

- (4) Have sufficient signal to serve at least two-thirds of the population of its service area and must be available in all service areas in California;
- (5) Be portable;
- (6) Be mobile, i.e., consumers can use at driving speeds;
- (7) Provide roaming, i.e., it is useable outside the customer's serving area.

2. Evaluation of Potential Substitutes

There are opportunities for new providers to offer competing services in the form of PCS and ESMR. However, potential entrants face formidable legal barriers to entry and must overcome technical and economic obstacles before they can offer a substitute to cellular service. Once an entrant overcomes the principal legal barrier to entry by obtaining a radio frequency license, it will not immediately be competitive with the incumbent cellular firms. Potential PCS and ESMR entrants must resolve a variety of technical and economic problems before they can effectively compete with cellular carriers for the wireless market.

One ESMR provider, Nextel, is on the verge of entering the California wireless telephony market. Nextel is currently working to convert its existing dispatch customers to ESMR technology. Thus far, it has succeeded in attracting 1500 dispatch customers to ESMR in Southern California; some of these also have cellular-like telephony service as an adjunct to their dispatch service. Nextel does not currently offer cellular-like mobile telephone service independent of dispatch service. It cannot offer stand-alone wireless telephony until 1995 because cellular-like handsets will not be delivered until then. Nextel has no ESMR customers of

any kind in Northern California.⁵³ Initially, Nextel does not intend to market itself as a provider of mobile telephone service.⁵⁴ Nextel will first encourage its own existing SMR customers to convert to the new digital service, then it will try to attract other dispatch and SMR users, and finally it will attempt to compete with cellular for the individual customer.⁵⁵

Nextel's strategy for building infrastructure is to expand cell site build-out and implement a digital mobile network in a frequency reuse pattern configuration that will allow it to compete with cellular carriers as an ESMR providers. This digital-based technology will allow Nextel to offer mobile telephone service that will compete with cellular service and in addition allow it to provide digital dispatch and paging services. However, Nextel faces numerous hurdles in deploying its services to compete with cellular providers and challenge the market power of the duopoly carriers, including:

- Cellular carriers hold licenses for more spectrum, hence greater capacity. Digitalization may compensate for this deficiency, however, cellular carriers are also adopting digital technologies that will further increase their capacity.
- Cellular carriers offer nationwide roaming. Nextel cannot offer wide roaming capabilities for several years.

While Nextel's challenge to the cellular carriers is most desirable, the effect of its entry into the market should not be expected to produce significant competition in the cellular market in the near future.

⁵³Conversation with Counsel for Nextel, August 4, 1994.

⁵⁴ Salomon Brothers, Nextel Communications, March 16, 1994, pp. 9-10.

⁵⁵ Id.

The FCC itself has concluded that ESMR providers face significant competitive disadvantages vis a vis cellular. Among other things, the FCC indicated that substantially less spectrum is allocated to SMR, and that the spectrum is not contiguous and is shared with other licensed providers. The latter fact "inhibits use of technologies needing wider channel bandwidth."⁵⁶ The FCC also indicated that SMR subscriber equipment and marketing costs are higher than cellular.⁵⁷

PCS has the potential to provide a fully competitive substitute for cellular service by the end of the decade. However, to date no PCS licenses have been granted. Auctions are not expected until the end of this year. Once licenses are granted, which is likely to be 1995 at the earliest,⁵⁸ we expect it to take three to five years for carriers to have infrastructure in place to serve two-thirds of California's population.⁵⁹

⁵⁶ FCC, Second Report and Order, slip op., at 59, n. 196

⁵⁷ Id., at n. 297. The FCC has further noted that as of December 1993, SMR's nationwide share was only 1.5 million customers compared to 13 million customers for cellular. Of the 1.5 million, only 425,000 were offered interconnected service. Nextel also confirms that its handset costs more than cellular phones, and that SMR equipment is heavier.

⁵⁸ "F.C.C. Is Revising Rules for Wireless Auction," New York Times, May 31, 1994, p. C1.

