

mailed

Decision 90-10-033 October 12, 1990

OCT 15 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application	)	
of CAL-ONE CELLULAR L.P. for a	)	
certificate of public convenience	)	
and necessity under Section 1001	)	
of the Public Utilities Code of the	)	
State of California for authority	)	Application 90-07-039
to construct and operate a	)	(Filed July 11, 1990)
domestic public cellular radio	)	
telecommunications system in	)	
California RSA No. 1 encompassing	)	
Humboldt, Del Norte, Siskiyou, and	)	
Trinity Counties.	)	

INTERIM OPINION

In this decision we grant interim authority for the establishment of temporary cellular radiotelephone service in Rural Service Area (RSA) 1 encompassing Humboldt, Del Norte, Siskiyou, and Trinity Counties.

Cal-One Cellular Limited Partnership (Cal-One) first filed its application on July 11, 1990. The application was subsequently amended on August 8, 1990, and a second amendment was filed on September 26, 1990. The matter appeared in the Commission's Daily Calendar on July 20, 1990, August 15, 1990, and October 4, 1990.

On September 14, 1990 the Commission received a letter of protest from Ben Shepherd of 2230 Hooven Road, McKinleyville, California. Shepherd's complaint is based on his belief that applicant's proposed cell site near McKinleyville would introduce a tower and a light source into the view shed in the vicinity of the site. Shepherd is also concerned that alternatives to the McKinleyville site have not been sufficiently considered.

Shepherd's protest does not warrant a public hearing prior to issuing this interim decision. This decision does not approve the McKinleyville cell site. Prior to our final decision in this proceeding, the Commission will adopt a negative declaration or an environmental impact report which will consider the environmental impacts of each of the three permanent cell site facilities. The concerns raised by Shepherd will be addressed in that analysis.

Also on September 26, 1990 Cal-One filed a motion to shorten the protest period on its second amendment from 30 days under Rule of Practice and Procedure 8.3 to a period of 10 days from the date the amended to the application was filed. Since the amended application and this decision contemplate only limited and temporary authority, the motion for a shortened protest period is granted. A full 30-day period was provided following notice of the filing of both the original and the first amended application.

Cal-One's application, as amended on September 26, 1990, requests that a certificate of public convenience and necessity (CPC&N) be issued for a permanent cellular radiotelephone service system in a final decision to be adopted after the completion of the Commission's environmental review. Cal-One also seeks immediate relief by way of an interim decision for the installation of a temporary cell site which will enable Cal-One to initiate service prior to December 8, 1990. Applicant has a permit to construct its full system from the Federal Communications Commission (FCC) which will expire unless service is commenced before that date.

In this interim decision we consider the necessary facts showing applicant's fitness to provide cellular radiotelephone service. We grant limited interim authority to establish temporary service only. Cal-One may establish a single temporary cell site which meets the requirements of Section III D.3. of General Order (GO) 159. The cell site may be at any location in the RSA which

conforms to GO 159 provided that it shall be immediately removed and relocated to another location which also conforms to GO 159 on subsequent order of this Commission. We reserve the right to order relocation on any showing by any resident of the RSA or any city or any county that the location of the temporary facility is not in compliance with GO 159 or otherwise constitutes an undesirable or unauthorized use of land. Applicant shall prior to establishing any temporary cell site, consult with the appropriate agency of the city or county having jurisdiction over development projects at the location of the temporary cell site, and shall comply with any and all requirements of that agency.

In granting this interim relief, the Commission makes no commitment whatsoever to issue a final decision in Application (A.) 90-07-039. Applicant may not undertake any construction of any permanent cell site in the RSA without further order of this Commission.

The cellular system as proposed for approval in our final decision would consist of a Mobile Telephone Switching Office (MTSO) located in Eureka and three cell cities. The cell sites would be located on Humbolt Hill, near Eureka at latitude N 40° 42' 58" and longitude W 124° 12' 11"; at McKinleyville, N 40° 57' 37" W 124° 4' 6"; and on Bunker Hill, approximately eight miles south of the City of Ferndale, at latitude N 40° 30' 03" and at longitude W 124° 17' 10." This system would serve the Eureka-Arcada-Fortuna-Rohnerville region which extends along the coast from False Cape to Trinidad extending inland some 10-15 miles. The area has a population of about 97,000 persons. About 15 small communities would be served with more than two-thirds of the area population located in the cities of Eureka and Arcada. The system would utilize a Motorola EMX-100 Plus switch and would interconnect with Pacific Bell land line telephone service at the Eureka Class 4 tandem office. Applicant has reserved a block of 10,000 numbers at the Eureka tandem. Applicant included sufficient engineering information to demonstrate that service is technologically feasible.

