



### ► How Independent telco played "Indian card" to win cellular RSAs

**W**HEN the Nez Perce Indians signed the last of some 375 treaties between the U.S. government and the American Indian tribes in 1868, little could the signers have known that the tribes were getting a leg up on the cellular phone business. But last year, by cleverly exploiting a wrinkle in telecommunications regulations, the Fort Mojave and Gila River tribes, both of Arizona, won FCC licenses to operate cellular systems. Together, the licenses—one of which covers the interstate highway between Tucson and Phoenix—are probably worth \$18 million. Whatever the value, the loophole through which the licenses were grabbed has since become the object of a hot dispute.

The man behind the loophole is Dick Segress. Segress is president of Oklahoma City-based National Telecommunications which owns a 287-subscriber Independent telephone company in tiny Terral, Okla., and a cellular phone store in Oklahoma City. Segress knew that the FCC was about to hold a lottery to grant cellular licenses covering 428 rural markets. In each rural service area, one license would go to an existing telephone company and the other would go to an independent, or nonwireline, operator.

These rural lotteries for nonwireline licenses became highly speculative affairs drawing around 700 applications per market. On the wireline side, they drew just a handful of applicants; by definition, only a telephone company could hold a wireline license.

And that gave Segress his idea. A former executive with Southwestern Bell, he knew that Arizona, like other states, regulates telephone service within its boundaries—but that Indian tribes are exempt from state regulators by virtue of the "sovereign nation" status acknowledged in their treaties and most recently upheld by the Supreme Court in July. Segress quickly caught on that this meant a tribal government could in effect declare itself a telephone company, and then join the FCC's lottery

for the wireline cellular license. (The FCC is not bound by the sovereign nation terms.) This narrows the odds of winning a cellular license from 700-to-1—the odds against winning a non-wireline license—to around 5-to-1.

To test his loophole, Segress needed an Indian tribe. Last spring, he contacted Charles Peone, a Wiyot Indian who runs a consulting company called International Native Resources in Albuquerque, N.M. For around \$85 an hour, Peone hooks up opportunists like Segress with Indian tribes. For Segress, the money was well spent: Peone introduced him to six tribes, including the Fort Mojaves, and helped solidify prior contacts with the Gila River tribe.

Segress made his pitch to the Fort Mojave Tribal Council on July 26, 1988. His company, Natelco, he said, would advance all expenses—against potential profits—for the tribe to apply for the cellular license and to create a phone company that would provide regular phone service to the reservation. And if the tribe should win the license, Segress would arrange financing and construct and manage the cellular system. In return Natelco would get 49% of the jointly owned company and the Fort Mojaves would retain the other 51%.

The tribal council agreed, and within three days—just under the wire for the FCC's deadline—the tribe decreed itself a telephone company, later named Fort Mojave Telecommunications. On the tribe's behalf, Natelco quickly prepared and filed the application for the cellular lottery. The following November, when the lottery was held, the Fort Mojaves—and Segress—came up winners. So did the Gila River tribe's Gila River Telecommunications, Inc., with whom Segress had orchestrated a similar arrangement for the license covering another Arizona rural service area.

At first glance, these markets may not look like cellular gold mines. Arizona's RSA1 has just 69,100 potential customers, or "pops," spread out over 13,285 square miles. And RSA5 has 138,300 pops on 10,096 square miles. But what makes both license areas

much more valuable is that they contain interstate highways, which are valued for "roaming" cellular users—customers who must pay the local franchisee something for talking while driving through his area.

How much are the new licenses worth? Here's a yardstick: In July, Century Communications agreed to acquire the cellular rights to RSA4 in southwestern Arizona (102,600 pops), for \$9 million, or about \$88 a pop. Using that figure—RSA4 also stands to benefit from roamers—the Segress/Indian tribe licenses would together be worth around \$18 million.

There are, however, two very unhappy parties: Stamford, Conn.-based Citizens Utilities, which lost out to the Fort Mojaves for RSA1 in northwest Arizona; and U S West, which lost to the Gila River tribe for RSA5 in south-central Arizona. In both cases, settlement agreements had already been negotiated with the other wireline carriers in the lottery—meaning that regardless of which company won, the licenses would have been carved up among all applicants, with Citizens Utilities and U S West, respectively, becoming the general partner. Citizens and U S West claim that the tribes' cellular applications are shams. The utilities have petitioned the FCC to dismiss the Segress/Indian tribes' applications; the government is expected to make a decision in two to three months.

In another odd twist, the Gila River tribe has found a political ally in Senator Daniel Inouye (D-Hawaii), chairman of the Senate Select Committee on Indian Affairs, who was recently chastened by the FCC for attempting to lobby the commission in favor of Gila River Telecommunications while the case was pending.

Segress insists that the tribes sincerely want to take control of their own telecommunications. But when asked about the state of the tribes' telephone systems, Segress concedes that the Fort Mojave system is not operating and that Gila River Telecommunications has just two customers—both nonpaying—on its system. ■

By Fleming Weeks. Reprinted by permission of FORBES Magazine; Sept. 4, 1989; ©Forbes Inc., 1989.