Allegation: The forecasted drop in cellular prices indicates that the wholesale carriers' prices today are excessive.

Response: The FCC, as predicted by Dr. Hausman and the wholesale carriers' witnesses, anticipates that PCS and other CMRS will provide additional competition and price pressure on cellular services.[12] Thus, it will come as no surprise to the FCC that Dr. Hausman, Mr. Brennan and Mr. Schulman all agree that, with these new competitors, future prices for cellular service could drop as much as 25%. (Indeed, the FCC has relied on the expert testimony submitted by Dr. Hausman in earlier proceedings regarding competition in the cellular industry.)[13]

Moreover, as noted in Springwich's Reply Brief, Section IV, the FCC has not found the anticipated drop in cellular prices or the absence of full competition in the wholesale cellular market to warrant rate regulation of cellular carriers.[14] Indeed, applying a similar standard to that which will be applied to state petitions, the FCC determined that the impending arrival of additional competition makes forbearance from tariff regulation for cellular carriers in the public interest.[15]

---

[12] *In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, Notice of Proposed Rulemaking and Tentative Decision*, 7 FCC Rcd. 5676, 5690 (1992) ("*PCS Notice*"), *Second Report and Order*, 8 FCC Rcd. 7700, 7710 (1993) ("*PCS Second Report and Order*"), LF # 21.

[13] *See, e.g., Second Report and Order* at n.305.

[14] Springwich Br. at 21-22; *Second Report and Order* at ¶ 177.

[15] *Id.*

V. UNREGULATED ACTIVITIES

Allegation: Retail rates have not declined and are priced below cost.

Response: (1) *The basic rate plans offered by Resellers today deliver more value to end users today than in 1985 for the same price.* The retail cellular market is not at issue here. However, what evidence was admitted in the record concerning this unregulated marketplace demonstrates a very competitive environment with resellers constantly introducing new pricing plans in response to consumer demand. Consumers now have access to a myriad of pricing plans providing lower cost cellular service then ever before. In addition, adjusting for inflation and the increased network coverage, the value provided to end users has increased over time while the real versus nominal cost of the basic rate plan actually has decreased, Tr. at 216-17. Despite these undisputed facts, the Resellers contend that the price of the basic rate plan offered by the retail affiliates of the wholesale carriers have not decreased. Reseller Br. at 8, 18. The basic marketing strategy to offer new rate plans at different levels instead of modifying a single rate plan unsuited to every customer is not unique to the retail carriers affiliated with the wholesale carriers. As Resellers witness McWay testified, Connecticut Telephone has elected not to change the price of its basic plan since service was initiated. Tr. at 844.

(2) *Retail prices are not set below the resellers' cost.* Allegations that the retail affiliates of the wholesale carriers price their services below their wholesale costs are wrong. In pre-filed testimony, Mr. Hatten of Connecticut Telephone alleged that Springwich's affiliate, Linx, is pricing certain of its retail services below its cost to provide the service. Resellers TE-13. Mr. Hatten, however, made a number of significant errors in his calculations, all of which tend to decrease the estimate of revenue and increase the estimate of cost. If corrected to reflect consistent assumptions of the average usage per month in Mr. Hatten's revenue calculation, and to reflect the tariffed wholesale costs incurred by Linx for the service, the example cited by Mr. Hatten shows a profit, even without adjustment of the grossly inflated figure he used as the per customer marketing expense for the service. The $700 per customer marketing estimate assigned by Mr. Hatten was "extremely high" according to Mr. Bluemling's public testimony (Tr. at 403), and in the protected session Mr. Bluemling provided an actual estimate which, without revealing the proprietary figure, shows that Mr. Hatten's estimate is several times the actual incremental cost.

Tr. at 1207. Therefore, when Mr. Hatten's numbers are adjusted to meet the actual incremental cost, the Linx profit becomes substantial:

	Per Month	48 Months
Number Charge Revenue	$14.95	$ 717.60
Airtime Revenue	$19.50	$ 936.00[16]
TOTAL REVENUE	$34.45	$1,653.60
Number Charge Cost	$14.40	$ 691.20[17]
Airtime Cost	$ 4.94	$ 237.12[18]
TOTAL COST OF SERVICE	$19.34	$ 928.32
GROSS PROFIT	$15.11	$ 725.28
Marketing Expense (Per Resellers TE-11)		$ 700.00
TOTAL PROFIT		$ 25.28

