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Decision 92-10-022 October 6, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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| In the Matter of the Application of SLO Cellular, Inc. for a Certificate of Public Convenience and Necessity under Section 1001 of the Public Utilities Code for Authority to Construct and Operate a New Domestic Public Cellular Radiotelecommunications System in the California 5 - San Luis Obispo Rural Service Area and for Authority under Sections 818 et seq. and 851 of the Public Utilities Code to Issue Evidences of Indebtedness and to Encumber Utility Property. | Application 92-04-010 (Filed April 7, 1992) |

## OPINION

In this application, SLO Cellular, Inc. (SLO) seeks a certificate of public convenience and necessity (CPCN) to construct and operate a new cellular radiotelephone system in the California 5 San Luis Obispo Rural Service Area (California 5 RSA), which encompasses San Luis Obispo County. Applicant also seeks authority under Sections 816-830 and 851 of the Public Utilities (PU) Code to issue evidences of indebtedness up to a limit of $1.1 million, and to encumber its utility property as security for repayment of this debt.

As explained below, we have concluded that the applicant is technically qualified and financially able to render the proposed service. We have also concluded that SLO's facilities would not have an adverse effect upon the environment. Accordingly, we grant the requested certificate, along with authority to encumber SLO's utility property up to a limit of $1.1 million.

**The Proposed Cellular System and Business Plan**

The cellular system that SLO proposes to construct and operate would be the Block A, or non-wireline, system for the California 5 RSA. At the present time, the only cellular provider serving this area is GTE Mobilnet, the Block B or "wireline" carrier.

SLO holds a license from the Federal Communications Commission (FCC) authorizing it to construct the proposed system. The license was issued on July 26, 1991 to Raveesh K. Kumra, SLO's sole shareholder. Mr. Kumra in turn assigned the license to SLO, and the FCC gave its consent to the assignment on October 21, 1991.

The system that SLO proposes to construct would consist of a switch and single cell, both of which would be located in existing buildings at an established cellular site. This site is located on Cuesta Peak, 3.9 miles north of the town of San Luis Obispo in the Los Padres National Forest. The site is leased from the U.S. Forest Service by Cuesta Peak Tower Associates, which has agreed to enter into a sublease with SLO. The Forest Service has recently issued a permit consenting to this sublease.

Apart from the switch and cell site, SLO proposes to add three antennae to a tower located on the Cuesta Peak site. None of these antennae would extend above the tower's 100-foot height, and each would be capable of handling up to 96 channels. After construction, the system will be interconnected with the Public Switched Telephone Network via a Type 2 interconnection with the Pacific Bell tandem office serving San Luis Obispo County. The rates that SLO proposes to charge its retail and wholesale customers (if any) are virtually identical to those charged by its wireline competitor, GTE Mobilnet.

The switch and other equipment needed by SLO would be purchased from Ericsson Radio Systems, Inc. (Ericsson). Ericsson--which is located in Richardson, Texas--is the U.S. subsidiary of a

Swedish company that manufactures, sells, and installs high-quality cellular radiotelephone equipment used by many other carriers. SLO and Ericsson have entered into a Loan Commitment Letter, under which Ericsson will lend SLO the money needed to purchase the necessary equipment, up to a limit of $1.1 million. The amounts loaned will bear interest at an annual rate of three percentage points above the "base rate" charged from time to time by the Morgan Guaranty Trust Company of New York. Interest on the loans from Ericsson will be due from the date SLO and Ericsson close on the loan, but repayment of principal does not begin until three years after the closing date. Both interest and principal must be repaid within seven years after the closing date, and SLO is free to repay them at any time without penalty.

This application was filed on April 7, 1992. Notice of the filing was published in the Commission's Daily Calendar on April 10, 1992, and no protests have been received.

The application was not deemed complete at the time of filing because the Commission Advisory and Compliance Division (CACD) concluded that more information was necessary to determine whether, as the application asserted, SLO's facilities were categorically exempt from review under the California Environmental Quality Act (CEQA) and Commission Rule 17.1. SLO provided the requested information in a supplement to its application filed on May 27, 1992. Thereafter, on June 16, 1992, CACD informed the applicant by letter that the application was complete, and that based upon the supplementary information provided, staff was able to determine (1) that the proposed project was categorically exempt from CEQA review under Commission Rule 17.1(h)(1)(A)(2), and (2) that in any event, there was no possibility the project would have a significant adverse effect upon the environment.

<u>Discussion</u>

As noted above, we have concluded that a CPCN should be granted, because SLO is both technically qualified and financially able to construct the proposed system and render the proposed service.

SLO's sole shareholder is Raveesh K. Kumra. The application states that Mr. Kumra is an engineer with eight years of experience in the cellular industry.[1] Prior to his involvement in the cellular industry, Mr. Kumra was employed by Intel Corporation (where he was responsible for software acquisition and evaluation), and before that by Hughes Aircraft Company and Burroughs Corporation. Mr. Kumra and his staff will supervise installation of the switch and other equipment necessary for the new cellular system. Based upon this experience and his FCC license, we conclude that Mr. Kumra has adequately demonstrated his competence to operate the proposed system.

We also believe that SLO's proposed financing plan is a realistic one. As shown by the following table summarizing the financial projections attached as Exhibit 11 to the application, SLO's net income during its first five years of operation should be sufficient to allow repayment of principal and interest on the equipment loans to be made by Ericsson:

1 In 1990 this Commission granted another of Mr. Kumra's companies a CPCN to engage in a cellular resale business in San Luis Obispo. <u>See</u> Decision (D.) 90-01-007. Ultimately, however, that business was not established.

