

Decision 90 04 010 APR 11 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Sacramento-Valley Limited Partnership for a certificate of public convenience and necessity under Section 1001 of the Public Utilities Code of the State of California for authority to provide a new domestic public cellular radio telecommunications service to the public in the greater Sacramento metropolitan area.

ORIGINAL

Application 84-11-048
(Petition for Modification
filed December 26, 1989)

OPINION ON PETITION FOR MODIFICATION
OF DECISION 85-05-041

Decision (D.) 85-05-041 dated May 1, 1985 in this application granted Sacramento-Valley Limited Partnership (Partnership) a certificate of public convenience and necessity to construct and operate a cellular mobile telecommunications system in the greater Sacramento area. Partnership was authorized to provide both wholesale service to the public via resellers and retail service.

After Partnership decided that it did not want to provide retail service in the area, it requested by letter from counsel that it be authorized to provide wholesale service only. Accordingly, we issued a supplemental opinion, D.85-07-020 dated July 10, 1985, which modified D.85-05-041 to authorize Partnership to provide wholesale service only.

On December 26, 1989, Partnership filed a petition for modification of these decisions and requested authority to provide retail service in the Sacramento area. Partnership alleges that PacTel Mobile Services (PacTel), a retail affiliate of PacTel Cellular, desires to terminate retail cellular operations in the greater Sacramento area. Partnership indicates that it is willing and plans to acquire the retail customer base of PacTel, but needs

reinstatement of the retail authority originally granted in order to provide the service.

On January 9, 1990, PacTel and Partnership jointly filed Application (A.) 90-01-015 for authority to transfer certain assets and the customer base of PacTel's cellular resale business in the greater Sacramento area to Partnership. This proposed transfer forms the basis for Partnership's request to reinstate retail authority. The decision authorizing that transfer will be issued concurrently with the decision granting this petition for modification.

In support of its petition, Partnership states that retail cellular services have greatly expanded in the greater Sacramento area with two facilities-based carriers and five active resellers in the market. Partnership consequently claims that reinstating its retail authority will not diminish the availability of retail cellular service in the area.

Partnership requests authority to provide retail service at the rates, terms, and conditions of service set forth in Exhibit A to the petition for modification. These rates, terms, and conditions of service are essentially the same as that presently in effect for PacTel.

The petition for modification was served on other resellers in the area and we have received no protests.

Partnership's request for reinstatement of its retail authority is reasonable and in the absence of protest should be granted. The authorization should be effective on the same date that the transfer sought in A.90-01-015 is made effective.

Findings of Fact

1. Partnership was authorized to provide both wholesale and retail cellular mobile telecommunications service in the greater Sacramento area by D.85-05-041.

2. D.85-05-041 was modified by D.85-07-020 to authorize Partnership to provide wholesale service only.

3. On December 26, 1989, Partnership filed a petition for modification requesting reinstatement of authority to provide retail service in the Sacramento area.

4. On January 9, 1990, PacTel and Partnership jointly filed A.90-01-015 requesting the transfer of PacTel's retail cellular business in the Sacramento area to Partnership.

5. Adequate retail service exists in the greater Sacramento area with two facilities-based carriers and five active resellers in the market.

6. Partnership requests authority to file retail rates, terms, and conditions of service as set forth in Appendix A to the petition for modification. These rates, terms, and conditions of service are essentially the same as that presently in effect for PacTel.

7. No protests to the petition for modification have been received.

Conclusions of Law

1. The petition for modification should be granted as set forth in the order.

2. Partnership should be authorized to file the rates, terms, and conditions of service set forth in Appendix A to the petition for modification.

O R D E R

IT IS ORDERED that:

1. Ordering Paragraph 2 of D.85-05-041 as modified by Ordering Paragraph 1 of D.85-07-020 is modified as follows:

2. On or after the effective date of this order, Partnership is authorized to file wholesale and retail tariff schedules in accordance with its application, as modified by its later filed amended tariffs. The filing shall comply with

General Order 96 and shall be effective not earlier than five days after filing.

2. Sacramento-Valley Limited Partnership is authorized to file, after the effective date of this order and in compliance with General Order 96-A, tariff sheets which provide rates, terms, and conditions of service for retail service as set forth in Appendix A to the petition for modification. The tariffs shall become effective on not less than five days' notice.

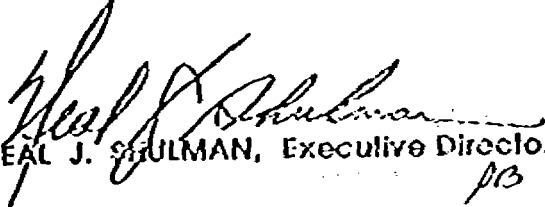
3. In all other respects, D.85-05-041 remains in full force and effect.

This order becomes effective 30 days from today.

Dated APR 11 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. SULMAN, Executive Director

APPENDIX A

Decision 85-05-041 Ordering Paragraphs
as Revised by Decision

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Sacramento-Valley Limited Partnership (Partnership) to construct and operate a cellular mobile telecommunications system in the Sacramento area.

2. On or after the effective date of this order, Partnership is authorized to file wholesale and retail tariff schedules in accordance with its application, as modified by its later filed amended tariffs. The filing shall comply with General Order 96 and shall be effective not earlier than five days after filing.

3. Partnership shall notify the Commission in writing of the day it commences service.

4. Applicant shall pay the user fee as a percentage of gross intrastate revenues as required by PU Code §§ 431-435.

5. This application is granted as set forth above, and the proceeding is closed.

6. The Executive Director of the Commission is directed to file with the Office of Planning and Research a Notice of Determination for the project with contents as set forth in the appendix to this decision.

(END OF APPENDIX A)