

Decision 92 10 032 Oct 7 1992

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 LEVANDER INVESTMENTS CORPORATION)
 d/b/a National Cellular Network)
 (I.D. No. U-4037-C), a California)
 corporation, and CELLULAR SERVICE,)
 INC. (I.D. No. U-4007-C), a)
 California corporation, for authority)
 to sell and purchase assets used in)
 seller's cellular resale business.)

Application 92-07-037
(Filed July 22, 1992)

O P I N I O N

1. Summary

As part of a bankruptcy proceeding, Levander Investments Corporation, doing business as National Cellular Network (National Cellular), seeks authority to sell its cellular resale customer base in the Los Angeles/Oxnard/Ventura areas to Cellular Service, Inc. (Cellular Service). The application is granted.

2. Background

National Cellular seeks authority, pursuant to Public Utilities (PU) Code § 851, to sell certain assets, including its customer base, and to assign its operating authority to service these customers, to Cellular Service.

National Cellular is a California corporation. It was certificated in Decision (D.) 86-07-037 to provide domestic public land cellular services on a resale basis within the state. It provides cellular service to customers in the Los Angeles/Oxnard/Ventura statistical metropolitan service areas.

Cellular Service is a California corporation that was authorized in D.84-06-109 to provide cellular service on a resale basis in California.

3. Proposed Transaction

National Cellular now operates under the supervision of the United States Bankruptcy Court, Central District of California, pursuant to a voluntary petition under Chapter 11 of the Bankruptcy Code. In June 1992, it and Cellular Service entered into an agreement whereby Cellular Service would acquire the subscriber base of National Cellular for an amount equal to \$275 for every current customer. Cellular Service has made a down payment of \$25,000 and is to pay \$165,000 into an escrow account upon approval of the agreement by the Bankruptcy Court. A copy of the purchase agreement is attached to the application as Exhibit A.

Pending approval of the transfer by the Commission, Cellular Service has agreed to assume billing and collection functions for National Cellular's accounts. Applicants state that billing by Cellular Service prior to Commission approval will be as the agent of National Cellular and will conform to National Cellular's tariffs.

4. Public Interest

The application claims that the sale and transfer of operating authority is in the public interest. As evidenced by its bankruptcy filing, National Cellular is experiencing extreme difficulty in the operations of its cellular business. It desires to transfer its customer base to an entity like Cellular Service that is able to service these customers.

Upon closing of the contemplated transaction, National Cellular intends to cease doing business as a cellular reseller. It asks that its certificate of public convenience and necessity be assigned at that time to Cellular Service.

Cellular Service has an extensive existing resale operation in the Los Angeles, Ventura, and San Diego service areas. It states that it has tariffs in place that are in all material respects the same as those of National Cellular. Thus, National

Cellular's customers will not be subjected to higher rates or more onerous conditions.

5. Notification to Customers

By letter dated August 21, 1992, counsel for applicants was advised by the administrative law judge that the Commission's order in this case would contain standard provisions requiring notice to National Cellular's customers, and assumption of responsibility by Cellular Service for deposits, prepayments, and advances made by those customers. There has been no objection to inclusion of these provisions.

6. Request for Expedited Relief

Applicants seek expedited, ex parte relief, pursuant to D.86-08-057, which authorized the Executive Director to grant noncontroversial applications by nondominant telecommunications carriers for authority to transfer assets or control under §§ 851-854 of the PU Code.

Findings of Fact

1. Notice of the filing of the application appeared in the Daily Calendar on July 27, 1992. No protests have been filed.

2. National Cellular now operates under the supervision of the United States Bankruptcy Court, Central District of California, pursuant to a voluntary petition under Chapter 11 of the Bankruptcy Code.

3. Cellular Service is financially and technically able to continue to serve National Cellular's customer base.

4. None of the customers to be served by Cellular Service will experience rate increases or more onerous conditions as a result of this transfer.

5. Without approval of the transfer of assets, customers of National Cellular will be adversely affected by loss of service.

6. Pursuant to D.86-08-057, the Executive Director is authorized to grant noncontroversial applications by nondominant

telecommunications carriers for authority to transfer assets or control under PU Code §§ 851-854.

7. American National and National Cellular are nondominant telecommunications carriers.

Conclusions of Law

1. A public hearing is not necessary.
2. The application should be granted by order of the Executive Director.
3. Since this matter is not controversial, the order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Levander Investments Corporation, doing business as National Cellular Network (National Cellular), is authorized to transfer its customer base and certain additional assets to Cellular Service, Inc. (Cellular Service), in accordance with the terms of Application (A.) 92-07-037 and the Cellular Accounts Purchase Agreement attached thereto as Exhibit A.

2. The transactions described in Ordering Paragraph 1 are subject to the further approval of the United States Bankruptcy Court, Central District of California.

3. Cellular Service will notify all affected customers of the transfer of National Cellular's customer base and will advise customers of Cellular Service's terms, conditions, and rates for service.

4. As of the closing, Cellular Service will assume responsibility for handling all refundable customer deposits, prepayments, and advances by National Cellular's customers in accordance with National Cellular's agreements with those customers.

5. Within 10 days after the close of the transactions described in Ordering Paragraph 1, National Cellular shall write to the Telecommunications Branch of the Commission Advisory and Compliance Division (CACD) stating the closing date of the transaction and providing the name and address of the custodian of records and documents of the transaction.

6. When the authorized transfer is complete and the conditions of this order are fulfilled, National Cellular shall be relieved of its public utility obligation for the transferred system.

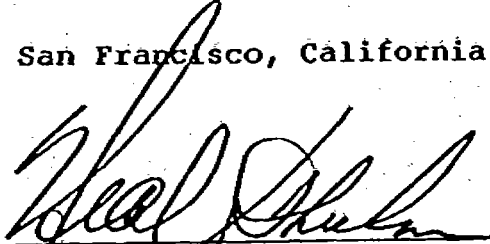
7. National Cellular shall file an Advice Letter withdrawing its tariffs once the transfer is effective. The CACD Director will then cancel the corporate identification number (U-4037-C) for National Cellular.

8. This application is closed.

This order is issued pursuant to the authority delegated by the Commission to the Executive Director in Decision 86-08-057, 21 CPUC2d 549 (1986).

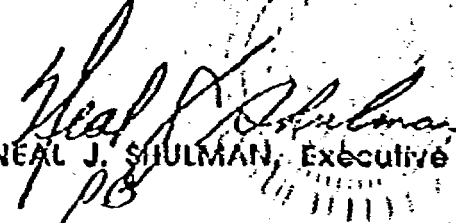
This order is effective today.

Dated OCT 7 1992, at San Francisco, California.



NEAL J. SHULMAN
Executive Director

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



NEAL J. SHULMAN, Executive Director