

Decision 90 09 051 SEP 12 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 C.I.S. of Imperial, CA., Inc., a)
 California corporation, and El Centro)
 Cellular Corporation, a Delaware)
 corporation, for a certificate of)
 public convenience and necessity)
 under Section 1001 of the Public)
 Utilities Code of the State of)
 California for authority to construct)
 and operate a domestic public)
 cellular radio telecommunications)
 service in California Rural Service)
 Area No. 7; for authority under)
 Sections 816 through 830 and 851 of)
 the Public Utilities Code to issue)
 secured evidences of indebtedness)
 and to encumber public utility)
 property; and for authority under)
 Section 854 of the Public Utilities)
 Code for El Centro Cellular)
 Corporation to acquire control of)
 C.I.S. of Imperial, CA., Inc.)

ORIGINAL

Application 90-06-019
(Filed June 12, 1990)

O P I N I O N

In this decision we grant authority for non-wireline cellular telephone service in the vicinities of El Centro and Calexico in Imperial County. This is the 16th proposal for cellular telephone service in California's 12 rural cellular markets.¹

¹ Each Rural Service Area may have up to two cellular telephone service providers. At least one application or advice letter has been filed for each of the California RSA's.

This application was filed jointly on June 12, 1990 by Cellular Information Systems of Imperial, California, Inc. (Imperial) and El Centro Cellular Corp. (El Centro). The matter appeared in the Commission's Daily Calendar on June 15, 1990. Applicant served its application on 46 potential competitors and on the cities in its service area and Imperial County. No protests have been received. A public hearing is not necessary.

Applicants make the following requests:

- I. For a CPCN to Imperial to construct and operate cellular telephone service.
- II. For authority under PU Code § 854 for El Centro to acquire control of Imperial.
- III. For authority for either applicant to encumber the assets of the system or the shares of Imperial and to issue evidences of encumbrance.

The requests are made in this manner because the applicants have agreed that El Centro will purchase the stock and assets of Imperial, and at the time of filing this application, it was not known whether the sales agreement would be executed prior to the issuance of a certificate of public convenience and necessity (CPCN). Neither applicant is presently a certificated public utility in California. We proceed on the assumption that the sales agreement will be performed after this decision. Accordingly, we will:

- first: issue a CPCN to Imperial,
- second: grant authority to encumber the assets of Imperial,
- third: approve the transfer of the stock and assets of Imperial to El Centro, and
- fourth: grant authority to encumber the assets of El Centro.

I

Imperial is a California corporation which is wholly owned by Cellular Technology, Inc., a Texas corporation, which is, in turn, a wholly owned subsidiary of Cellular Information Systems, Inc. (CIS), a Delaware corporation. CIS owns Cellular Information Systems Acquisition Corporation (CISAC), which is also a Delaware corporation and through its various subsidiaries holds Federal Communications Commission (FCC) authority in seven other states.

CISAC obtained an assignment of FCC authority to construct which had been issued originally to a company known as RSAC, Inc. The FCC subsequently substituted Imperial as the holder of the FCC permit. The permit must be exercised before August 4, 1992.

The proposed service will involve the establishment of a Mobile Telephone Switching Office (MTSO) at the KQVO FM transmission site in Calexico, California or in Yuma, Arizona. Applicant proposes to construct two cell sites, one near Calexico at latitude N 32° 40' 48" and W 115° 25' 34" longitude and a second site in El Centro at N 32° 47' 30" and W 115° 32' 30". The proposed service area map attached to the application as Exhibit I describes an area of roughly 16 square miles centered on El Centro.

Applicant proposes to interconnect with Pacific Bell local telephone facilities and intends to provide roamer service by way of intercarrier agreements.

Applicant intends to make use of Novatel Telecom or Motorola equipment. Sufficient engineering data is provided in Exhibit of the application to demonstrate technical feasibility.

Applicant proposes to charge a \$35 per month basic access charge and useage rates of \$.40 per minute during period and \$.22 in the off-peak period.

