

Mailed

MAR 11 1992

Decision 92-03-028 March 11, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Michael T. Applegate, dba
Transportation Communications, for a
certificate of public convenience
and necessity to operate as a
reseller of cellular radio
telecommunications within
California.

ORIGINAL

Application 91-12-010
(Filed December 16, 1991)

OPINION

Michael T. Applegate (applicant), doing business as Transportation Communications, seeks a certificate of public convenience and necessity (CPC&N) to resell cellular radio telecommunications service within California. Applicant proposes to offer service initially in the Sacramento Metropolitan Cellular Geographic Service Area (CGSA).

Notice of this application appeared on the Commission's Daily Calendar of December 23, 1991. Copies of the application were served on cellular resellers and facilities-based carriers with whom applicant may compete and on other interested parties, as listed in Exhibit F to the application. No protests to this application have been received; therefore, a public hearing is not necessary.

Applicant will purchase services from facilities-based certificated carriers operating throughout California at the carriers' tariff wholesale rates and will resell these services to the general public at reasonable rates. The following rates will be set forth in a form of tariff to be submitted to the Commission for review before being formally tendered for filing.

<u>General Resale</u>	<u>Sacramento</u>	<u>San Francisco Bay/ Los Angeles</u>
Connection Charge	\$50.00	\$50.00
Monthly Charge	25.00	35.00
Peak Minute Usage	.50	.60
Off-peak Minute Usage	.25	.30

Applicant expects its proposed operation to have approximately two customers in the transportation industry with 100 mobile units in its first full year of operation and eight customers with 400 mobile units by the fifth year of operation. Its customer base is expected to generate an operating profit in each of the first five years of operation. The first year is expected to generate a \$5,900 profit and increase each year to \$140,320 in the fifth year of operation.

Applicant's balance sheet shows that its combined net worth is approximately \$400,000. This net worth combined with the projected net profits of applicant's proposed operation demonstrate that the proposed operation is financially feasible.

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. Applicants 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 1991-92 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 December 23, 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 Sacramento CGSA 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 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.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Michael T. Applegate (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. 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-4110-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.

13. The application is granted.

This order is effective today.

Dated March 11, 1992, at San Francisco, California.

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

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


NEAL J. SHULMAN, Executive Director

TO: ALL INTEREXCHANGE TELEPHONE UTILITIES

Article 5 of the Public Utilities Code grants authority to the California Public Utilities Commission to require all public utilities doing business in California to file reports as specified by the Commission on the utilities' California operations.

A specific annual report form has not yet been prescribed for the California interexchange telephone utilities. However, you are hereby directed to submit an original and two copies of the information requested in Attachment A no later than March 31st of the year following the calendar year for which the annual report is submitted.

Address your report to:

California Public Utilities Commission
Auditing and Compliance Branch, Room 3251
505 Van Ness Avenue
San Francisco, CA 94102-3298

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

If you have any question concerning this matter, please call
(415) 703-1961.

ATTACHMENT 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:
 - 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 ATTACHMENT A)