If Mr. Hatten's estimate of the marketing expense is adjusted to the actual level, the total profit line per customer will increase manyfold. Tr. at 1207. Spread over thousands of subscribers to whom this plan will be attractive, the results are

---

[16] Using the 26 minute per month airtime estimate Mr. McWay agreed was Mr. Hatten's assumption in his cost calculation x $0.75/minute rate. Tr. at 886. Springwich notes that Mr. Hatten decreased his average airtime assumption in this proceeding from the 30 min/month estimate he used in Docket No. 90-08-03 to 26 min/month. As Mr. McWay conceded, this charge would decrease Mr. Hatten's calculation of Linx's revenue, thereby inflating his loss estimate. Tr. at 888.

[17] Using the correct tariff rate of $16/month access charge plus the tariffed 8.5% usage discount and 1.5% length of service discount. Springwich TE-17-02 (effective tariff rates). As Mr. McWay again conceded, if tariffed promotions and discounts are not considered, estimates of cost will be inflated and the calculation of profitability of the service distorted downward. Tr. at 888-89.

[18] Assumes 80% peak/20% off-peak usage.

Allegation: The bundling of cellular equipment and cellular services at the retail level is discriminatory.

Response: Reseller witness McWay incorrectly attributes the practice of bundling cellular equipment at the retail level to the wholesale carriers. *See* Resellers TE-13 at 3; Tr. at 834. As demonstrated by Mr. McWay's testimony and the examples of his efforts to purchase both retail cellular service and a cellular telephone from Sound Playground and Nobody Beats the Wiz, bundling occurs at the point of purchase -- the retail distribution level and not at the wholesale level. Resellers TE-13 at 4. The record confirms that Springwich, as the wholesale carrier, does not have any involvement in retail or equipment sales. Tr. at 81. Furthermore, Dr. Hausman testified that the practice of bundling equipment with cellular services is pro-competitive. Tr. at 512. In California, where bundling is prohibited, Dr. Hausman testified that consumers pay twice as much for cellular telephones as they pay in Connecticut and that cellular prices in California are among the highest in the nation. Tr. at 412, 514. The Resellers' encouragement of regulatory policies that will increase costs to consumers strikingly demonstrates that the Resellers' position in this proceeding is protectionist and not in the best interest of the consumer.

In addition, as discussed below, the FCC shares Dr. Hausman's view and has found the practice of bundling retail cellular services and handsets to be in the public interest. In a 1992 decision, the FCC found that the high price of cellular

customer premises equipment ("CPE") presented the "greatest barrier" to subscription to cellular service.[3] Significantly, in that same proceeding, the U.S. Department of Justice filed comments at the FCC that described bundling as an

> efficient promotional device which reduces barriers to new customers and which can provide new customers with CPE and cellular service more economically than if it were prohibited.[4]

In reaching its decision to permit cellular equipment bundling, the FCC addressed the same argument raised by the Resellers in this proceeding -- that bundling has an anti-competitive effect on resellers. After weighing the resellers' claims, the FCC concurred with the recommendation of the Federal Trade Commission and the Department of Justice that the most efficient government policy is to allow firms the ability to choose how to distribute their own products.[5] The FCC also found that the possibility of harm to certain types of cellular retailers does not provide a basis for a rule prohibiting bundling that would limit the use of a "potentially efficient contract and retail distribution system".[6] Having thereby already rejected the arguments raised by the resellers, the FCC would clearly reject any argument by the Department for continued

---

[3] *In the Matter of Bundling of Cellular Customer Premises Equipment and Cellular Service, Report and Order*, 6 FCC Rcd. 4028, 4030 (1992).

[4] *Id.*

[5] *Id.* at 4032.

[6] *Id.*

rate regulation of wholesale carriers predicated on the retail issue of bundling of cellular equipment and services -- assuming, of course, that the Department would raise an argument so unrelated to continued regulation of wholesale rates.

Allegation: The retail affiliate of Springwich receives preferential placement of advertising in the Yellow Pages.