SLO Projected Revenue, Expenses, and Capital Requirements

| | 1st Year | 2nd Year | 3rd Year | 4th Year | 5th Year |
|---|---|---|---|---|---|
| Avg. No. of Subscriber Units | 217 | 661 | 1,180 | 1,777 | 2,399 |
| Service Revenues | $770,000 | $1,397,000 | $2,196,000 | $3,053,000 | $4,023,000 |
| Operating Expenses | 605,000 | 709,000 | 927,000 | 1,081,000 | 1,303,000 |
| Operating Income (Before Depreciation, Taxes, and Interest) | 165,000 | 688,000 | 1,269,000 | 1,972,000 | 2,720,000 |
| Net Income | (9,000) | 251,000 | 609,000 | 1,052,000 | 1,522,000 |
| Total Capital Requirements (Exclusive of Operating Losses and Depreciation) | 885,000 | 411,000 | 520,000 | 312,000 | 519,000 |

To the extent additional funds are needed to cover either capital costs or operating losses, Mr. Kumra proposes to contribute them from his personal assets, which appear more than sufficient for the purpose.[2]

SLO's proposed system is also consistent with our environmental requirements. As noted above, the proposed system involves only minor alteration of existing facilities, and our

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2 At the request of the assigned administrative law judge (ALJ), Mr. Kumra provided a personal net worth statement on September 8, 1992.

staff has accordingly concluded that it is categorically exempt from CEQA review.

In letters to the assigned ALJ dated June 18 and September 16, 1992, SLO has pointed out a few technical errors in its proposed tariffs. We will direct SLO to make the necessary corrections, but otherwise find the proposed tariffs to be reasonable.

## Findings of Fact

1. The application was filed with the Commission on April 7, 1992. After supplementation as requested by CACD, it was deemed complete on June 16, 1992.

2. Notice of the application appeared in the Daily Calendar on April 10, 1992, and no protests have been filed.

3. A hearing is not necessary.

4. By virtue of an assignment from its sole shareholder, applicant holds a license from the FCC authorizing it to construct a Block A, non-wireline cellular radiotelephone system in the California 5 RSA, which encompasses San Luis Obispo County.

5. Applicant's initial system will consist of a switch and single cell site located in existing buildings at an established cellular park on Cuesta Peak in San Luis Obispo County.

6. Equipment and financing for applicant's system will be provided by Ericsson, a well-established manufacturer and installer of cellular radiotelephone systems.

7. Applicant's proposed operation is financially feasible.

8. Applicant's sole shareholder has the necessary experience to operate a cellular radiotelephone system.

9. Since the proposed project involves only minor alteration of existing facilities, it is categorically exempt from CEQA review.

## Conclusions of Law

1. The public convenience and necessity require the proposed service.

2. The application should be granted as set forth below.

3. Applicant is a telephone corporation operating as a telecommunications service supplier.

4. Applicant is subject to:

   a. The current 0.3% surcharge on gross intrastate interLATA revenues to fund Telecommunications Devices for the Deaf (PU Code § 2881; Resolution T-13061); and

   b. The user fee provided for in PU Code §§ 431-435, which is 0.1% of gross intrastate revenue for the 1992-93 fiscal year (Resolution M-4760).

5. Applicant should be subject to the Uniform System of Accounts for cellular communications licensees as adopted in D.86-01-043, revisions to which are now being considered in Phase III of Investigation 88-11-040.

6. If corrected as set forth in applicant's letters to the assigned ALJ dated June 18 and September 16, 1992, the wholesale and retail tariffs included in the application are reasonable and should be adopted.

7. Applicant should be granted a waiver of the provisions of PU Code §§ 816-830 and 851 so that it may issue evidences of indebtedness and encumber its utility property as security for the repayment of such debt, up to a limit of $1.1 million.

## ORDER

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to SLO Cellular, Inc. (applicant) to construct and operate a Block A, non-wireline cellular radiotelephone system in the California 5 San Luis Obispo Rural Service Area.

2. Within 30 days after this order is effective, applicant shall file a written acceptance of the certificate granted in this proceeding.

3. Applicant is authorized to file with this Commission, within 5 days after the effective date of this order, tariff schedules for the provision of wholesale and retail cellular radiotelephone service. Such tariff schedules shall be substantially in the form annexed to the application as Exhibit 10, and shall incorporate the corrections indicated in the June 18 and September 16, 1992 letters of applicant's counsel to the assigned administrative law judge. Applicant may not offer service until such tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (G.O.) 96-A.

4. Within 5 days after the service authorized by this order is first rendered, applicant shall notify the Commission of this fact in writing.

5. Applicant shall keep its books and records in accordance with the Uniform System of Accounts for cellular communications licensees adopted in Decision 86-01-043, as said system of accounts may be amended from time to time.

6. Applicant shall file an annual report, in compliance with G.O. 104-A, on a calendar-year basis using the Annual Report Form for Cellular Communications Licensees (Wholesale) developed by the Auditing and Compliance Branch of the Commission Advisory and Compliance Division (CACD).

7. The certificate granted herein 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.

8. Applicant shall send a copy of this decision to all concerned permitting agencies not later than 30 days from today.

9. The corporate identification number assigned to applicant is U-3044-C, which shall be included in the caption of all original filings with the Commission, and in the titles of other pleadings in existing cases.

10. Within 60 days after the effective date of this order, applicant shall comply with Public Utilities (PU) Code § 708, Employee Identification Cards, and shall notify the Chief of CACD's Telecommunications Branch in writing of such compliance.

11. Applicant is exempted from the provisions of PU Code §§ 816-830 and 851, so that it may issue evidences of indebtedness on substantially the terms described in Exhibit 6 to the application, and encumber its utility property as security for the repayment of such debt, up to a limit of $1.1 million.

12. The application is granted as set forth above.

This order is effective today.

Dated October 6, 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
NEAL J. SHULMAN, Executive Director
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