Pursuant to Rule 18, applicant estimates that it will have 99 subscribers, \$73,709 revenue and expenses of \$515,934 in

its first year of operations. By the end of its fifth year, 2,649 customers, \$3,333,144 in revenues and \$1,160,326 expenses are projected. Applicant expects annual revenues to exceed annual expenses after the third year of operation. Capital costs over the first five years of operations are \$2,744,860 with \$2 million expended in the first year. Until the transfer of the system to El Centro is completed, Imperial intends to finance construction by way of an increase to its existing credit facility provided by a group of banks under the direction of First National Bank of Maryland, secured by the assets of Imperial.

Imperial submitted the 1989 consolidated balance sheet of its parent of CIS which reveals total assets of \$82,800,173 and liabilities \$73,628,223 (excluding \$9,145,792 shareholder equity). CIS shows operating revenues of \$7.7 million and operating loss of \$11.3 million. The company's finances consist of long-term debt of \$64,774,807. Applicant states that it has nothing to report by way of compliance with Section 2 of General Order (GO) 104-A.

We conclude that the proposed cellular service is technically and economically feasible and that the public convenience and necessity requires the service.

II

Imperial and CIS support the request for authority to encumber assets with evidence of a loan commitment in the amount of \$160 million through Provident National Bank and other banks. The assets of Imperial are pledged through Cellular Technologies, Inc. against up to \$13 million of the total borrowings. The amount is sufficient to construct and operate the proposed cellular service.

III

In this section we consider the proposed transfer of the stock of Imperial to El Centro. Under the purchase agreement, El Centro will pay \$11,291,600 for Imperial, free of all pre-sale debt secured by Imperial's assets. The time for closing is within 10 days of final governmental approval. Special provisions would apply if approval is not granted by November 1, 1990.

El Centro's purchase is guaranteed by its indirect parent, Century Cellular Corp., without condition. El Centro supports its request with the submission of the consolidated balance sheet and income statement of its parent Century Cellular Holding Corp. (Century). Century has acquired eight cellular telephone properties and with its affiliates operates in six other states. Its balance sheet shows total assets \$235,117,000 and liabilities of \$262,448,000 (including common stockholder deficiency in assets). Approximately half the liability is long-term debt with about \$69 million owed to its parent company. An operating loss of \$17.7 million was recorded in 1989. The company recorded long-term borrowing as its principal source of finance (\$139,573,000). We are not concerned that applicant's parent company is experiencing operating losses and exhibits a high ratio of long-term debt; this is normal in the development phase of a new service or industry. Our review of applicant's financial situation is sufficient to allow us to conclude that applicant, through its affiliates has access to sufficient capital to develop and provide the proposed service.

Environmental Analysis

Applicant proposes to begin service with the establishment of two cellular transmission facility sites. Both sites and the MTSO are proposed to be established on or within existing buildings or structures and will not, for the present, involve new construction. We conclude that the development of

these facilities is categorically exempt under the California Environmental Quality Act Guidelines Sections 15301 and 15303. Further development of applicant's service will require additional analysis and will be subject to GO 159.

Findings of Fact

1. Applicants request a CPCN to provide cellular telephone service in and around El Centro and Calexico in Imperial County (RSA #342, California #7).

2. Applicants filed their application on June 12, 1990 and served copies on the cities and county to be served and on 46 potentially interested parties.

3. The matter appeared in the Commission's Daily Calendar on June 15, 1990. No protests have been received. A public hearing is not necessary.

4. Applicant Imperial is the assignee of Federal Communications Commission authority to construct issued originally on August 4, 1989; the authority will expire, unless extended, on August 4, 1992.

5. Applicants request approval of the transfer of the assets of Imperial to El Centro, and for authority to encumber public utility assets.

6. Applicant Imperial's parent and affiliates currently provide cellular telephone service in seven other states; applicant El Centro's parent and affiliates provide service in six other states.

7. Applicants have demonstrated the technical and economic feasibility of the proposed service.

8. Total capital costs over the first five years are approximately \$2.7 million to be financed by long-term loans secured by applicants' assets.

