

Conclusions of Law

1. There is no provision of the Federal Communications Act Section 332 prohibiting modifications in specific state regulatory rules prior to the date when the FCC acts on California's petition to retain jurisdiction over ratemaking of cellular carriers.

2. The proposed framework for regulating service providers based upon a "dominant"/"nondominant" classification is appropriate and should be adopted as a standard for further development of a regulatory framework.

3. Facilities-based cellular carriers should be classified as "dominant" for purposes of regulation under our framework as set forth in the OII.

4. California regulatory jurisdiction over facilities-based cellular carriers should continue under existing Rateband Guideline rules (incorporating interim changes adopted herein) pending adoption of a comprehensive regulatory framework for the mobile services market through a final order in this Investigation.

5. Continued regulation of cellular carriers is required to protect consumers from unreasonable or discriminatory rates until future market changes indicate that cellular carriers no longer hold market dominance.

6. There is no federal statute, policy, or rule that inhibits the interconnection and use of the reseller switch as defined by D.92-10-026.

7. It is reasonable to adopt market-based unbundling of cellular carrier rates, based upon the terms prescribed in the order below.

8. Cost of service regulation should not be pursued as a regulatory option for facilities-based carriers.

9. There is no legal prohibition against cellular carriers re-rating of charges for EAS since no construction of facilities outside of the designated service territory of the carrier is involved in offering the EAS service.

10. It is reasonable that intercarrier agreements for EAS service be publicly filed, and that any serving carrier charge the same wholesale rate to resellers as to other serving cellular carriers.

11. It is reasonable that a serving carrier providing EAS service charge a wholesale rate to the served carrier (including resellers).

12. It is reasonable to retain price caps at existing rate levels to protect consumers against duopoly market power until the market becomes competitive.

13. Remaining issues pertinent to this Investigation not resolved by this order should be addressed in the next phase of this Investigation.

ORDER

IT IS ORDERED that:

1. Cellular resellers are authorized to file applications amending their certificates of public convenience and necessity (CPCNs) from a switchless to a switched reseller status upon meeting the following conditions:

- a. The reseller must submit to the cellular carrier a bona fide request for unbundled service, accompanied by an engineering plan describing how the provider would interconnect with the dominant carrier's mobile telephone switching office (MTSO). The plan would have to demonstrate the compatibility between the reseller's switch and the dominant carrier's MTSO.
- b. Once the bona fide request is submitted to the cellular carrier, the reseller must file a petition to modify its existing CPCN to change its status to that of a switch-based reseller and to ensure compliance with the California Environmental Quality Act.

2. The Commission order approving the change in the reseller CPCN as described in Ordering Paragraph 1 above shall also be served on the cellular carrier which received the request for interconnection.

3. The Commission order shall direct such carrier to promptly file an advice letter with the Commission to amend its wholesale tariff reflecting a market-based unbundling of access charges billed to such switch-based resellers which have entered into interconnection agreements.

4. Upon activation of the interconnection arrangement with the reseller, its billing shall be adjusted by applying a credit equal to the access charge on the reseller's bill.

5. Carriers engaged in Extended Area Service (EAS) intercarrier agreements shall publicly file such agreements with the Commission.

6. Any serving carrier providing EAS service shall charge a wholesale rate to the served carrier (including resellers).

7. This Investigation shall remain open for further study of outstanding issues not resolved by this interim order and adoption of a comprehensive framework for the mobile telephone service market.

This order is effective today.

Dated August 3, 1994, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
Commissioners

I dissent.

/s/ PATRICIA M. ECKERT
Commissioner

I dissent.

/s/ NORMAN D. SHUMWAY
Commissioner

Source:
Opening Comments of
Cellular Services, Inc.

NCRA

NATIONAL CELLULAR RESELLERS ASSOCIATION

**COMPARISON
OF CELLULAR SERVICE PRICES
IN THE
30 LARGEST MARKETS
FOR PERSONAL SAFETY
AND CONVENIENCE
USE:
JANUARY, 1988 - JANUARY, 1994**

January 24, 1994

1/24/84

NATIONAL CELLULAR RESELLERS ASSOCIATION**COMPARISON OF CELLULAR SERVICE PRICES FOR PERSONAL SAFETY AND CONVENIENCE USE: JANUARY, 1988 - JANUARY, 1994**

The following table shows the best rates available in the 30 largest cellular markets for 30 minutes of monthly airtime in January, 1988 and January, 1994. NCRA believes this amount of airtime, divided into 20 minutes of usage during peak hours and 10 minutes of usage during off-peak hours, represents a reasonable calling pattern for individuals using a cellular phone chiefly for personal safety and convenience.

