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Decision 91-11-003 November 6, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
COLUMBIA CELLULAR, INC., a California)
corporation, for a certificate of)
public convenience and necessity to)
operate as a reseller of cellular)
radio telecommunications within)
California and for exemption from the)
requirements of Sections 816-830 and)
851-855 of the Public Utilities)
Code.)

ORIGINAL

Application 91-07-037
(Filed July 29, 1991)

OPINION

Columbia Cellular, Inc. (Columbia or applicant), a California corporation, seeks a certificate of public convenience and necessity (CPC&N) to resell cellular radio telecommunications service within California. Initially, Columbia proposes to resell services provided by facilities-based carriers in the greater Los Angeles area. Columbia also requests exemption from the provisions of the Public Utilities (PU) Code §§ 816-830 and §§ 851-855 and Sections V and VI of General Order (GO) 96-A.

Columbia is authorized by its Articles of Incorporation to issue 100,000 shares of common stock. None of the shares have been issued nor are any shares outstanding. Columbia proposes to sell 10,000 shares to Robert Boladian for \$20,000. Applicant seeks authority to issue the stock if it is not found to be exempt from the statutory requirements governing such issuance.

Applicant states that Boladian, who acts as its president, has been engaged in the sale and distribution of cellular telephone services and equipment since 1988 through his ownership and operation of All Star Cellular. Applicant states that All Star Cellular will become a retail agent for its services upon grant of the authority requested. Based on the anticipated

arrangement, Columbia alleges that it possesses the necessary experience and knowledge to service the public as a certified cellular reseller.

Applicant's balance sheet dated July 23, 1991 shows assets of \$20,000 cash and liabilities of \$20,000 consisting of notes payable to Robert Boladian. The Note to Boladian will be forgiven in exchange for capital stock upon grant of the application.

Applicant expects net losses of \$8,232 and \$311 respectively in the first and second quarters of operation. It expects net income of \$2,831 and \$5,972 respectively in the third and fourth quarters of operation as its customer base grows. Applicant states that additional funds that may be required from time to time will be advanced by its shareholder or by a bank line of credit.

Applicant served a copy of its application on cellular resellers and facilities-based carriers with whom it may compete and on other interested parties.

Applicant has provided adequate information for a grant of authority to provide cellular telecommunications services. Cellular resale markets in California are, by their nature, generally competitive. That competition will restrain applicant from charging unreasonably high prices to customers. Applicant has adequate financial resources to withstand short-term losses.

In Decision (D.) 90-06-025 the Commission concluded that retail cellular providers should be classified as nondominant telecommunications carriers. We concluded that as nondominant carriers, cellular resellers should be exempt from PU Code §§ 816-830 and in part from § 851, and that non-facilities based resellers should be authorized to file tariffs in accordance with GO 96-A, excluding Sections IV, V, and VI. (36 CPUC 2d 464, at 502-3.) We find that Columbia's requests for exemptions are consistent with D.90-06-025 as modified by D.90-10-047 and D.91-06-054.

As a telephone corporation, applicant is subject to:

1. The fee used to fund the costs of regulating public utilities. (PU Code §§ 401-410, 431-435.) Resolution M-4757 (May 22, 1991) set the fee for fiscal year 1991-92 for telephone corporations at one-tenth of 1% (0.10%) of revenue subject to the fee.
2. The surcharge of three-tenths of 1% (0.3%) on gross intrastate revenues used to fund Telecommunications Devices for the Deaf. (PU Code § 2881.) This surcharge became effective July 1, 1989 (Resolution T-13061, April 26, 1989).

Applicant should include in its tariff appropriate rules for imposing these fees and surcharges.

Findings of Fact

1. Notice of the filing of the application appeared in the Daily Calendar on August 2, 1991, and applicant served the application on known potential competitors and other parties. No protests have been filed. A hearing is not necessary.
2. Applicant seeks a CPC&N to operate as a reseller of cellular telecommunications services throughout California, with initial service offerings in the Los Angeles area.
3. The proposed operation is technically and financially feasible.
4. Since no facilities are to be constructed, it can be seen with certainty that the proposed operation will not have a significant effect on the environment.
5. Public convenience and necessity require the granting of this application.

Conclusions of Law

1. Applicant should be granted a waiver of PU Code §§ 816-830 and 851-855, to the extent such waiver is consistent with D.85-07-081, D.85-11-044, and D.90-06-025 (as modified by D.90-10-047 and D.91-06-054).

2. Applicant is subject to the user fee system, as set forth in PU Code § 401, et seq. The user fee for the 1991-92 fiscal year is 0.1%. (Resolution M-4757, May 22, 1991.)

3. Applicant is subject to a three-tenths of 1% (0.3%) surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf. (PU Code § 2881; Resolution T-13061, April 26, 1989).

4. Applicant should include in its tariff appropriate rules for imposing fees and surcharges.

5. Applicant is subject to the provisions of GO 96-A, as modified by D.90-06-025, D.90-10-047, and D.91-06-054.

6. The application should be granted as provided in the order which follows.

7. Because the public convenience and necessity require applicant's service, the following order should be effective on the date signed.

The State may grant any number of operative rights and may cancel or modify the monopoly feature of those rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Columbia Cellular, Inc. (applicant) to operate as a reseller of cellular telecommunications services in California.

2. Within 20 days of the effective date of this order, applicant shall file a written acceptance of the certificate.

3. Applicant is authorized to file, after the effective date of this order and in compliance with General Order (GO) 96-A, tariffs applicable to its cellular resale services. The tariffs shall become effective on not less than 5 days' notice. The rates and charges shall be as proposed in this application.

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

5. Applicant shall comply with GO 96-A, as revised in D.88-05-067 and D.90-06-025 as modified. Applicant shall also comply with the Electronic Serial Number (ESN) blocking tariff rules specified in D.90-06-025.

6. Applicant shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using the format specified by the Chief of the Auditing and Compliance Branch of CACD. (Appendix A.)

7. Applicant shall comply with PU Code § 401, et seq., and Resolution M-4757, as they pertain to the collection of user fees to fund the costs of regulating public utilities.

8. Applicant shall comply with PU Code § 2881 and Resolution T-13061 as they pertain to a surcharge on gross intrastate revenues to fund Telecommunications Devices for the Deaf.

9. Applicant shall include in its tariff appropriate rules for imposing and collecting the user fees and surcharges in Ordering Paragraphs 7 and 8.

10. The corporate identification number assigned to applicant is U-4106-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.

11. 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.

12. 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 the Telecommunications Branch of CACD.

Executive Director

13. The application is granted.
14. This is a final order and the proceeding is closed.
This order is effective today.
Dated November 6, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
Commissioners

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

NEAL J. SHULMAN, Executive Director

APPENDIX A

Information Requested of California Cellular Resellers 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-4106-C 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. 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 APPENDIX A)