Response: The placement and price of Yellow Pages advertising is unrelated to the operations of the wholesale carriers. The record reveals that Springwich is not involved in Yellow Pages subscribership. Tr. at 80. Resellers are free to advertise in the Yellow Pages and to select the size and placement of the advertisement that best fits their marketing needs. Tr. at 80. OCC's unsupported allegation that the cost for a reseller to obtain a specific Yellow Pages advertisement is "cost prohibitive" certainly does not demonstrate anti-competitive conduct -- indeed, if this were the case, the Department would have to regulate all third party suppliers of services purchased by every single reseller in the state. OCC Br. at 19. The record lacks the evidence necessary to make that quantum leap. Even if such evidence were presented, however, it would not provide a basis for continued rate regulation of the wholesale cellular carriers who have no involvement in Yellow Pages advertising.

Allegation: Springwich's decision not to offer equal access is anti-competitive and should be corrected by regulatory oversight by the Department.

Response: Springwich, as a non-Bell operating company, is not governed by the Modification of Final Judgment, and is therefore not required to offer cellular subscribers equal access to interexchange carriers. As the FCC noted in a recent Notice of Proposed Rulemaking, the decision to direct interstate calls to a single interexchange carrier is not unique to Springwich and is being addressed by the FCC. LF #21; *See In the Matter of Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Services, Notice of Proposed Rule Making and Notice of Inquiry,* CC Docket No. 94-54, RM-8012 (rel. July 1, 1994). Furthermore, any requirement that Springwich provide equal access is a federal interstate issue. Because the issue of equal access is actively pending before the FCC, a petition to the FCC based on Springwich's lawful decision not to offer equal access is unlikely to meet the FCC standard for continued rate regulation.

Allegation: End users are dissatisfied with retail cellular rates.

Response: The double digit growth in cellular subscribership on its face refutes the AG's generalized claim that consumers are any more dissatisfied with retail cellular rates than they are dissatisfied generally with the prices of other goods and services. AG Br. at 19-20. Cellular subscribership continues to escalate. Furthermore, as acknowledged by the AG's Brief, many of the resellers have begun to offer rate plans that meet increasing service demands. AG Br. at 20. This market response demonstrates that market conditions in Connecticut are protecting subscribers and serving their needs. Furthermore, as Dr. Hausman and the carriers testified, a decision by the Department not to petition the FCC is likely to further accelerate competition and lead to further wholesale price reductions that can be passed on to end users by the resellers.[2/]

[2/] Significantly, Resellers witness McWay testified that reductions in wholesale rates only were passed on to selective users and not to individual users. Tr. at 844.

VI. MISCELLANEOUS

Allegation: Springwich has not rebutted specific allegations of anti-competitive conduct raised by the witness for Escotel Cellular.

Response: OCC's Brief raises several isolated events of alleged anti-competitive conduct that do not demonstrate anti-competitive conduct or discriminatory practices but rather reflect a single reseller's -- Escotel Cellular's -- current financial difficulties. Tr. at 1020-21. Although the Escotel Cellular witness attempted to deflect his financial problems to Springwich, those problems are not the result of Springwich policies. To the contrary, as Mr. Escobar himself admitted, Springwich provided Escotel Cellular with financing when it sought to become a cellular reseller. Tr. at 1051, 1680-81. Furthermore, the actual agreements that govern that financing, and to which Mr. Escobar attributed all manner of evils, demonstrate that those agreements <u>do not</u> in fact contain the restrictive provisions Mr. Escobar testified they contained. LF #42.

First, rather than restricting Escotel Cellular from switching end user customers from Springwich's wholesale services to Metro Mobile/BAM as Mr. Escobar testified, Tr. at 1056, 1085, the agreements expressly acknowledge that Escotel Cellular and The Phone Extension may have customers on both systems. Tr. at 1681-82. Second, the agreements contain a standard claims waiver commonly contained in loan documents concerning claims arising from the amounts owing. Tr. at 1682. Third, the agreements did

not restrict, nor has Springwich attempted to restrict, Mr. Escobar's participation in Department proceedings. Tr. at 1683. Indeed, Springwich's policy not to interfere or impede access of Resellers to the Department, Tr. at 1683, is self-evident from the resellers' active participation in this proceeding and in every other proceeding in which cellular matters have been addressed before the Department. Fourth, the confidentiality provisions that Mr. Escobar alleges other resellers have signed, Tr. at 1029, are executed only in security agreements (which not all resellers have executed), and then are included at the request of the reseller. Moreover, such provisions bind Springwich as well as the reseller. Tr. at 1710-11. Finally, despite Escotel Cellular's contentions regarding Springwich's credit policy, Escotel Cellular has received significant credits from Springwich. Tr. at 1684.