⁵⁹ The FCC requires that licensees of 30 MHz serve two-thirds of the population within seven years.

a. Regulatory Barriers

The primary regulatory barrier to entry faced by potential competitors is the inability to acquire radio spectrum licenses from the FCC. Without radio spectrum, competitors cannot provide wireless telephone services. The FCC has begun to address this problem by (1) allocating additional radio spectrum for a limited number of PCS licenses, and (2) allowing SMRs greater flexibility in using their spectrum.

PCS licenses are in the process of being issued. According to the FCC's latest licensing plan, three or possibly six new competitors to cellular may be licensed as early as this winter. Unfortunately, the PCS licensing process has been beset by delays and is fraught with controversy and, given the evolution of the process, any projection of the date on which licenses will be issued is speculative. Unlike cellular licenses, which were allocated by lottery, PCS licenses are being granted through an auction and through pioneer's preference. The allocation scheme, auction process and pioneer's preference have all proved controversial.

The allocation plan, initially announced in November of 1993,⁶⁰ was largely revised in June 1994. Although the industry has generally been more supportive of the new allocation plan,⁶¹ the new decision will cause delays by forcing potential bidders to revise bidding plans.

⁶⁰ FCC 93-451, Federal Register, November 8, 1993, 59174.

⁶¹ "F.C.C. Plan is Praised by Industry," New York Times, June 9, 1994, p. C1.

California consumers were fortunate that one of the FCC's early pioneer's preference licenses was granted in Southern California.⁶² The recipient of this award, Cox Enterprises Company, initially planned to offer service by the end of 1994. However, the status of this license is uncertain because potential competitors have brought legal challenges to the proposed license. Recently, the U.S. Court of Appeals remanded the pioneers preference proceeding to the FCC for further review. At this time, it remains unclear how broad the scope of the remand proceeding will be.

The cumulative effect of these licensing delays and ambiguities is to deny California consumers the benefits of competition which might drive down the price of wireless telephony.

Another, lesser regulatory hurdle carriers face is facilities siting regulation. Carriers must gain the approval of local planning agencies to place sites. In California they must inform the CPUC once this permission is obtained. Given the propagation characteristics of PCS, carriers will need more, though physically smaller, sites than cellular carriers require. While the smaller size and light weight of PCS and potential for standard design may make the building permits easier to obtain, the sheer volume for new sites with three new entrants with dense site configuration will likely be subject to careful review. As is increasingly the case

⁶² "Establishment of New Personal Communications Services," FCC 93-550, Federal Register, February 28, 1994, p. 9419.

with cellular, planning commissions may require common siting.⁶³ PCS providers must resolve this issue before they can install a ubiquitous network.

b. Technical Obstacles

Potential competitors to cellular will use relatively new technologies that are unproven in the United States. Both ESMR and PCS are nascent industries which must overcome technical difficulties. Until they overcome these technical barriers, PCS and ESMR may not be able to provide an effective alternative to cellular.

Roaming, or use outside of one's service area, will be a short-run barrier for both PCS and ESMR. The FCC has not mandated standards for PCS. While this should foster innovation and allow the market to select the appropriate technology, it will not necessarily facilitate interoperability and may delay cellular-like roaming. There are two forces working in slightly different directions: (1) PCS carriers will want to differentiate themselves from competitors in their markets, and (2) PCS carriers will want to compete with cellular and offer service outside their market. Given these forces, multiple nationwide standards may emerge with only one representative in each market. For instance, separate cable TV-based, LEC-based and IEC-based systems may evolve which cannot operate with each other, but are each useable in other parts of the country.

Even where the same technology is involved, roaming is not guaranteed.

⁶³ "Is There Really Room for PCS?" Telephony, November 8, 1993, p. 36.