1988 \$ DMT	Market #	City	System	1988	1994	% Change	1994 \$ DMT
\$3.50	1	New York	A	\$32.50	\$36.99	23.0%	
			B	\$36.00	\$46.65	28.8%	\$5.66
\$0.00	2	Los Angeles	A	\$45.00	\$46.00	0.0%	
			B	\$45.00	\$45.00	0.0%	\$0.00
\$1.00	3	Chicago	A	\$20.00	\$26.35	41.8%	
			B	\$21.00	\$24.21	15.3%	\$4.14
\$1.00	4	Philadelphia	A	\$22.95	\$34.85	52.3%	
			B	\$23.85	\$34.65	44.7%	\$0.30
\$0.00	5	Detroit	A	\$16.10	\$30.95	92.2%	
			B	\$16.10	\$30.95	92.2%	\$0.00
\$3.00	6	Boston	A	\$22.50	\$33.15	47.3%	
			B	\$19.50	\$27.95	43.3%	\$5.20
\$0.00	7	San Francisco	A	\$56.00	\$44.74	-20.1%	
			B	\$56.00	\$45.00	-19.6%	\$0.26
\$1.95	8	Wash/Balt	A	\$22.00	\$33.70	53.2%	
			B	\$23.95	\$34.85	44.7%	\$0.95
\$0.00	9	Dallas	A	\$30.00	\$42.39	41.3%	
			B	\$30.00	\$41.95	39.8%	\$0.44
\$2.75	10	Houston	A	\$28.95	\$31.99	10.5%	
			B	\$28.20	\$39.85	52.5%	\$7.66
\$0.00	11	St. Louis	A	\$23.00	\$26.95	17.2%	
			B	\$23.00	\$29.85	30.2%	\$3.00
\$4.50	12	Miami	A	\$30.00	\$62.70	75.7%	
			B	\$34.50	\$49.55	43.6%	\$3.15
\$18.75	13	Pittsburgh	A	\$14.20	\$39.99	181.6%	
			B	\$32.95	\$38.05	15.5%	\$1.84

\$6.80	15 Minneapolis	A	\$26.95	\$32.24	11.4%	\$3.81
		B	\$35.55	\$36.85	0.8%	
\$0.05	16 Cleveland	A	\$27.95	\$30.86	10.7%	\$1.20
		B	\$28.00	\$29.75	6.3%	
\$0.00	17 Atlanta	A	\$40.00	\$33.70	-15.7%	\$8.05
		B	\$40.00	\$41.75	4.4%	
\$8.35	18 San Diego	A	\$46.00	\$36.55	-18.8%	\$1.45
		B	\$36.65	\$38.00	3.7%	
\$6.05	19 Denver	A	\$29.50	\$36.50	24.0%	\$0.38
		B	\$35.55	\$36.95	3.9%	
\$11.75	20 Seattle	A	\$29.50	\$29.90	1.7%	\$0.04
		B	\$41.25	\$29.95	-27.4%	
\$1.30	21 Milwaukee	A	\$20.00	\$29.95	49.7%	\$2.95
		B	\$21.30	\$27.00	26.8%	
\$0.80	22 Tampa	A	\$29.80	\$34.95	30.4%	\$11.50
		B	\$27.80	\$46.45	68.3%	
\$0.05	23 Cincinnati	A	\$17.95	\$30.95	72.4%	\$8.04
		B	\$18.00	\$24.91	38.4%	
\$0.00	24 Kansas City	A	\$25.50	\$33.45	31.2%	\$2.40
		B	\$25.50	\$35.85	40.6%	
\$13.10	25 Buffalo	A	\$25.10	\$27.85	10.2%	\$4.30
		B	\$12.00	\$23.35	94.6%	
\$6.60	26 Phoenix	A	\$28.95	\$39.25	35.6%	\$1.00
		B	\$35.55	\$40.25	13.2%	
\$3.00	28 Indianapolis	A	\$12.00	\$28.95	124.6%	\$2.00
		B	\$15.00	\$24.95	66.3%	
\$9.40	29 New Orleans	A	\$42.80	\$33.95	-20.9%	\$0.00
		B	\$33.50	\$33.95	1.3%	
\$1.50	30 Portland	A	\$25.00	\$35.00	40.0%	\$1.50
		B	\$23.50	\$33.50	42.6%	
\$3.75	Averages		\$28.67	\$35.12	+32.4%	\$2.84

The monthly airtime charges contained in this report were calculated by using data obtained from Information Enterprises and the customer service departments of the licensed carriers in each market listed above. The monthly airtime charges reflect the best rates available on service contracts not exceeding one year in length.