Springwich is sympathetic to the fact that Mr. Escobar's financial problems, and the fact that his personal financial status is at risk, may color his view of his largest creditor and have resulted in his recitation of the events surrounding his financial and other arrangements with Springwich. Nevertheless, the Department should weigh his evidence and credibility in light of those circumstances. *See Taylor v. Corkey*, 142 Conn. 150, 154 (credibility of witnesses must be weighed); *New Haven Water Co. v. Public Util. Comm'n*, 30 Conn. Supp. 149, 151 (weight and credibility of evidence are within the province of the Commission). Indeed, as the record reveals, Escotel's success

(and the success of all its resellers) is in Springwich's best interest. Tr. at 1625. Unfortunately, the opportunity to resell cellular services is not a guarantee for financial success, it is merely an opportunity, and Springwich cannot continue to provide financial support when a financial problem appears to be an irremediable situation. As the FCC has stated:

> we have never guaranteed that any reseller would make a profit. [Citations omitted.] A reseller is only guaranteed an opportunity to resell the cellular services of all facilities-based carriers on the same terms and conditions that carriers provide to their own customers. Profitability for the reseller as well as for the carrier will be based on the ability to operate successfully in a competitive environment.[8]

The Department, through continued rate regulation, cannot guarantee a single carrier's success nor should it base a petition to the FCC on such an effort.

---

[8] Resale Policy Order at 1726.

Allegation: The wholesale carriers have failed to support the resellers.

Response: As wholesale carriers' witnesses testified, it is in the carriers' best interests to support resellers of their services and to assist them to expand their customer base. Tr. at 1625. The record is replete with evidence of the various forms of support provided by Springwich to all its resellers including, but not limited to, reduced roaming charges, free demonstration lines, promotional literature and, at times, financial assistance.[9] Tr. at 1635-36. Springwich's willingness to support its resellers and this close working relationship, however, has been transmogrified by the resellers into allegations the evidence will not bear.

An accurate review of the record reveals no intention by the wholesale carrier to target customers of resellers. As witness McWay acknowledged, the wholesale carriers are not in a position even to know who the retail customers are. Tr. at 826. Furthermore, as unregulated service providers operating in a competitive market, the resellers are free to choose their own service rates and to design their own marketing strategies. The

---

[9] In addition, the resellers cannot legitimately deny that Springwich has zealously sought to protect confidential information both as to its own financials and as to its resellers in this proceeding. *See, e.g.*, Springwich TE-6, TE-17-05; (listing of resellers anonymously by number not name). The inadvertent release in this proceeding of the number of subscribers served by one of the resellers does not, and should not, distort Springwich's record of commitment to its resellers.

record therefore flatly contradicts the claim that the wholesale carriers have not supported the resellers.

Allegation: Resellers should be able to activate and deactivate cellular numbers directly.

Response: In 1993, Springwich installed a new billing system designed to give resellers the opportunity to activate and deactivate cellular numbers directly. A trial of the system, which requires dedication of personnel and resources by the retail participants, is being conducted with two resellers to ensure its failsafe operation. Tr. at 81-82, 897-98. (Indeed, one of the two resellers initially participating in the trial had to interrupt its participation due to its other business demands on personnel and resources.) Springwich expects to offer direct activation to all resellers once the trial is completed and the system's fault-free operation confirmed. Tr. at 82. The decision to do a market trial prior to system-wide roll-out is only prudent where there is outside access to databases which form the nerve center of Springwich's operation. To transform the holding of such a preliminary trial into evidence of anti-competitive behavior simply demonstrates the level to which the Resellers must sink to create a reason for continued regulation.

127679.1

CERTIFICATE OF SERVICE

I, Jean L. Kiddoo, counsel for Springwich Cellular Limited Partnership, hereby certify that an original and twelve (12) copies of the foregoing Reply Brief and Appendix of Springwich Cellular Limited Partnership in Docket No. 94-03-27, DPUC Investigation into the Connecticut Cellular Market and the Status of Competition, have been sent this 8th day of July, 1994 via hand delivery to:

Robert J. Murphy, Executive Secretary
State of Connecticut
Department of Public Utility Control
One Central Park Plaza
New Britain, Connecticut 06051

I also certify that a copy of the foregoing has been sent, via first class mail or, where indicated, by hand delivery, to:

