

EX PARTE OR LATE FILED



Carol L. Bjelland  
Director  
Regulatory Matters

GTE Service Corporation  
1850 M Street, N.W., Suite 1200  
Washington, D.C. 20036  
(202) 463-5292

RECEIVED

March 23, 1995

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Hon. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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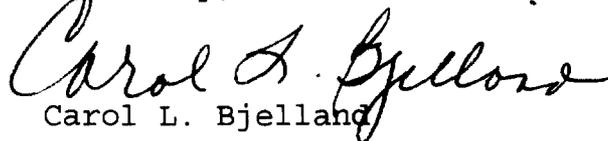
Re: Ex Parte Presentation - PR Docket No. 94-105

Dear Mr. Caton:

Transmitted herewith in accordance with 47 C.F.R. Sections 1.1206(a)(1) and (3), on behalf of GTE Service Corporation, are two copies of an ex parte presentation submitted to Regina M. Keeney, Chief of the Wireless Telecommunications Bureau.

Should you have any questions in this regard, please do not hesitate to contact the undersigned counsel.

Sincerely,

  
Carol L. Bjelland

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Regina M. Keeney, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 5002  
Mail Stop 2000  
Washington, D.C. 20554

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY**

**Re: Ex Parte Presentation - PR Docket No. 94-105**

Dear Ms. Keeney:

On March 16, 1995, an ex parte discussion was held regarding this docket among yourself, M. Wack, D. Fertig, and representatives of GTE Service Corporation, and GTE PCS. During this discussion several questions were raised concerning rate regulation in California as well as the substitutability of Nextel's wireless service in California for cellular service. This letter is provided in response to these inquiries and is divided into two parts: 1) Part One details the incongruous regulatory treatment afforded new rate plans and downwardly adjusted pre-existing rates by the California Public Utilities Commission; and 2) Part Two discusses the growth of Nextel's wireless service throughout California and Nextel's declarations as to its substitutability for cellular service. In accordance with Section 1.1206 of the Commission's rules, two copies of this letter are being concurrently furnished to the Secretary under separate cover for inclusion in the public record.

**I. The Status of "One Day Notice" for Rates in California**

During the ex parte discussion, it became clear that there was uncertainty among the participants as to whether the CPUC allows rates to be "rolled out" on "one day notice." In response to the Staff's request for clarification, GTE has confirmed that the CPUC only permits one day notice for reduction of existing rates and for promotions. The introduction of new rate plans or the adjustment of a pre-existing rate plan that would decrease the monthly charge but increase the minute of use rate are still subject to the 30 day filing procedure.

The CPUC did adopt a one day notice procedure for new rate

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plans in April 1994 only to have the CPUC's effort stymied by resellers and Nextel. In April 1994 the CPUC authorized carriers (and resellers) to file new rate plans on one day's notice. Investigation of the Commission's Own Motion into the Regulation of Cellular Radiotelephone Utilities, Order Modifying Decision 90-06-025, D. 94-04-043, April 6, 1994.<sup>1</sup>

The resellers and Nextel challenged the legality of Decision 94-04-043, asking for limited rehearing of the decision. See Investigation of the Commission's Own Motion into the Regulation of Cellular Radiotelephone Utilities, Application for Partial Rehearing of Cellular Resellers Association, Inc. of Dec. 94-04-043 & G.O. 96-A, filed May 9, 1994. The CPUC granted the rehearing on the issue "whether cellular carriers should be authorized to use temporary tariff filings for establishing new service plans," and stayed the portion of that decision permitting this. Investigation of the Commission's Own Motion into the Regulation of Cellular Radiotelephone Utilities, Order Granting Limited Rehearing of Decision 94-04-043, D. 94-10-040, October 12, 1994, p.9, p. 10.<sup>2</sup> The matter is currently being reviewed by an Administrative Law Judge. Until this matter is resolved new rate plans remain subject to a 30 day notice period.

By eliminating the 30 day notice period, which stultifies competition by permitting a competitor to adjust to another competitor's rate changes, the CPUC was attempting to foster competition. It is ironic that this initiative was derailed by entities which are shielded from full competition by the CPUC (the resellers) and an entity (Nextel) that advertises the fact that it

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<sup>1</sup> Decision 94-04-043 modified an ordering paragraph of a previous decision to read: "A cellular carrier's or reseller's rate reduction tariff filing, including reductions in new service plans, as long as the wholesale-retail margin is maintained, shall be classified as a temporary tariff and made effective on the date filed." Investigation of the Commission's Own Motion into the Regulation of Cellular Radiotelephone Utilities, Order Modifying Decision 90-06-025, D. 94-04-043, April 6, 1994, p. 16.