For example, although Nextel will be deploying the same system throughout the nation, it may not be able to provide nationwide roaming until the end of the decade.⁶⁴

California's cellular industry is adopting separate, incompatible standards in its conversion to digital technology. Wireline carriers are adopting the CDMA standard, while non-wireline carriers are adopting the TDMA standard. Currently, customer equipment will not function on both systems. This incompatibility makes it more difficult and costly for consumers to switch between cellular carriers, because they must purchase new handsets to take advantage of digital capabilities of the new system. This raises an entry barrier for potential competitors because they must convince customers to ignore the sunk cost of the customer equipment. Similarly, ESMR carriers provide a third standard, while PCS carriers provide yet others. Until customer equipment can be made compatible with multiple systems, there will be considerable transaction costs for consumers shifting from one system to another.

c. Economic Obstacles

Substitutes for cellular service face economic obstacles which will prevent them from becoming immediately competitive with the cellular duopolists.

Substitutes also face economic barriers which will limit the number of potential

⁶⁴ Salomon Brothers, "Nextel Communications," United States Equity Research, March 16, 1994, p. 4.

eligible entrants, but will not prove insurmountable. These economic obstacles include the likely cost of an auctioned license, high capital costs, economies of scale, and economies of scope. Potential entrants must be extremely well-financed to bid on a license and build a PCS network. In addition, they will be in a much better position to develop a PCS system if they already have a network in place, as is the case with LECs, cable television operators, cellular carriers and possibly electric utilities.

The cost of the FCC license will be a formidable initial obstacle. Although the ultimate value of the California licenses is uncertain, it is likely to be in the hundreds of millions of dollars. In 1992, the Congressional Budget Office estimated that a spectrum auction could raise \$1.3 to \$5.7 billion nationally⁶⁵ under slightly different assumptions than the current auction, while the Clinton Administration projects the auction will lead to nearly double the high end of the CBO estimate, \$10 billion.⁶⁶ Using the high end of the CBO estimate (\$15 per person), the Los Angeles-San Diego basic trading area license may cost \$300 million, and the San Francisco-San Jose-Oakland license \$190 million, although recent narrow band auction results suggest these estimates may be low. The FCC acknowledged this barrier in attempting to reduce it by giving preferences for small and minority- and women-owned businesses.

The FCC has recognized that deploying the PCS network will be more

⁶⁵ Congressional Budget Office, op.cit., pp. 34-36.

⁶⁶ New York Times, June 9, 1994, p. C1.

difficult than it initially anticipated, so in its revised band allocation decision it has relaxed the build-out requirements. Licensees are required to reach two-thirds of the population in their service territories in ten years instead of seven.

Capital costs for deploying PCS are substantial and will delay PCS effectiveness as an immediate competitor to the cellular duopoly. Recent studies suggest that the capital costs per PCS subscriber, not including the handset, at 10 percent penetration are between \$543⁶⁷ and \$800.⁶⁸

While these economies of scale will present an initial impediment to entry, they are not sufficient to suggest that wireless telephony is in any sense a natural monopoly or that the market could not benefit from several additional entrants. An FCC study maintains that there are significant economies of scale for PCS up to about 10 percent penetration, which are exhausted by 20 percent penetration.⁶⁹ These scale economies mean that at the outset, with low levels of output, PCS providers will have a high per unit cost compared to incumbent cellular carriers and to costs once they achieve higher levels of output.

Economies of scope between PCS and cable television, telephone and cellular networks suggest that potential entrants with established networks will have advantages over other possible entrants. The FCC found that using existing

⁶⁷ Federal Communications Commission, Putting it All Together: The Cost Structure of Personal Communications Services, November 1992, p. 21.

⁶⁸ Economics and Technology, Inc./Hatfield Associates, Inc., The Enduring Local Bottleneck: Monopoly Power and the Local Exchange Carriers, 1994, p. 89.

⁶⁹ Federal Communications Commission, op.cit., p. 27.

telephone, cable and cellular infrastructure generated annual savings of \$83 (15.2 percent), \$74 (13.6 percent) and \$65 (11.9 percent) on a basis of \$546 per subscriber.⁷⁰ These economies of scope suggest that potential entrants are somewhat limited.

