

Decision 91-11-008 November 6, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
NED MEISLIN, d.b.a. GALAXY CELLULAR)
COMMUNICATIONS, for a certificate)
of public convenience and necessity)
to operate as a reseller of radio)
telecommunications services within)
California.)

Application 91-05-052
(Filed May 23, 1991)

OPINION

Ned Meislin, doing business as Galaxy Cellular Communications (applicant), seeks a certificate of public convenience and necessity (CPC&N) to resell cellular radio telecommunications service within California. Applicant proposes to offer service in the Los Angeles metropolitan area.

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's proposed tariffs are attached to its application. The proposed rates are those currently in effect in the Los Angeles metropolitan area. Applicant alleges that its owner has sales and marketing experience in the cellular services industry.

Applicant's balance sheet shows that its net worth is \$50,000 in cash. It expects a first year net loss of \$84,878, but estimates a second year profit of \$43,804.

Applicant seeks expedited approval of its application in order that it may begin service as soon as possible to meet the growing demand for services in the Los Angeles metropolitan area.

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.

As a telephone corporation, applicant is subject to:

1. The fee used to fund the costs of regulating public utilities. (Public Utilities (PU) Code §§ 401-410, 431-435.) Resolution M-4757 (May 22, 1991) set the fee for fiscal year 1989-90 for telephone corporations at one-tenth of 1% (0.1%) 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 May 30, 1991. 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 in the Los Angeles metropolitan area and throughout California.
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, consistent with Decision (D.) 85-07-081 and D.85-11-044.

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 General Order 96-A, as modified by D.88-05-067 and D.90-06-025.

6. The application should be granted.

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

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 those rights at any time.

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Ned Meislin, doing business as Galaxy Cellular Communications (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 GO 96-D.88-05-067 and D.90-06-025. 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 Resolutions 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-4107-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, the applicant shall comply with PU Code § 708, Employee Identification Cards, and notify, in writing, the Chief of the Telecommunications Branch of CACD.

13. The application is granted.

This order is effective today.

Dated November 6, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President

JOHN B. OHANIAN

DANIEL W. 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 Interexchange 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 # 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:

10. 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)