<sup>2</sup> This decision adversely affected the plans of at least one carrier, GTE Mobilnet. GTE Mobilnet was significantly disadvantaged by this decision because it had planned to roll out new rate plans on one day's notice, effective Monday, October 17, 1994. The CPUC granted the rehearing in a closed session the Wednesday before the planned roll out. Two of these plans were rate reductions and as such were still eligible for a one day filing, but the others were new and required 30 days. Since the plans were designed as a package, GTE Mobilnet was forced to wait the 30 days to implement all of the plans.

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is "not regulated by state public utilities commissions." See Nextel promotional literature attached as Attachment B.

## II. Today Nextel's Service is a Substitute for Cellular Service in California.

To answer any questions about Nextel's position as a competitor to cellular, one need look no further than Nextel's own promotional materials. Nextel's literature describes its system as one that presently competes with cellular service over a wide area, offers greater types of service than traditional cellular, and offers greater quality of service.

An advertisement that ran in the San Francisco Business Journal on September 26, 1994 (see Attachment A, "All You Need. All In One."), promotes Nextel as one service that combines the traits of several wireless services; "[w]ith Nextel, you get the power of a system that intelligently integrates the freedom of a cellular phone, the instant access of alphanumeric paging, the unmatched coverage of digital dispatch, and the convenience of voice mail." For this a customer needs merely one phone and one "personal telephone number." Id. The advertisement depicts the phone used. "At first glance, what you see looks remarkably like a cellular phone. It's really much more." Id. Nextel is a digital system, says the ad, resulting in "clear sound quality and unequaled coverage, as well as privacy and security." Id.

A Nextel brochure published in 1994 states, "[w]ith Nextel, you get the nation's first integrated, wireless communications network that is designed specifically to meet the needs of your mobile workforce." See Attachment B, "The All-In-One Way to Communicate." It "offers the all-in-one communications solution that gives you digital cellular, digital dispatch, and text and voice messaging in one handset." Id. "Instead of purchasing cellular phones, two-way radios, and answering machines, Nextel integrates all these services into one handset from one service provider, which saves money." (Emphasis supplied.) Id. Thus, as these promotional materials make clear, Nextel has directly targeted cellular subscribers and potential cellular subscribers.

The growth of Nextel's service is documented by the enclosed maps which were a part of promotional materials published in 1993 and 1994. Attachment C is a Nextel Coverage Map which states that "Nextel is available throughout most of Southern California," that "Nextel will be available in Northern California in early 1994," and that service in Sacramento, San Francisco, Fresno, Bakersfield,

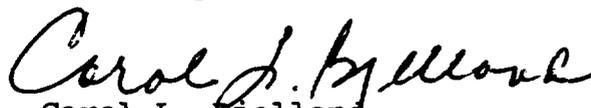
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Los Angeles, and San Diego were scheduled for 1994.<sup>3</sup> The advertisement which appeared in the San Francisco Business Journal on September 9, 1994 (Attachment A) confirms that Nextel's expansion plans were bearing fruit. In the advertisement, Nextel proudly announces that "[t]oday, Nextel has most of California covered. And soon we'll offer service in cities throughout the country -- followed by digital network coverage from coast to coast." See Attachment C and Attachment D.<sup>4</sup>

Nextel is currently providing wireless service, which it promotes as a substitute for cellular, throughout much of the State of California. Thus, today cellular carriers in California must compete with each other, with cellular resellers, and with Nextel. GTE will continue to compete on the basis of service quality, price, coverage area, and offering numerous rate plans. GTE continues to respond to consumer's needs and, as a result, has experienced a 45% increase in subscribership between 1993 and 1994.

Please do not hesitate to contact the undersigned if you have any questions concerning these matters.

Sincerely,

  
Carol L. Bjelland

cc: J. Cimko  
M. Wack  
D. Fertig

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<sup>3</sup> Although the Coverage Map promotional piece is undated, GTE believes it was published in 1993 as it states service in various locales is "available now" while service in other cities is "scheduled for 1994."

<sup>4</sup> Attachment D is an enlargement of a portion of the Nextel advertisement that is provided as Attachment A.

Attachment A

"All You Need. All In One."

# All you need!



# All in one!

No longer will you have to deal with multiple communications devices from multiple communications companies over multiple communications services.

Now, you can get it all from one company.

With Nextel<sup>®</sup>, you get the power of a system that intelligently integrates the freedom of a cellular phone, the instant access of alphanumeric

paging, the unmatched coverage of digital dispatch, and the convenience of voice mail. Now you can stay in touch with the people you need

to—customers, co-workers, family. All through one easy-to-use phone with one easy-to-remember personal telephone number from one easy-to-work with company.

At first glance, what you see looks remarkably like a typical cellular phone.

It's really much more.