Valerie J. Bryan, Esq.*
Office of the Consumer Counsel
136 Main Street, Suite 501
New Britain, CT 06051
(2 copies)

Thomas Ryan, Esq.
Pirro & Church
120 East Avenue, 2nd Floor
Norwalk, CT 06852

Paul E. Knag, Esq.
Joseph R. Mazzarella, Esq.
Cummings & Lockwood
Cityplace I, 36th Floor
Hartford, CT 06103

Peter Zarella, Esq.
Brown, Paindiris & Zarella
100 Pearl Street
Hartford, CT 06103

Robert P. Knickerbocker, Esq.
Day, Berry and Howard
CityPlace I
Hartford, CT 06103

Henry Zachs, President
Message Center Cellular
40 Woodland Street
Hartford, CT 06105

Philip Rosario, Esq.*
Assistant Attorney General
One Central Park Plaza
New Britain, CT 06051

Jean L. Kiddoo

Jean L. Kiddoo

* Hand Delivery

DPUC Docket No. 94-03-27 - DPUC Investigation Into the Connecticut Cellular Service Market and the Status of Competition

1. **DPUC Docket No. 84-08-16 Decision** - The Southern New England Telephone Company Tariff Filing To Provide Bulk Domestic Public Cellular Radio Telecommunications Service

2. **DPUC Docket No. 86-03-12 Decision** - SNET Proposed Tariff Concerning Attempt Charge for Incomplete Calls of Sonecor Cellular Network

3. **DPUC Docket No. 86-09-04 Decision** - Application of Metro Mobile CTS, Inc. for Approval of Wholesale Cellular Mobile Telephone Service Tariff

4. **DPUC Docket No. 87-10-23 Decision** - SNET Cellular, Inc.'s Proposed Revision to its Tariff

5. **DPUC Docket No. 88-07-11 Decision** - Application of SNET Cellular, Inc. for Approval of Tariff Re: Public Cellular Mobile Telephone Services Tariff

6. **DPUC Docket No. 88-11-26 Decision** - Application of Metro Mobile CTS, Inc. - Revision to Wholesale Cellular Mobile Telephone Service Tariff

7. **DPUC Docket No. 90-01-03 Decision** - Application of SNET Cellular, Inc. to Change Tariff Name for SNET Cellular, Inc. to Springwich Cellular Limited Partnership

8. **DPUC Docket No. 90-08-03 Decision** - Application of Springwich Cellular Ltd. Partnership for a Declaratory Ruling Re: Forbearance From Regulation of Rates of Cellular Telephone Mobile Telephone Service

9. **DPUC Docket No. 90-08-03 Decision** - Application of Springwich Cellular Ltd. Partnership for a Declaratory Ruling Re: Forbearance From Regulation of Rates of Cellular Telephone Mobile Telephone Service - Reopened

10. Revised Effective Rate Sheet for Springwich Intrastate Wholesale Cellular Tariff Reducing Cellular Number Monthly Rate by an Average of 35.1% Per Tier Filed August 12, 1994 with the DPUC

INDEX OF MAJOR DECISIONS OF THE
CONNECTICUT DEPARTMENT OF PUBLIC UTILITY AND CONTROL
CITED IN THE BRIEFS OF SPRINGWICH CELLULAR LIMITED PARTNERSHIP*/

DOCKET	CASE	DECISION'S RELEVANCE
84-08-16	*The Southern New England Telephone Company Tariff Filing To Provide Bulk Domestic Public Cellular Radio Telecommunications Service*	•Approving min/max rate schedules as fair, reasonable, not unduly discriminatory and consistent with DPUC policy
86-03-12	*SNET Proposed Tariff Concerning Attempt Charge for Incomplete Calls of Sonecor Cellular Network*	• Approving request for reduction in call attempt charges
86-09-04	*Application of Metro Mobile CTS,Inc. for Approval of Wholesale Cellular Mobile Telephone Service Tariff*	• Approving min/max rate schedules as fair, reasonable, not unduly discriminatory and consistent with DPUC policy
87-10-23	*SNET Cellular, Inc.'s Proposed Revision to its Tariffs*	•Approving volume and length of service discounts as non-discriminatory •Approving tiered rate structure of tariff as non-discriminatory and equitable • Approving reduction in minimum attempt charge to zero •Approving promotions •Rejecting resellers' request for increase in billing period for payment of wholesale bills from 30 to 75 days
88-07-11	*Application of SNET Cellular, Inc. for Approval of Tariff Re: Public Cellular Radio Emergency Service*	•Approving offering of emergency service