(END OF APPENDIX 1)

Source:

Calif Legislative Hearings
I 2-93
Hearing Record

TABLE 2

DRA AND McCAW CELLULAR RATE COMPARISON CHART

(REGULATED MARKETS ARE IN BOLD ITALICS.)

CITY	DRA (A)		DRA (B)		MCCAW(1)	
LOS ANGELES	\$99.00	100.00%	\$99.00	98.02%	\$92.84	98.05%
NEW YORK	\$99.00	100.00%	\$101.00	100.00%	\$100.81 *	100.00%
PHILADELPHIA	\$97.24	98.22%	\$86.00	85.15%	\$89.53 *	68.97%
SAN FRANCISCO	\$95.00	95.96%	\$95.00	94.06%	\$92.58	91.84%
MIAMI	\$93.00	93.94%	\$92.00	91.09%	\$86.07 *	85.38%
SEATTLE	\$93.00	93.94%	\$95.00	94.06%	\$81.28	80.63%
DENVER	\$83.00	83.84%	\$88.00	87.13%	\$73.32 *	72.73%
DALLAS	\$80.40	81.21%	\$89.35	88.47%	\$74.69	74.09%
HOUSTON	\$77.00	77.78%	\$92.00	91.09%	\$72.44 *	71.86%
MINNEAPOLIS	\$76.00	76.77%	\$76.00	75.25%	\$73.41	72.82%
BOSTON	\$74.00	74.75%	\$78.00	77.23%	\$73.33	72.74%
DETROIT	\$72.44	73.17%	\$70.31	69.61%	\$55.72 *	55.27%
WASHINGTON, D.C.	\$72.00	72.73%	\$73.00	72.28%	\$63.06 *	62.55%
SACRAMENTO	\$60.00	60.61%	\$52.00	51.49%	\$58.20	57.73%
CHICAGO	\$59.00	59.60%	\$62.00	61.39%	\$53.84	53.41%
PITTSBURGH	N/A	N/A	N/A	N/A	\$74.15 *	73.55%
TAMPA	N/A	N/A	N/A	N/A	\$75.91 *	75.30%

PERCENTAGES ARE RELATIVE TO LOS ANGELES RATES.

* REQUIRES COMMITMENT TO ONE YEAR CONTRACT

(1) REVISED TO INCLUDE ACTIVATION FEE & ALLOCATION OF FREE MINUTES

(A) NON-WIRELINE CARRIER

(B) WIRELINE CARRIER

ASSUMPTIONS:

1. ALL RATES ARE BASED ON 120 MINUTES OF USE (80% PEAK/20% OFF PEAK).
2. RATES FOR BOSTON, HOUSTON, PHILADELPHIA, AND SACRAMENTO WERE ADDED BY DRA USING MCCAW ASSUMPTIONS.

Source: Opening Comments of MARKET-BY-MARKET RATE MARGIN ANALYSIS

Cellular Resellers Association

Existing resellers generally have more than 1000 customers and the average reseller uses more than 300,000 peak minutes and 50,000 off-peak minutes of airtime. This analysis reflects these facts.

Los Angeles

Los Angeles SMSA (PacTel/GTE)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$32.26	28.31%
Peak	\$ 0.45	\$ 0.366	18.67%
Off-Peak	\$ 0.27	\$ 0.22	18.52%

Los Angeles Cellular Telephone Company

(McCaw/AT&T/BellSouth)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$32.26	28.31%
Peak	\$ 0.45	\$ 0.366	18.67%
Off-Peak	\$ 0.27	\$ 0.22	18.52%

San Francisco/San Jose

GTE Mobilnet

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$28.25	37.22%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Bay Area Cellular Telephone Company

(PacTel/AT&T/McCaw)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access			
(Ceiling Rates)			
0-99 mins. per number	\$45.00	\$28.25	37.22%
100-199 mins. per number	\$42.50	\$26.70	37.18%
200-299 mins. per number	\$40.00	\$25.15	37.13%
300 + mins. per number	\$37.50	\$23.55	37.20%
(New Rates effective 4/26/93)			
0-399 mins. per number	\$39.99	\$25.10	37.23%
400 + mins. per number	\$37.50	\$23.55	37.20%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Napa

GTE Mobilnet

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$28.25	37.22%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Napa Cellular (AT&T/McCaw/PacTel)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access			
0-99 mins. per number	\$45.00	\$28.25	37.22%
100-199 mins. per number	\$42.50	\$26.70	37.18%
200-299 mins. per number	\$40.00	\$25.15	37.13%
300 + mins. per number	\$37.50	\$23.55	37.20%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