The wholesale carriers in California will to some extent face competition from PCS and ESMR in the future. However, cellular carriers will have advantages early on over ESMR and PCS, for the following reasons:

- Cellular carriers have had a ten year head start and substantial imbedded infrastructure;
- Cellular carriers have advantages in name and product recognition over new entrants;
- Cellular has more experienced management, network integration, and proven marketing techniques; and
- Cellular carriers can and likely will increase their spectrum size by participating in the upcoming spectrum auction to leverage their existing system.

In a protest by Nextel, dated June 9, 1993, to Advice Letter 370 filed by LACTC on May 24, 1993 with the CPUC, Nextel complained that the facilities-based carriers had adopted a strategy to limit competition by rapidly converting customers to long-term contracts prior to Nextel's entry into the market, and thereby undermining Nextel's ability to attract customers to its service. LACTC had previously acknowledge this practice:

⁷⁰ Id., at p.43.

L.A. Cellular is faced with the imminent arrival of Fleet Call, aka Nextel, in its market.... Advice Letter 370 is designed in part to counter Nextel by encouraging long-term commitments by end users to L.A. Cellular.⁷¹

REDACTED

3. Study of Potential Market Share for Substitutes

In our study, we have projected the expected market concentration and market share for the CMRS industry, assuming PCS and ESMR successfully deploy their services, to see if the entry by these emerging technologies will change the market power enjoyed by the cellular carriers today. To do this we have assumed that PCS and ESMR will be perfect substitutes for cellular service and that the deployment of their services is imminent.

Our analysis is based on a forecast of market share conducted by Personal Communications Industry ("PCI", formerly Telocator) in 1993. PCI released its study in January 1994, publishing its forecast of penetration and market concentration rates for six services: New PCS, Satellite, Paging, Dedicated Data,

⁷¹Los Angeles Cellular Telephone Company, Response to Protest to Advice Letter 370, June 3, 1993, pp. 4-5.

Cellular and SMR/ESMR. PCI's forecasts are for the years 1998 to 2003.⁷²

According to the PCI forecast, in 1998, ESMR is expected to have 1.9 percent penetration. PCS is expected to have a 3.1 percent penetration rate. Cellular will have 12 percent penetration. In 2003, the difference in penetration will continue, although it will be slightly narrowed for PCS and cellular and widened for cellular and SMR, when cellular is expected to have a 17.4 percent penetration rate.

Based on the PCI forecast and the Herfindahl/Hirshman Index,⁷³ we have

⁷² PCI used the following population figures: 1993 - 255 million; 1998 - 275.8 million; 2003 - 300.3 million. Total subscriptions include individuals with multiple subscriptions across services (there are more subscriptions than subscribers).

⁷³ As discussed above, the Herfindahl-Hirshman Index (HHI) is a measure of market concentration rate used regularly in anti-trust analysis. The HHI is the sum of the squares of the market shares of individual firms competing in the market. The Department of Justice and the Federal Trade Commission Merger Guidelines identify three general categories of market concentration:

0 to 1000 - Unconcentrated. Mergers within this range are expected to have no adverse effect on competition

1000 to 1800 - Moderately concentrated. Mergers within this range could have adverse effects.

Over 1800 - Highly concentrated. Mergers that increase an HHI in this range by more than 100 are likely to create or enhance the market power of the competitors.

The range of HHI values varies from 10,000 (a pure monopoly) to 0 (pure competitive market).

US Department of Justice and Federal Trade Commission, Horizontal Merger Guidelines, April 2, 1992.

examined how market concentration for cellular, PCS, satellite, and ESMR will look in 1998 and 2003 under two scenarios. Both scenarios assume there will be four new technologies in the wireless market that will produce near-competitive services. This assumption is open for debate because, for example, PCS services are not yet defined. The FCC defines PCS to include small, lightweight, multi-function portable phones, portable facsimile and other imaging devices, new types of multi-channel cordless phones, and advanced paging devices with two-way data capabilities. Cellular's existing capabilities do not include this range of services. ESMR is better known than PCS because the leading company in California, Nextel, has stated that it will provide cellular or cellular-like service in the near future. Nonetheless, for the purpose of this analysis, we will assume the services of these two entrants and cellular will resemble each other enough to be substitutes.