Nextel offers you complete control of your mobile communications; you get to choose how and when people can contact you, as well as how you communicate with them. And the entire system is completely customizable, so you can configure a communications system

designed specifically to work the way you and your company work.

Nextel is also a fully digital network. Which means there's virtually no static or endless busy signals; just clear sound quality and unequalled coverage, as well as privacy and security.

There's a lot more we'd like to tell you about Nextel—like how our

integrated digital service is expanding nationwide. So pick up the phone closest to you right now and dial 1-800-NEXTEL.

And see for yourself how easy it is to customize a Nextel system to fit your communications needs. Nextel. All you need. All in one.<sup>™</sup>

## NEXTEL

The Next Generation of Wireless Communications<sup>™</sup>



Attachment B

"The All-In-One Way to Communicate."

# The all-in-one way to communicate.



With Nextel, you get the nation's first integrated wireless communications network that is designed specifically to meet the needs of your mobile workforce. Whether you need to speak to people in the field or they need to communicate with each other, Nextel offers the all-in-one communications solution that gives you digital, analog, digital dispatch, and text and voice messaging in one handset. All you need to communicate quickly and easily

**NEXTEL**

*The Next Generation of Wireless Communications.™*

## The digital advantage.

Nextel's integrated network is built on a platform of 100% digital technology that extends to every aspect of service—from the network to the handsets. The digital design makes possible additional benefits that other service providers don't offer, such as larger coverage areas, consistent sound clarity, and immediate access. Plus, you'll have advanced features to help you get ahead of your competition.

## Handsets that work like yours.

Nextel's handsets are made by Motorola and designed to help you communicate on the run. All portables and mobiles feature a display screen that offers easy-to-use, menu-driven commands to guide you through various functions. The screen keeps you posted on the status of text and voice messages. Message Mail™ is the Nextel service that enables you to send text or numeric messages directly to the screen of a Nextel handset. The network stores the message even if the handset is turned off and delivers it instantly when it is turned back on.

## One service provider. One bill.

Because Nextel provides you with more than one communications option, you can design the solution that works best for your company and its bottom line. Instead of purchasing cellular phones, two-way radios, and answering machines, Nextel integrates all these services into one handset from one service provider, which saves money. Plus, by selecting the most cost-effective mode of communication, you'll realize additional savings. For example, if you send a text message instead of making a cellular call, you'll deliver important information just as quickly but at a lower cost. And when it comes to your bill, Nextel consolidates all your services onto one, easy-to-read statement.

## Partnership with the best.

Nextel has formed strategic partnerships with Motorola, Northern Telecom, Comcast, Panasonic and NTT to provide your business with a seamless network. Because Nextel's network uses the same technology throughout, you can take advantage of all of your communications options when you travel within Nextel's broad coverage area, plus get competitive cellular and the largest dispatch coverage area available today.

# NEXTEL

*The Next Generation of Wireless Communications.™*

© 1993, 1994 Nextel Communications, Inc. All rights reserved. "Nextel" is a registered servicemark and "The Next Generation of Wireless Communications" is a servicemark of Nextel Communications, Inc. "Motorola" and "Message Mail" are trademarks of Motorola, Inc. "Panasonic" is a registered trademark of Matsushita Electric Corporation of America. Nextel is licensed by the Federal Communications Commission. Use of the term "cellular" in this context refers to the provision of mobile telephone service using a cell-like configuration. Nextel is not regulated by state public utilities commissions.



Actual Size.

Attachment C

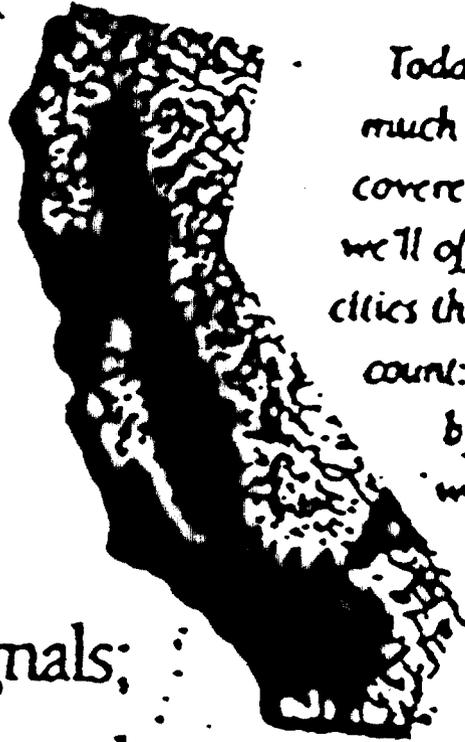
Nextel Coverage Maps

# One.

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red specifically to work  
ay you and your  
any work.

xtel is also a fully  
al network. Which  
ans there's virtually no  
atic or endless busy signals;  
ust clear sound quality and  
unequaled coverage as well as primary



Today, Nextel has  
much of California  
covered. And soon,  
we'll offer service in  
cities throughout the  
country—followed  
by digital net-  
work coverage  
from coast  
to coast.

