

SEP 3 1992

Decision 92-09-028 September 2, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 CELLUTONE CELLULAR COMMUNICATIONS  
 SYSTEMS CORPORATION, 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.

Application 92-04-030  
 (Filed April 27, 1992)

O P I N I O N

Cellutone Cellular Communications Systems Corporation (applicant) seeks a certificate of public convenience and necessity (CPC&N) to resell cellular radio telecommunications service within California. It proposes to offer service initially in the greater Los Angeles area.

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

Applicant's proposed tariffs are included in its application and are as follows:

Basic Plan:

Connection Charge	\$50.00
Monthly Access Charge	\$45.00
Peak Minute Usage	\$ .45
Off-Peak Minute Usage	\$ .27

Applicant alleges that its owner has extensive technical and managerial experience in the computer and cellular services industries. The president of the applicant and its management team are indicated to have been actively engaged in the retail sale, distribution, and service of telephone products and accessories for over one year, to have engaged in business as agent for PacTel

Cellular and L.A. Cellular in the Los Angeles area. Prior to that, applicant's president spent several years as an executive in the banking industry.

Applicant's balance sheet shows that its combined net worth is approximately \$37,000. Applicant represents that additional funds will be advanced to applicant by its shareholder (the applicant's president), additional investors, or through a bank line of credit. It expects a first year net loss of approximately \$23,000, but believes that this loss will be short term.

Applicant believes that public convenience and necessity require Commission approval of this application for the following reasons:

1. There is a need for cellular service in the markets applicant proposes to serve.
2. Applicant's proposed service will enhance competition in the cellular retail market and will enhance penetration of cellular service into the Hispanic community.
3. Enhanced competition will bring long-term benefits to California cellular subscribers including lower priced services, increased ability of customers to choose between providers, service packages, and mobile customer premise equipment, and increased utilization of the existing facilities of the underlying carrier which will enable the underlying carrier to use the system more efficiently.

Applicant requests an exemption from the requirements of Public Utilities (PU) Code Sections 816-830 and 851-855 and from the requirements of General Order (GO) 96-A Section VI.

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.

Applicant should be on notice that while advertising and other marketing activities may target particular groups as customers, applicant is prohibited by PU Code § 453 from discriminating among customers in the provision of utility rates, charges, service, facilities, or in any other respect because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, occupation, sex, marital status, or change in marital status.

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-4760 (May 20, 1992) set the fee for fiscal year 1992-93 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 April 30, 1992. 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 area and throughout California.
3. Applicant proposed to focus its marketing efforts on the Hispanic community of Los Angeles.

4. The proposed operation is technically and financially feasible.

5. 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.

6. 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 1992-93 fiscal year is 0.1%. (Resolution M-4760, May 20, 1992.)

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.88-05-067 and D.90-06-025.

6. The application should be granted.

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

ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Cellutone Cellular Communications Systems Corporation

(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 Decision (D.) 88-05-067 and D.90-06-025. Applicant shall also comply with the Electronic Serial Number 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 Public Utilities (PU) Code § 401, et seq., and Resolution M-4760, 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-4112-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.

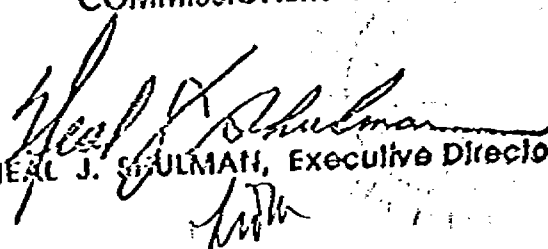
This order is effective today.

Dated September 2, 1992, at San Francisco, California.

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

Commissioner Patricia M. Eckert,  
being necessarily absent, did  
not participate.

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

  
NEAL J. SCHULMAN, 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 at:
  - 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)