

Decision 90 09 050 SEP 12 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Modoc RSA 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 Modoc Rural Service Area.

ORIGINAL

Application 90-06-057
(Filed June 28, 1990)

O P I N I O N

This decision grants a certificate of public convenience and necessity (CPC&N) for cellular telephone service in the Modoc Rural Service Area (RSA) (California 2).

Applicant is a limited partnership consisting of Pactel Cellular, the general partner, and California-Oregon Telecommunications Company, Citizens Utilities Company of California, and CP National Corporation. The application includes a copy of the partnership agreement and a copy of Pacific Telesis' most recent proxy statement. Pactel Cellular is a wholly-owned subsidiary of Pacific Telesis. Applicant holds Federal Communications Commission (FCC) authority to construct the system which was initially issued to CP National on October 1, 1988. Modoc Limited Partnership (Modoc) assumed the permit authority, with FCC compliance, on April 28, 1989.

The application in this matter was filed on June 28, 1990 and notice of the filing appeared in the Commission's Daily Calendar on July 2, 1990. No protests have been received. A public hearing is not necessary.

Applicant proposes to establish new "B-Block," or wireline cellular telephone service in Modoc, Lassen, and Plumas counties. Service will initially be provided in south Lassen County with one cell site to be established in Susanville, California. The proposed site is situated on Antelope Mountain within an existing facility owned by Citizens Utility Company at latitude N 40° 27' 14" and longitude W 120° 34' 13". Applicant intends to lease switching capability from an MTSO operated by Sacramento Valley Limited Partnership and located near Sacramento. Land line interconnection will be through Pacific Bell's Chico tandem. Applicant will offer service via an initial block of 2000 numbers and roamer service by intercarrier agreement.

Applicant contemplates the potential development of additional sites pending development of the cellular telephone market in the area. Applicant submitted sufficient engineering data to demonstrate that the proposed service is technologically feasible.

Applicant estimates total capital costs of \$571,000 and anticipates service to 88 customers with revenues of \$45,208 and expenses of \$151,923 in the first year of service. By the end of the fifth year, applicant forecasts service to 479 customers, revenues of \$395,047 and expenses of \$267,852. Positive cashflow is expected after 1993.

Applicant's pro forma balance sheet shows total 1990 assets of \$421,137 and liabilities of \$13,790 excluding partnership equity and a capital contribution from the partners in the amount of \$81,415.

Applicant proposes to file tariffs providing for a \$50 initial hookup charge and a \$30/month access fee. The proposed usage charge is \$0.35 per minute on peak and \$0.25 per minute off peak. Wholesale rates are \$15 per activation, \$22.95 per month per access, \$0.288 per minute peak use and \$0.205 off peak. Various custom services will be offered at additional tarified rates.

With its application, applicant filed a motion for a conditional certificate or expedited processing or interim limited authority to enable service to commence on October 1, 1990. In support of its motion, applicant submitted that no question existed as to the need for cellular service in the Modoc RSA. The motion contained a verified statement by Jeffery H. Chessor, Director of Engineering that, assuming an "on line" date of October 1, 1990, construction would need to begin on August 1, 1990.

We acknowledge, as we have in D.90-03-080 and D.90-06-025 the need for the cellular service in California. However, applicant makes no mention of the specific basis for its desired start up date of October 1, 1990. Applicant is equally silent as to why it filed its application just 34 days before the day it planned to begin construction. We are left to conclude that whatever constraints may underlie applicant's haste, they are the product of its own work. As no specific reason for the request for interim authority is offered, the motion is denied.

Applicant's environmental assessment (PEA) shows that the single proposed cell site consists of the addition of whip antennae on an existing telecommunications structure. As such, it is categorically exempt from the environmental impact reporting requirements in the California Environmental Quality Act (Public Resources Code Section 210,000 et seq.) pursuant to the CEQA Guidelines Sections 15301 and 15303 and Rule 17.1 (h)(a)2.

Approval of this application is a step toward making cellular service available throughout California, including its less densely populated regions. We find that the public convenience and necessity require the proposed service.

Findings of Fact

1. Applicant seeks a certificate of public convenience and necessity for the establishment of B Block (wireline) cellular telephone service in the Modoc RSA consisting of leased MTSO

capability and a single cell site located near Susanville, California at latitude N 40° 27' 14" and longitude W 120° 34' 13".