Attachment D

Enlargement of a Portion of Attachment A

# Northern

*Nextel will be available in Northern California in early 1994. The network will reach as far north as Redding and as far south as the Southern California region.*

**NEXTEL®**

San Francisco

Sacramento

CALIFORNIA



*Nextel is available  
throughout most of  
Southern California.  
Our digital network  
seamlessly covers over  
15,000 square miles  
of territory and  
delivers consistent,  
high-quality sound.*

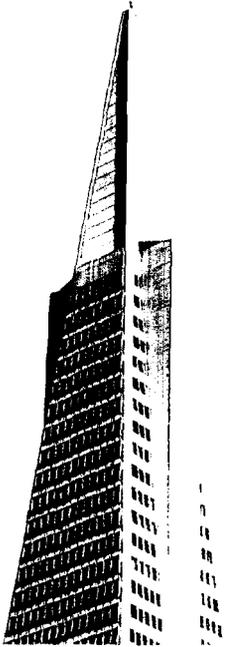
*Available in 1994.*

# Southern

# Natio



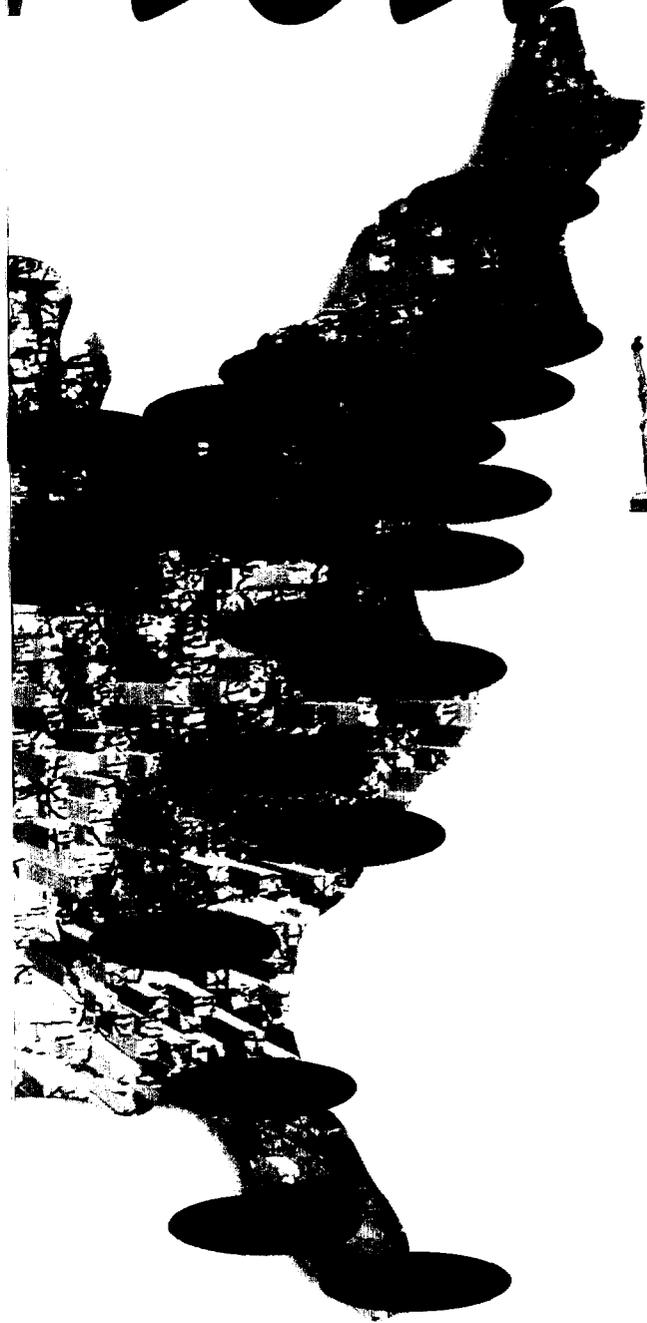
- Available now.
- Scheduled for 1994.
- Scheduled for 1995.
- Additional operators planning to offer compatible, seamless service.



The Nextel digital personal communications network is on a nationwide rollout. As we go forward, customers will be able to receive Nextel service directly from us or receive service from additional operators

planning to offer compatible, seamless digital mobile communications. Ask your Nextel representative when service will be available in a particular area.

# nal



## Coverage Maps



**NEXTEL**<sup>®</sup>

**NEXTEL**<sup>®</sup>