Applicant projects first year revenues of \$304,820 and expenses of \$854,016 and expects to serve 419 customers. By the end of the fifth year of service, applicant expects revenues of \$1,221,012 and expenses of \$1,081,806. Total subscription at that time is forecasted to be 1,290 customers. Applicant does not anticipate a net positive revenue stream until the fifth year of operation.<sup>1</sup> The total capital cost of constructing the service is \$2,687,091 for the first five years of operation. The partnership has invested \$3,000,000 in the development and operation of the system. Any further funding requirements will be met through additional capital calls on the partners. Applicant states that it is aware of no transactions which would be subject under Rule 18(i) to the reporting requirement of GO 104-A.

Applicant proposes to charge retail rates of \$30 per activation, \$9.95 monthly access and \$.95 per minute peak, and \$.75 per minute off-peak for usage. A reduced schedule will be charged to wholesale and large user customers; these customers would be charged usage rates approximately two-thirds lower than retail. The retail usage rate, on the other hand, incorporates a discount for high volume calling. The proposed rates appear to be less than those charged in many areas and may prove effective in developing the cellular market in this thinly populated RSA.<sup>2</sup>

The approval of this application will bring wireline cellular service to those who live in the northwestern portion of the state. In conjunction with the nonwireline cellular service proposed in A.90-07-032 residents of the area will also have the

---

1 If depreciation cost is added back, revenues exceed expenses after the second year.

2 In A.90-07-032 filed July 13, 1990 by Cellular 1 Corp., the prospective nonwireline provider in MSA #1, the proposed rates included a higher monthly access charge with lower usage rates.

opportunity to choose between two cellular service providers pursuant to the FCC cellular telephone licensing program of authorizing two carriers in each service area. Our decision in this matter is also a step toward completing continuous cellular service coverage of the state. Based on the content of the application and our desire to quickly deploy cellular telephone service throughout the state, we find that the public convenience and necessity required approval of this application.

Environmental Analysis

Our action granting interim authority to establish cellular service by way of a temporary facility which complies with GO 159 Section III D.3. is categorically exempt under Section 15303 of the California Environmental Quality Act Guidelines. Prior to the issuance of our final decision granting or denying authority to construct the Humbolt Hill, McKinleyville, and Bunker Hill cell sites, the Commission will consider and adopt a negative declaration or an environmental impact report.

Findings of Fact

1. Applicant seeks a CPC&N to establish cellular radiotelephone service in RSA #1 and to construct a NTSO in Eureka, California, and three permanent cell sites.
2. By amendment to its application filed September 26, 1990, Cal-One seeks interim authority, pending a final decision of the Commission, to install a temporary cellular radiotelephone facility at a location in the RSA.
3. By separate motion filed September 26, 1990, applicant requests that the period in which a protest to its second amended application be shortened to ten days.
4. The application was served and notice was had by potentially interested parties; a public hearing is not necessary.
5. Cal-One consists of Cal-One Cellular Corporation as general partner and four corporations engaged in general telecommunications.

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

7. Applicant has obtained FCC authority to construct the proposed service.

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

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

10. The proposed temporary cellular telephone facility will result in the installation of mobile equipment which can be removed and which will not result in any permanent impact on the environment.

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

Conclusions of Law

1. The request for authority to provide temporary service and the motion for a shortened protest period should be granted.

2. The proposed temporary cellular telephone facility is categorically exempt under Section 15303 of the Guidelines to the California Environmental Quality Act.

3. Any future construction of permanent cell sites should be subject to a final decision of the Commission in this proceeding.

4. 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 Public Utilities (PU) Code § 2881.

5. Applicant is subject to the user fee pursuant to PU code §§ 431-435.

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.

INTERIM ORDER

IT IS ORDERED that:

1. Cal-One Cellular Limited Partnership (Cal-One) is authorized to provide interim cellular radiotelephone service and to install a temporary cell site in conformity with the provisions of Section III D.3. of General Order 159.

2. Applicant shall, prior to establishing any temporary cell site, consult with the appropriate agency of the city or county having jurisdiction over development projects at the location of the temporary cell site and shall comply with any and all requirements of that agency.

3. The motion for a shortened protest period is granted. .

4. Construction of any additional cell sites shall be subject to a subsequent final decision of the Commission.

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

6. Applicant is authorized to file, after the effective date of this order in compliance with GO 96-A, provisional 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 5, an engineered service area map drawn in conformity with FCC Rule 22.504(b)(2).

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 Cal-One is U-2125-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 authority granted to render service under the rates, charges, and rules authorized herein will expire within 120 days after the effective date of this order.

11. Applicant shall pay the user fee based on 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 Decision 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.



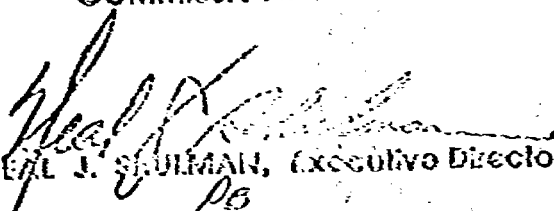
15. Applicant shall provide a copy of this decision to all local permitting agencies not later than 30 days from today.

This order is effective today.

Dated October 12, 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  
PB