*/ **This index and the attached decisions are not inclusive but represent the major decisions cited in Springwich Cellular Limited Partnership's briefs.**

DOCKET	CASE	DECISION'S RELEVANCE
88-11-26	*Application of Metro Mobile CTS, Inc.- Revision to Wholesale Cellular Mobile Telephone Services Tariff*	•Recognizing an increase in number of end users increased competition between the wholesale carriers •Approving volume and length of service discounts as non-discriminatory and as providing reseller with additional flexibility in the marketplace •Approving promotions
90-01-03	*Application of SNET Cellular, Inc. to Change Tariff Name for SNET Cellular, Inc. to the Springwich Cellular Limited Partnership*	•Approving name change
90-08-03	*Application of Springwich Cellular Ltd. Partnership for a Declaratory Ruling Re: Forbearance From Regulation of Rates of Cellular Telephone Mobile Telephone Service*	•Determining state regulatory criteria for forbearance had been met but that forbearance would not enhance or expedite competition in the competitive evolution of cellular •Finding wholesale prices to be equitable •Finding wholesale cellular carriers were <u>not</u> pricing service in abusive or discriminatory manner •Finding the provision of cellular service adequate and efficient •Finding cellular service rates reflect prudent costs
90-08-03	*Application of Springwich Cellular Ltd. Partnership for a Declaratory Ruling Re: Forbearance From Regulation of Rates of Cellular Telephone Mobile Telephone Service - Reopened*	• Terminating proceeding to commence new investigation on whether to petition the FCC for continued rate regulation

ANDREWS OFFICE PRODUCTS CAPITOL HEIGHTS, MD (K)

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL

DOCKET NO. 84-08-16

SOUTHERN NEW ENGLAND TELEPHONE COMPANY
TARIFF FILING TO PROVIDE BULK DOMESTIC
PUBLIC CELLULAR RADIO TELECOMMUNICATIONS SERVICE

DECISION

JANUARY 16, 1985

One Central Park Plaza • New Britain, Connecticut 06051
An Equal Opportunity Employer

DECISION

I. INTRODUCTION

A. Company Proposal

On August 23, 1984 The Southern New England Telephone Company ("Company" or "SNETCO") filed with the Department of Public Utility Control ("Department" or "DPUC"), pursuant to Section 16-1-59A of the Regulations of Connecticut State Agencies ("Regulations"), a revision to its tariffs. The tariff, filed for effect September 24, 1984, proposes the regulations, rates, and charges applicable for the provision of Bulk Domestic Public Cellular Radio Telecommunications Service through a Division of the Company called Sonecor Cellular.

B. Conduct of the Proceeding

In accordance with Section 16-2(c) of the General Statutes, this matter was assigned to a panel of three of the Department's five commissioners, who constitute the Public Utilities Control Authority ("Authority").

The Department, on its own motion, suspended the proposed effective date of the tariff, pursuant to Section 16-1-59A(d) of the Regulations. Pursuant to a notice of hearing dated November 5, 1984, the Department convened a public hearing on this matter on November 16, and continued it on December 11, and December 17, 1984 in the offices of the Department, New Britain, Connecticut.

C. Parties and Intervenors

The Company and the Division of Consumer Counsel (DCC) were recognized as parties in this proceeding. The Hartford Cellular Company, Massachusetts and Connecticut Mobile Telephone Company, Nationwide Cellular Service, Lipman Cellular Network, Inc., A-Z Auto, Inc., and Custom Accessories, Inc. were recognized as intervenors in this proceeding.

II. APPLICANT'S EVIDENCE

A. General

The Southern New England Telephone Company, a corporation under the Statutes of the State of Connecticut, has its principal offices at 227 Church Street, New Haven, Connecticut. The Company serves 165 of 169 towns in the state. Sonecor Cellular, a Division of the Company, is located at 221 Whitney Avenue, New Haven, Connecticut. It is a business unit of the Company which has its own books of account, dedicated assets, and personnel with the sole responsibility for the operations of the cellular system.

