telecommunications business and qualified to operate as a reseller of such services. It previously operated as an agent for other certificated telecommunications carriers and resellers in the market sought to be served. Digital has experience in equipment and service sales. It also has operated cellular telephone sales departments in various department and discount stores in the market. These

locations will provide Digital with a base for the acquisition of customers for its proposed operations.

6. Digital's unaudited balance sheet indicates that as of June 30, 1989 it had \$183,459 of total current assets and \$13,164 of fixed assets.

7. Digital 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. Public convenience and necessity require that the application be granted.

10. As a telephone corporation operating as a telecommunication service supplier, Digital is subject to: (a) the current 0.3% surcharge on gross intrastate interLATA revenues to fund Telecommunications Devices for the Deaf (PU Code § 2881; Resolution T-13061), and (b) the user fee provided in PU Code §§ 431-435, which is 0.1% of gross intrastate revenue for the 1989-90 fiscal year.

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

Conclusion of Law

This application should be granted to the extent set forth below.

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 features 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 for the purpose of operating as a reseller of cellular radiotelephone services within California is granted to Digital Cellular, Inc. (Digital) in accordance with the terms of the application.

2. Within 30 days after this order is effective, Digital shall file a written acceptance of the certificate granted in this proceeding.

3. Digital is authorized to file with this Commission, five days after the effective date of this order, tariff schedules for the provision of cellular resale service. Digital may not offer service until tariffs are on file. The tariffs shall become effective on not less than five days' notice. The rates and charges shall be as proposed in this application.

4. Digital may deviate from the following provisions of GO 96-A: (a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers, and (b) paragraph II.C.(4), which requires that "a separate sheet or series of sheets should be used for each rule." Tariff filings incorporating these deviations shall be subject to the approval of the Commission Advisory and Compliance Division's (CACD) Telecommunications Branch. Tariff filings shall reflect all surcharges to which Digital is subject, as reflected in Finding of Fact 13.

5. Digital shall file as part of its individual tariff, after the effective date of this order and consistent with Ordering Paragraph 4, a service area map.

6. Digital shall notify this Commission in writing of the date service is first rendered to the public within five days after service begins.

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

8. Digital shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using the format specified by the Chief of CACD's Auditing and Compliance Branch as provided in Attachments A and B.

9. 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.

10. Digital shall send a copy of this decision to concerned local permitting agencies not later than 30 days from today.

11. The corporate identification number assigned to Digital is U-4087-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.

12. Within 60 days of the effective date of this order, Digital shall comply with PU Code § 708, Employee Identification

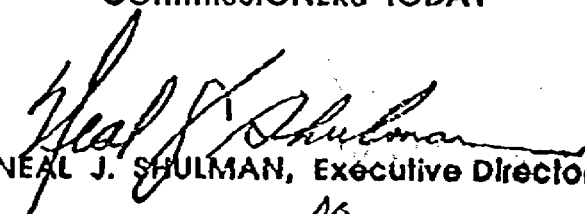
Cards, and notify the Chief of CACD's Telecommunications Branch in writing of its compliance.

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. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

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

  
NEAL J. SHULMAN, Executive Director  
AB

ATTACHMENT A

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 interexchange 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 31st of the year following the calendar year for which the annual report is submitted.

Address your report to:

California Public Utilities Commission  
Auditing and Compliance Branch, Room 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 §§ 2107 and 2108 of the Public Utilities Code.

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

(END OF ATTACHMENT A)

ATTACHMENT B

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 31st of the year following the calendar year for which the annual report is submitted.

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 affiliate is a:
  - a. Regulated public utility.
  - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

(END OF ATTACHMENT B)