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SalinasGTE Mobilnet

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$28.25	37.22%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Salinas Cellular (PacTel/AT&T/McCaw)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access			
0-99 mins. per number	\$45.00	\$28.25	37.22%
100-199 mins. per number	\$42.50	\$26.70	37.18%
200-299 mins. per number	\$40.00	\$25.15	37.13%
300 + mins. per number	\$37.50	\$23.55	37.20%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Santa CruzGTE Mobilnet

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$28.25	37.22%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Santa Cruz Cellular

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$28.15	37.44%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Santa RosaGTE Mobilnet

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$28.25	37.22%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Caraj Cellular (AT&T/McCaw/PacTel)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access			
0-99 mins. per number	\$45.00	\$28.25	37.22%
100-199 mins. per number	\$42.50	\$26.70	37.18%
200-299 mins. per number	\$40.00	\$25.15	37.13%
300 + mins. per number	\$37.50	\$23.55	37.20%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

San DiegoPacTel Cellular

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$35.00	\$24.50	30%
Peak	\$ 0.40	\$ 0.305	26.49%
Off-Peak	\$ 0.20	\$ 0.152	24%

U.S. West Cellular

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$35.00	\$25.20	28%
Peak	\$ 0.40	\$ 0.274	31.5%
Off-Peak	\$ 0.20	\$ 0.132	33.5%

SacramentoSacramento Valley LP (PacTel)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$20.00	\$14.30	28.5%
Peak	\$ 0.25	\$ 0.203	18.8%
Off-Peak	\$ 0.15	\$ 0.122	18.67%

Proposed new rates

SVLP Area A (Sacramento MSA, Stockton MSA, Yuba City MSA, Sierra RSA, southern portion of Tehama RSA)

Access			
1-4 numbers	\$24.00	\$16.80	30%
5-9 numbers	\$22.80	\$15.96	30%
10-24 numbers	\$21.60	\$15.12	30%
25+ numbers	\$20.40	\$14.28	30%
Peak	\$ 0.29	\$ 0.203	30%
Off-Peak	\$ 0.15	\$ 0.105	30%

SVLP Area B (Chico MSA, Redding MSA, northern portion of Tehama RSA)

Access			
1-4 numbers	\$30.00	\$21.00	30%
5-9 numbers	\$28.50	\$19.95	30%
10-24 numbers	\$27.00	\$18.90	30%
25+ numbers	\$25.50	\$17.85	30%
Peak	\$ 0.35	\$ 0.245	30%
Off-Peak	\$ 0.25	\$ 0.175	30%

Sacramento Cellular (AT&T/McCaw)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$24.00	\$16.00	33.33%
Peak	\$ 0.29	\$ 0.227	21.72%
Off-Peak	\$ 0.15	\$ 0.122	18.67%

StocktonSacramento Valley LP (PacTel)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$20.00	\$14.30	28.5%
Peak	\$ 0.25	\$ 0.203	18.8%
Off-Peak	\$ 0.15	\$ 0.122	18.67%

Stockton Cellular (AT&T/McCaw)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$24.00	\$16.00	33.33%
Peak	\$ 0.29	\$ 0.227	21.72%
Off-Peak	\$ 0.15	\$ 0.122	18.67%

FresnoFresno MSA (GTE/Contel)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access (Ceiling Rates)			
1-5 units	\$31.00	\$24.00	22.58%
6+ units	\$28.00		14.29%
(New Rates effective 6/7/93)			
1-5 units	\$27.00	\$20.90	22.59%
6+ units	\$28.00		25.36%
Peak	\$ 0.35	\$ 0.28	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Fresno Cellular (AT&T/McCaw)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access			
1-5 units	\$31.00	\$24.00	22.58%
6+ units	\$28.00		14.29%
Peak	\$ 0.35	\$ 0.275	21.43%
Off-Peak	\$ 0.20	\$ 0.16	20%

BakersfieldFresno MSA (GTE/Contel)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access (Ceiling Rates)			
1-5 units	\$31.00	\$24.00	22.58%
6+ units	\$28.00		14.29%
(New Rates effective 6/7/93)			
1-5 units	\$27.00	\$20.90	22.59%
6+ units	\$28.00		25.36%
Peak	\$ 0.35	\$ 0.28	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Bakersfield Cellular (BellSouth)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access			
1-5 units	\$31.00	\$24.00	22.58%
6+ units	\$28.00		14.29%
Peak	\$ 0.35	\$ 0.28	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Santa BarbaraGTE Mobilnet of Santa Barbara

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$28.25	37.22%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%

Santa Barbara Cellular (AT&T/McCaw)

	<u>Retail Rates</u>	<u>Wholesale Rates</u>	<u>Margin</u>
Access	\$45.00	\$28.25	37.22%
Peak	\$ 0.45	\$ 0.36	20%
Off-Peak	\$ 0.20	\$ 0.16	20%