B. Provisions of the Filings

According to the Company's application, the subject filing provides for Sonecor Cellular to offer a new service to Connecticut subscribers known as Bulk Domestic Public Cellular Radio Telecommunications Service (Bulk Cellular Service). The service is similar to using a home or business phone with the exception that there are no wires or telephone poles. The Company stated that with specially designed telephones installed in a car, truck, boat or even portable phones which fit in a briefcase or purse, users would experience the same high quality grade of service and the same modern features as offered by modern wireline exchange service.

The Company proposes to offer the bulk cellular service to large end-users of cellular service and to subscribers (resellers) who would market and retail this service to their end-users. The Company also plans to market cellular services as a retail business unit through Sonecor Mobilephone, a subsidiary of the Company. This cellular retail business unit would obtain bulk cellular service from the Company at tariffed rates and would retail the service directly to customers through its own service identity known as Linx. The Company testified that the service would meet the needs of and provide benefit to Connecticut businesses and consumers and that the proposal would not alter any existing rate or charge.

The Company submitted the results of a Long Run Incremental Analysis (LRIA) cost study in support of its rate proposals in this proceeding. These studies show a ten year cumulative present worth of net income of $8.4 million at the proposed minimum rates. This level of income results in a 18.2% discounted cash flow (DCF) rate of return over the same ten year period. At the proposed maximum rate, the corresponding figures are $7.8 million and 18.2% respectively. The proposed effective rates would produce a ten year cumulative present worth of net income of $9.4 million and a 19.7% DCF rate of return.

III. POSITIONS OF PARTIES AND INTERVENORS

A. Position of Masschusetts-Connecticut Mobile Telephone Company

Mr. Henry Zachs, founder of the Company, testified that it "appear(ed) that there is an indirect subsidy in existence between SNET and Sonocor (sic) Mobile Telephone ..." and recommended the DPUC exercise regulatory powers over the resellers of the cellular service.

B. Position of Nationwide Cellular Service, Inc.

Mr. Matt Edwards, Vice-President, testified that the DPUC should withold approval of Sonecor's tariff until such time as margins are improved, terms and conditions are more equitably balanced between Sonecor and its subscribers, and the DPUC moves towards regulation of resellers.

C. Other Positions

The DCC, Hartford Cellular Company, Lipman Cellular Network, Inc., A-Z Auto, Inc., and Custom Accessories Inc. did not file any testimony.

IV. AUTHORITY ANALYSIS

A. General

Cellular service is a competitive form of mobile telephone service which offers increased capacity and enhanced features when compared to existing radio telephone systems. According to the Company, it has been granted approval from the Connecticut Siting Council to construct cellular facilities in Hartford, Middlesex, New Haven and Fairfield counties. On December 21, 1984 the Company was issued a license to operate by the Federal Communications Commission (FCC) for the Greater Hartford area. In addition, the Company expects to begin providing service in the first quarter of 1985 for the New Haven area and the late first quarter or early second quarter for Fairfield County. It is highly speculative at this point when the northwest and far eastern sections of the state will have cellular service. In any market area, as defined by the FCC, two competing cellular carriers will be licensed by it to construct facilities to provide cellular service. The FCC has licensed only Sonecor Cellular at this time and will license another cellular carrier to compete with Sonecor Cellular in the near future.

The geographic service area of a cellular system is broken up into a number of relatively small regions or "cells" in which users are allocated a frequency (channel) only for the cell they are occupying. The channels in each cell become vacant as the user leaves the cell area thereby permitting a different user already present or a new user entering the cell to reuse them. In this manner, the reuse of channels in each cell will enable the number of customers that can utilize mobile telephones in a given service area to increase. Each cell is served by a relatively low-power radio transmitter with its own assigned channels connected to a central switching point by telephone company landlines. Therefore, unlike conventional telephone service, the cell sites and mobile units are designed for relatively short range signal transmission. As a user passes through a cell, the signal may become weak and is automatically switched by computer to a channel in the next cell without interruption of the call. Adjacent cells are assigned a different set of channels to prevent interference. Cells sufficiently far apart can then simultaneously use the same channels and can be further subdivided in order to permit a cellular system to grow as the public need dictates.

The Company intends to offer bulk cellular service through a Division, Sonecor Cellular, with separate books of account, dedicated assets and personnel responsible for the operations of the cellular system. The proposed tariff would allow the Company to provide bulk cellular service to subscribers (resellers) who will market and retail this service to their customers or end-users. In addition, the Company plans to retail cellular service through