9. The proposed cell sites and MTSO will be established on or within existing facilities and structures.

10. The public convenience and necessity require the grant of authority to construct and provide the proposed service.

Conclusions of Law

1. The CPCN should be granted.
2. The request for approval of the transfer of the stock of Imperial to El Centro should be granted.
3. The requests for authority to encumber public utility assets should be granted.
4. The proposed service is categorically exempt from the reporting requirements of the California Environmental Quality Act Guidelines under Sections 15301 and 15303.
5. This decision should be effective when signed because the public convenience and necessity require prompt construction of cellular telephone service.
6. Applicant Imperial's is subject to the user fee set forth in PU Code § 401 et seq. and as established by the Commission for the 1990-91 fiscal year.
7. Applicant Imperial is subject to a 0.3% surcharge on gross intrastate revenues to fund telecommunications services for the deaf, pursuant to PU Code § 2881 and Resolution T-13061.

This authorization is not a finding of the value of property for which authorization to acquire control is granted.

Only the amount paid to the state 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 is granted to CIS of Imperial, California, Inc. (Imperial) for the

provision of cellular telephone service and for the construction of cell sites within the Imperial RSA at:

- a. Calexico, California; N 32° 40' 48";
W 115° 25' 34"
- b. El Centro, California; N 32° 47' 30";
W 115° 32' 30"

2. Imperial and El Centro are authorized to issue evidences of indebtedness and encumber public utility property as proposed in Application (A.) 90-06-019.

3. Imperial and El Centro shall use the net proceeds from the financial arrangements authorized in Ordering Paragraph 2 (supra) for the purposes set forth in A.90-06-019.

4. On or after the effective date of this order, El Centro Cellular Corporation (El Centro) may acquire control of Imperial through the acquisition of capital stock in accordance with the terms set forth in A.90-06-019.

5. El Centro shall file written notice of the acquisition of control of Imperial with the Commission Advisory and Compliance Division within 15 days after acquisition has occurred.

6. The Commission Advisory and Compliance Division shall file a Notice of Exemption with the Governor's Office of Planning and Research within 5 days of the effective date of this order.

7. For any future cell sites established in addition to those approved in this decision, applicant(s) shall comply with the requirements set forth in GO 159 and which are in effect at that time.

8. Applicant shall mail a copy of this decision to the cities of El Centro and Calexico and to Imperial County not later than 30 days from today.

9. On or after the effective date of this order, Imperial is authorized to file in compliance with GO 96-A wholesale and retail tariff schedules as set forth in Exhibit Q of A.90-06-019. The

tariff shall be effective in not less than five days from the date of filing.

10. On or after the date El Centro acts in compliance with Ordering Paragraph 5 (supra), El Centro is authorized as provided in Ordering Paragraph 9 (supra) in place of Imperial.

11. Imperial shall keep its books as directed by the Uniform System of Accounts for cellular communications utilities pursuant to Decision 86-01-043.

12. On and after El Centro acts in compliance with Ordering Paragraph 5 (supra), El Centro shall comply with Ordering Paragraph 11 in place of Imperial.

13. Imperial shall pay the user fee as provided in PU Code §§ 431 through 435.

14. After El Centro acts in compliance with Ordering Paragraph 5 (supra), El Centro shall comply with Ordering Paragraph 13 (supra) in place of Imperial.

15. Imperial shall file the annual reports required by GO 24, 65-A, and 104-A until or unless El Centro acts in compliance with Ordering Paragraph 5 (supra).

16. Within 30 days after this order is effective, Imperial and El Centro shall file written acceptance of the authority granted herein with the Commission Advisory and Compliance Division.

17. The corporate identification number assigned to Imperial is U-3027-C, which shall be included in the caption of all original filings with the Commission and in the title of other pleadings filed in existing cases.

18. On and after the date of the authority granted in Ordering Paragraph 4 is exercised, (supra) El Centro shall comply with Ordering Paragraph 15 (supra) in place of Imperial.

19. The authority granted in Ordering Paragraphs 1, 2, and 4 (supra) shall expire unless exercised within 12 months 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.

Neel J. S. ...
NEEL J. S. ...
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NEEL J. S. ... DIRECTOR