The FCC, in Gen. Docket No. 90-314, as noted in its news report released on June 9, 1994, indicated that it created parity between the previously granted two 30 MHz Licenses and one 20 MHz license on the lower band of the spectrum by increasing the 20 MHz to 40 MHz. This action eliminated one 10 MHz license because the total spectrum granted remained the same 120 MHz. Therefore, the industry can, at best, have six providers of service in each market. For the first scenario, we assume there will be consolidation between the licensees up to the maximum, limited by the 40 MHz allocation for each carrier. Under this scenario, each incumbent cellular carrier will aggregate 10 MHz of frequency. One out of the three PCS licensees who have acquired 30 MHz each will aggregate 40 MHz.

The rest will maintain 30 MHz. This scenario assumes three viable PCS carriers and two cellular carriers, one ESMR and an ancillary satellite system.

Under the maximum concentration scenario, our analysis reveals that in 1998 and 2003, the market will continue to be dominated by cellular carriers who will together control 72 percent of the market. The HHI values of 2767 and 2125 for 1998 and 2003, respectively, indicate a highly concentrated market according to the DOJ guidelines and would create enough market power for cellular carriers to control prices and discriminate.

The second scenario assumes the market will be at its minimum concentration where PCS carriers will maintain the frequency allocated to them at the time of licensing. The model assumes cellular carriers will not acquire PCS spectrum - an unlikely scenario given the carriers' financial and technical advantages to be viable competitors in the PCS market. However, even under this extreme scenario, in 1998 the cellular carriers would retain their dominance by controlling 68 percent of the market.

4. Delay In Spectrum Auction

Any delay in spectrum auction will also give an advantage to cellular carriers. The time PCS providers will need to deploy PCS services is critical to their viability in the cellular market. The delay in the auction has a favorable effect on the market share of incumbent cellular carriers and an adverse effect on the future market share of PCS providers. According to a study done for American

Personal Services (DSS Research Group, Dallas Research Group), if the spectrum auction by the FCC is delayed by one year from the projected Summer 1994 auction date, the market share in 2003 for PCS providers would be reduced to 9.1 percent, while cellular carriers would increase their share to 12.2 percent. A three year delay in the spectrum auction, as the CBO projected, would boost the market share of cellular providers to 14.4 percent in 2003, further minimizing the market viability of PCS. PCS providers under favorable market and regulatory conditions can challenge cellular carriers and bring about vigorous competition in the wireless market, but not unless potential PCS providers are allowed sufficient time to compete effectively.

IV. THE STATE OF CALIFORNIA MUST CONTINUE EXERCISING ITS REGULATORY OVERSIGHT OF RATES FOR CELLULAR CARRIERS AS AN INTERIM MEASURE UNTIL INTRASTATE CELLULAR MARKETS BECOME SUFFICIENTLY COMPETITIVE TO ENSURE JUST AND REASONABLE RATES

A. Need for Continued State Regulatory Oversight

Based on the evidence presented here, the CPUC respectfully submits that it has sustained its burden of demonstrating that its regulatory oversight of cellular rates must be retained during the transition to competition to ensure just and reasonable rates to California consumers. Retention of state rate regulatory authority is necessary over all aspects of cellular service, including rates for noncompetitive elements of unbundled cellular service, in order for the CPUC to effectively manage the transition to competition.

In Investigation 93-12-007, which the CPUC opened to develop a

streamlined comprehensive regulatory framework designed to promote competition in the wireless industry, the CPUC stated:

We envision that in the not too distant future market forces of competition will police the mobile market and allow for an orderly withdrawal of government oversight. We propose today a framework for regulation of the mobile telephone market to carry out this strategy.⁷⁴

The CPUC proposed to establish a regulatory framework that would allow "an orderly phasing down of regulation when effective competition infiltrates the mobile market." The strategy the CPUC articulated in its order opening the investigation indicates that its role in the telecommunications market is to facilitate an orderly transition to a competitive market.

