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Decision 91-11-049 November 20, 1991

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 SPECTRON CELLULAR SERVICES, INC.)
 for a Certificate of Public)
 Convenience and Necessity to Operate)
 as a Reseller of Cellular Radio)
 Telephone Service Within California.)

Application 91-05-040
 (Filed May 17, 1991)

ORIGINAL

OPINION

This is an application in which Spectron Cellular Services, Inc. (applicant) seeks authority to provide statewide resale of cellular radio telephone service within California.

Notice of the filing of the application appeared in the Commission's Daily Calendar on May 22, 1991. By letter dated October 7, 1991, applicant supplemented its application by providing additional information regarding its technical and managerial experience in the cellular services industry. There are no protests.

The Commission makes the following findings and conclusions.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. Applicant is a California corporation.
3. Applicant proposes to purchase cellular services in bulk from cellular carriers and resell them to the public at retail rates under tariffs to be filed with the Commission. It intends to confine its marketing to daily and short-term users, primarily customers of car rental agencies. Customers of agencies which have entered into agreements with applicant will be able to obtain portable cellular phones, or cars already equipped with cellular units, which will be billed to their credit card accounts.

4. Applicant proposes to establish a rate band ranging from \$0.75 per minute of usage to \$1.95 per minute of usage. Actual rates within that band will be periodically determined by market conditions and by the facilities utilized. Applicant contends that it needs this flexible tariff rather than being bound to a specific rate structure which must be altered by Advice Letter whenever conditions require, because of the multifaceted nature of the short-term cellular service business. It states that promotional programs initiated by car rental companies, special rates for holidays and weekends, variances in rates between car rental locations, rental of a car and phone at one location but return elsewhere, etc., make adherence to a fixed rate structure virtually impossible. Applicant contends that addressing each of the myriad pricing eventualities in the tariff as and when they arose would be so costly and complicated that it would be prohibitively expensive as well as being unworkable. Under the proposal, the rate charged a customer obtaining service from applicant would be fixed at the time he contracts for service, and applicant would not alter such rate for the duration of the customer's usage.

5. Applicant maintains that its proposed rate will make it possible to provide service on an economical basis to travellers at a cost which is commensurate with the facilities and benefits afforded, and will not pose any threat to regular carriers or resellers because the proposed usage rates are substantially higher than those offered to long-term customers. It asserts that the market segment which it plans to initially serve is a unique market which is different from that comprised of the long-term customers served by facilities-based carriers and most resellers. Applicant states that there is presently a growing market for its proposed service because more customers need cellular service for short-term usage.

6. Applicant proposes to establish two categories of service: installed mobile and portable. Its intention is to

initially charge \$1.45 per minute for its service in both categories. At some point, applicant expects to charge different rates for installed mobile units and portable units. Applicant's plan is to notify the Commission Advisory and Compliance Division (CACD) in writing whenever a rate is changed, or a new category of service is established, and confirm that the information in such notice shall remain in force until subsequently altered by a further written notice to CACD. If applicant proposed a rate either higher or lower than the \$0.75-\$1.95 range, the usual advice letter procedures under General Order (GO) 96-A would be followed.

7. Applicant projects that its rental income combined with phone sales, commissions income, and labor income eventually will exceed its expenses. While applicant expects to operate at a loss in the next year as it expands its business operations, it contends that more than sufficient capital has been obtained to complete this expansion. Applicant estimates that by the end of the second year, it should be operating at a profit within California. It attached, in support of its financial ability to render the proposed service, Exhibit B which includes the balance sheet and income and expense projections of applicant and another of its founder's companies, Spectron Systems. Spectron Systems had a net operating income of \$24,214.74 in 1990. Applicant proffers Spectron Systems' balance sheet in order to establish that it has the ability to obtain adequate capital to maintain a successful operation in the future. Accordingly, it appears that applicant has the financial ability to operate the proposed service.

8. Applicant has the technical ability to conduct the proposed operations. Since 1987, applicant's founder has operated Spectron Systems, which provides short-term rentals of cellular telephones. Initially, Spectron Systems' main distribution channel was car rental companies. As part of its cellular services, Spectron Systems owned the cellular telephones and was responsible for billing, maintaining the telephones and managing the

bookkeeping. The company recently expanded its operations and now serves hotels, individuals, government agencies, and large corporations. Applicant represents that it will be able to draw upon Spectron Systems' technical, managerial and marketing expertise, and longstanding relationships with carriers, suppliers, and installers in the cellular telephone rental industry. Consequently, applicant expects to enter the cellular services industry in a sound and expeditious manner.

9. 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.

10. As a telephone corporation, applicant should be subject to 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.

11. As a telephone corporation, applicant should be subject to 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).

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

13. 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 Spectron Cellular Services, 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.¹ 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. 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.

¹ Applicant may file tariffs with a rate band of \$0.75-\$1.95 and an initial charge of \$1.45 per minute for installed mobile and portable service. Applicant shall fix the rate to a particular customer at the time service is provided and shall not alter the rate for the duration of the customer's usage. Applicant shall notify the Commission Advisory and Compliance Division (CACD) in writing whenever a rate is changed or a new category of service is established, and confirm that the information in such notice shall remain in force until subsequently altered by further written notice to CACD. If applicant proposes a rate either higher or lower than the \$0.75-\$1.95 range, applicant will follow the usual Advice Letter procedures under General Order (GO) 96-A.

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-4108-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 granted certificate 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 the Chief of CACD's Telecommunications Branch of its compliance

13. The application is granted.

This order is effective today.

Dated November 20, 1991, at San Francisco, California.

PATRICIA M. ECKERT
President
DANIEL Wm. FESSLER
NORMAN D. SHUMWAY
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

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. 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)