2. The matter appeared in the Commission's Daily Calendar on July 2, 1990 and copies of the application were served on the city of Susanville and the counties in the RSA and on 14 potentially interested parties. No protests have been received. A public hearing is not necessary.

3. Modoc RSA Limited Partnership consists of Pactel Cellular, the general partner and three other partners, each of whom is a public utility operating in California.

4. The proposed cellular telephone service is economically and technologically feasible.

5. Applicant has satisfied the disclosure requirements of Rule 18(i).

6. Applicant has obtained Federal Communications Commission authority to construct the proposed service.

7. Applicant possesses the technical and financial means to provide the proposed service.

8. Applicant filed a motion for a conditional authority or alternatively for an interim order of the Commission to allow the immediate installation of equipment.

9. The proposed cellular telephone facilities will be established within or upon existing telecommunications facilities and no new construction is proposed.

10. The public convenience and necessity require approval of this application.

Conclusions of Law

1. The certificate of public convenience and necessity should be granted.

2. The motion for conditional approval or interim order of the commission should be denied.

3. The proposed cellular telephone facilities are categorically exempt from the environmental impact report requirements of the California Environmental Quality Act.

4. Construction of any future additional cell sites in yet undetermined locations will be subject to the Commission's General Order 159, adopted March 28, 1990, pursuant to D.90-03-080.

5. Applicant is subject to a one-third percent (0.3%) monthly surcharge to fund Telecommunications Devices for the Deaf as outlined in Resolution T-13061 dated April 26, 1989 pursuant to PU Code § 2881.

6. Because of the immediate need for service, this order should become effective today.

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.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Modoc RSA Limited Partnership for the provision of cellular telephone utility service as proposed in A.90-06-057 and for the establishment of a cell site at N 40° 27' 14" latitude and W 120° 34' 13" longitude.

2. The motion for limited authority or an interim order of the Commission is denied.

3. The Commission having assumed the Lead Agency role in this matter finds that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act. No Negative Declaration or Environmental Impact Report is required (Rule 17.1(h)(a)2).

4. Construction of additional cell sites in yet undetermined locations shall be subject to the Commission's General Order (GO) 159, adopted March 28, 1990, pursuant to D.90-03-080.

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

6. Applicant is authorized to file, after the effective date of this order in compliance with GO 96-A, tariffs applicable to the service authorized containing rates, charges, and rules applicable to its radiotelephone services. The tariffs shall become effective on not less than 5 days' notice. The rates and charges shall be the same as for similar services that applicant has on file with the Commission.

7. Applicant shall file as part of its individual tariff, after the effective date of this order and consistent with Ordering Paragraph 6, an engineered service area map drawn in conformity with Federal Communications Commission Rule 22.504(b)(2), and consistent with Exhibit E to A.90-05-032.

8. Applicant shall notify the Commission Advisory and Compliance Division (CACD) director in writing of the date service is first rendered to the public as authorized herein, within 5 days after service begins.

9. The corporate identification number assigned to Modoc RSA Limited Partnership is U-3032-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.

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. Applicant is subject to the user fee as a percentage of gross intrastate revenue pursuant to PU Code §§ 431-435.

12. Applicant shall keep its books and records in accordance with the Uniform System of Accounts for cellular communications licensees as prescribed by D.86-01-043.

13. 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 Telecommunications Branch of the CACD of compliance.

14. Applicant shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using CPUC Annual Report Form L and prepared according to the instructions included with that form.

15. Applicant shall provide a copy of this decision to all local permitting agencies not later than 30 days from today.

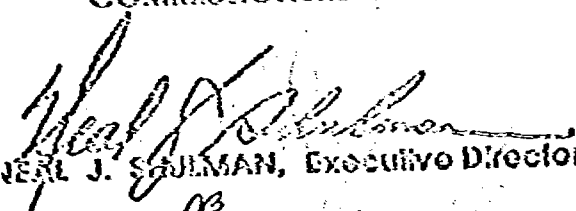
This order is effective today.

Dated SEP 12 1990, at San Francisco, California.

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

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.

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


NEAL J. SAULMAN, Executive Director
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