The CPUC's proposed regulatory framework and its intention to maintain regulatory jurisdiction over cellular carriers is an interim measure necessary to convert a currently uncompetitive market to a more competitive market while at the same time protecting the interests of the public. Interim regulatory oversight is necessary because:

- The CMRS industry, at the present and for the foreseeable future, is dominated by duopoly cellular carriers with large and growing market power;
- Market forces alone, absent regulatory correction, are unlikely to produce just and reasonable rates for California consumers; and
- The emerging new technologies are not ready to challenge the incumbent duopolies and improve competitive conditions in the market.

⁷⁴ CPUC I.93-12-007, slip op. at 2.

B. Scope of CPUC Regulatory Oversight

In light of the above, the CPUC seeks to retain its regulatory oversight of cellular rates for 18 months, commencing September 1, 1994, after which time the CPUC expects that market forces, triggered by the widespread deployment of alternative competitive providers in California, will ensure just and reasonable rates for cellular service to California consumers.

In the interim period until competition creates a constraint on prices and earnings of cellular carriers, we recognize that the potential for anticompetitive behavior still exists. Our solution as adopted in our August 3 order in I.93-12-007, is to adopt a program of wholesale rate unbundling based upon prices capped at existing rate levels. A copy of our order is attached in Appendix N.

Before the CPUC adopts final rules, however, for a wholesale price cap policy, further consideration is warranted. The CPUC will consider in a subsequent phase of this investigation options for adjustments to existing price caps to restrain potential duopoly market power abuses while avoiding the need for cost-of-service studies. For example, we may also consider ways to adjust price caps referenced against excessively high rates of return of carriers.

Specifically, the CPUC will retain its existing rate band pricing guidelines which cap rates at existing levels, and allow full downward flexibility. Increases above capped levels require cost documentation as specified in Ordering Paragraph 9 of D.90-06-025.

Additionally, in order to stimulate additional competition from cellular

resellers until new market entrants emerge, the CPUC has ordered the limited unbundling of competitive services currently bundled in the wholesale rates of the duopoly carriers. These services are part of access charges and include interconnection to the LEC network and acquisition of NXX codes from the number administrator. Such unbundling will allow switch-based resellers the option of purchasing their competitive services from another provider. The unbundled rate elements require no cost-of-service determinations because they allow cellular carriers to charge a market rate for these unbundled services.

We have previously expressed our support for the concept of unbundling in D.92-10-026, in which we directed that switched-based resellers be allowed to purchase NXX codes directly from the LEC or other administrator of those codes, and to arrange landline interconnection directly with the LEC. In this manner, resellers would no longer be required to purchase services from the cellular carriers which can be purchased elsewhere.⁷⁵ Cellular carriers would thus have less power to control overall prices for cellular service and competition would be enhanced.

In implementing our unbundling policy, the CPUC will impose unbundling only for those dominant carriers who receive a bona fide request for unbundled service. A bona fide request for must be accompanied by a construction or

⁷⁵The reseller switch will not interfere with any of the "unitary" functions performed by the cellular carrier's MTSO. The reseller switch will not actually switch and route the call on the wireless side; this remains the prerogative of the licensed carrier. The call will continue to pass through the cellular carrier's MTSO(s). The reseller switch will identify mobile telephones with its NXX and will perform the billing, validation, and recordation function for calls to or from those telephones.

engineering plan describing how the provider would interconnect with the dominant carrier's MTSO. The interconnection plan would have to demonstrate the compatibility between the reseller's switch and the dominant carrier's MTSO. The reseller would then file a petition with the CPUC to modify its certificate of public convenience and necessity to operate as a switch-based reseller.

CONCLUSION

For the reasons stated, the CPUC respectfully requests that the FCC grant the CPUC's petition to retain regulatory authority over cellular service rates for a period of 18 months, commencing September 1, 1994, during which time the CPUC expects to see the deployment and availability of cellular service from new competitive entrants which will allow market forces to substitute for regulation in ensuring just and reasonable rates to California consumers for cellular service.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
ELLEN S. LEVINE

By: /s/ ELLEN S. LEVINE

Ellen S. LeVine

505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-2047

Attorneys for the People of
the State of California and
the Public Utilities
Commission of the State of
California

August 8, 1994

CERTIFICATE OF SERVICE

I, Ellen S. Levine, hereby certify that on this 8th day of August 1994, a true and correct copy of the foregoing PETITION TO RETAIN REGULATORY AUTHORITY OVER INTRASTATE CELLULAR SERVICE RATES and REQUEST FOR PROPRIETARY TREATMENT OF DOCUMENTS USED IN SUPPORT OF PETITION TO RETAIN REGULATORY AUTHORITY OVER INTRASTATE CELLULAR SERVICE RATES were mailed first class, postage prepaid to all known parties of record.

/s/ ELLEN S. LEVINE

Ellen S. Levine

RECEIVED

AUG 09 1994

FCC MAIL ROOM

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

PR 94105 ✓

PR File No 94-SP3

In the Matter of)
)
Implementation of Sections 3(n) and)
332 of the Communications Act)
)
Regulatory Treatment of Mobile Services)
_____)

GN Docket No. ~~93-252~~

APPENDICES TO

**PETITION OF THE PEOPLE OF THE STATE OF CALIFORNIA AND
THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA TO RETAIN
STATE REGULATORY AUTHORITY OVER INTRASTATE CELLULAR SERVICE
RATES**

August 8, 1994

Table of Appendices

	Page
A State Certification	A-1
B List of California Cellular Carriers	B-1
C Interlocking Ownership in California Cellular Markets	C-1
D Market Concentration Indices	D-1
E Market Share Data	E-1
F After-Tax Rates of Return	F-1
G Trends in Cellular Subscriber Units and Revenues	G-1
H Financial Data Per Subscriber Unit	H-1
I Rate Comparisons and Trends	I-1
J Rate Plan and Customer Data	J-1
K Current Cellular Telephone Prices in California	K-1
L Cellular Phone Rebates for Service Activation on Contract Plans	L-1
M Capacity Utilization Rates	M-1
N Decision 94-08-022	N-1

Appendix A
State Certification

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Implementation of Sections 3(n) and)
332 of the Communications Act)
)
Regulatory Treatment of Mobile Services))
_____)

GN Docket No. 93-252

CERTIFICATION

I, Peter Arth, declare

1. I am the General Counsel of the Public Utilities Commission of the State of California ("CPUC").

2. The CPUC is an administrative agency established under the constitution and laws of the State of California.

3. The CPUC is charged with regulatory oversight of public utilities in order to ensure, among other things, that rates for services offered by public utilities are just, reasonable, and nondiscriminatory to California consumers of such services.

4. Cellular carriers are public utilities within the meaning of the California Public Utilities Code, and have been subject to the CPUC's regulatory oversight, including oversight of rates, since such carriers began providing intrastate cellular service within California.

5. Pursuant to Section 307 of the California Public Utilities Code, I am duly authorized to represent and appear for the People of the State of California and the Public Utilities Commission of the State of California before federal agencies, including the Federal Communications Commission.

6. In accordance with the requirements of the Omnibus Reconciliation Budget Act of 1993 and In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, Second Report and Order (1994), I hereby certify that the CPUC is the administrative agency responsible for the regulation of telecommunications services within California, and is the agency duly authorized to file a petition with the Federal Communications Commission for the purpose of retaining state regulatory oversight of cellular service rates.

WHEREFORE, I hereby certify that the foregoing is true and correct. Executed this 29th day of July, 1994, at San Francisco, California.

/s/ PETER ARTH, JR.

Peter Arth, Jr.
General Counsel