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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE PETITION OF IAT COMMUNICATIONS, INC., d/b/a NTCHIDAHO, INC. OR CLEAR TALK, FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER. | Case Nos. GNR-T-03-08<br>GNR-T-03-16 |
| IN THE MATTER OF THE APPLICATION OF NPCR, INC., d/b/a NEXTEL PARTNERS, SEEKING DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER. | |

**DIRECT TESTIMONY**

**OF**

**DANIEL L. TRAMPUSH**

**ON BEHALF OF**

**THE IDAHO TELEPHONE ASSOCIATION**

**AND**

**CITIZENS TELECOMMUNICATIONS COMPANY OF IDAHO**

ORIGINAL

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Daniel L. Trampush and my business address is 900 Washington Street, Suite 700, Vancouver, Washington, 98660.

**Q. PLEASE SUMMARIZE YOUR CURRENT EMPLOYMENT AND EDUCATIONAL BACKGROUND.**

A. My current position is Director – Telecommunications Consulting for the firm of Moss Adams LLP. Moss Adams is an accounting and business advisory firm that has been in business for 90 years. The firm has 20 practice offices throughout the west coast and is the tenth largest public accounting firm in the United States.

I graduated from Central Washington University in 1970 with a Bachelor of Arts degree in Business Administration.

**Q. PLEASE DESCRIBE YOUR PRIOR BUSINESS EXPERIENCE.**

A. I have been actively involved in the telecommunications industry for the vast majority of my thirty-three year professional career. Upon graduating from college in 1970, I joined the firm of Ernst & Ernst (now Ernst & Young). I was employed by the firm for twenty-seven years, the last seventeen of which I was a partner. During my time at Ernst & Young, I worked on a variety of telecommunications accounting and regulatory issues, some of which were national in scope. I left the firm in 1997 and became Senior Vice President and Chief Financial Officer of GST Telecommunications, Inc, a publicly traded Competitive Local Exchange Carrier. My responsibilities at GST included finance, accounting, and investor relations. My focus at Moss Adams is similar to that at Ernst & Young. That is, I work in the firm's Telecom Niche practice providing consulting services to rural telecommunications carriers. I am also active in the Organization for the Protection and Advancement of Small Telephone Companies ("OPASTCO") subcommittees on Universal Service and access charges. Additionally, we are engaged to work in conjunction with counsel for the Idaho Telephone Association on federal and state regulatory proceedings. A copy of my biography is attached as Exhibit 301.

**Q. WHO ARE YOU TESTIFYING FOR IN THIS PROCEEDING?**

A. I am appearing on behalf of the Idaho Telephone Association ("ITA") and Citizens Telecommunications Company of Idaho ("Citizens"). The ITA is an industry organization comprised of telecommunications carriers that serve approximately 40,000 access lines in the rural areas of Idaho.[1] All of the ITA's members are "rural telephone companies" as defined in 47 U.S.C. § 153(37). Citizens is also a rural telephone company that provides telecommunications service to approximately 21,000 access lines in 18 southern Idaho exchanges.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. The purpose of my testimony is to analyze the Applications by NPCR, Inc ("Nextel") and IAT Communications ("Clear Talk") for Eligible Telecommunications Carrier ("ETC") designations in a number of rural telephone companies' service territories. In doing so, I will comment on both the Applications and the direct testimony submitted by the Applicants' witnesses.

[1] ITA member companies include: Albion Telephone Company, Cambridge Telephone Company, Custer Telephone Cooperative, Inc., Farmers Mutual Telephone Company, Filer Mutual Telephone Company, Inland Telephone Company, Midvale Telephone Company, Mud Lake Telephone Cooperative Association, Project Mutual Telephone Cooperative Association, Direct Communications – Rockland, Rural Telephone Company, Silver Star Telephone Company, Oregon-Idaho Utilities, and Fremont Telecom.

**Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

A. My ultimate conclusion is that the Applicants have not made even a passable attempt to meet their statutorily required burden of proof for ETC designations in the rural telephone companies' service territories. In explaining this conclusion, I will show that:

- The Applicants repeatedly mischaracterize the plain meaning of the Telecommunications Act of 1996 and the ultimate issues in this proceeding.
- The Applicants' own pleadings and testimony prove that for the foreseeable future, they will not meet the minimum threshold requirement for ETC designations in the affected incumbent local exchange carrier ("ILEC") service territories.
- Even if the Applicants could meet the threshold requirements for ETC designations, their applications are not "in the public interest" and should be denied.

**Q. PLEASE EXPLAIN HOW THE APPLICANTS MISCHARACTERIZE THE 1996 ACT AND THE ISSUES IN THIS PROCEEDING?**

A. The Applicants' entire case is essentially built on the proposition that competition is the "be all and end all" of the Act. According to the Applicants, the goal of promoting competition trumps all other public interest policies embodied in the Act. While I am not an attorney, I have spent the better part of my working life dealing with telecommunications issues, including the 1996 Act, and I think I am competent to understand plain English. In my opinion the Applicants are grossly mischaracterizing a complicated law that serves a number of purposes.

The Applicants mischaracterize the issues in this proceeding by insisting that the ultimate issue in this case is whether there should be wireless competition in the rural telephone companies' exchanges. This is not the issue at all. As I will explain in detail later in my testimony, there is no shortage of wireless competitors already operating in Idaho's rural telephone company service areas. <u>The real question in this case is whether the Applicants' competitive efforts in these areas should be subsidized by payments from the federal Universal Service Fund ("USF").</u>

**Q. LET'S RETURN TO THE 1996 ACT. ARE YOU SUGGESTING THAT THE ACT IS NOT PROCOMPETITION?**

A. Not at all. The 1996 Act was obviously designed in part to promote, as the title of Part II states, the "development of competitive markets" in the majority of the nation's telecommunications markets. But the Act has a number of other equally important purposes as well, not the least of which are the preservation and enhancement of universal service and the protection of incumbent rural telephone companies from <u>unfair</u> competition.

**Q. HOW DOES THE 1996 ACT DEFINE UNIVERSAL SERVICE?**

A. Section 254(b) of the Act contains six major universal service principles:

**1.** Quality services should be available at just, reasonable, and affordable rates.

2. Access to advanced services should be provided in all regions of the nation.

3. Consumers in all regions of the nation should have access to services (including advanced services) and rates that are reasonably comparable to those in urban areas.

4. All telecommunications providers should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.

5. There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.

6. Schools and libraries should have access to advanced services.

In addition to the principles listed above, the FCC approved, based on a Joint Board recommendation, an additional principle of "competitive neutrality". This principle requires that "universal service support mechanisms and rules neither unfairly favor nor disfavor one technology over another."[2]

It is worth noting that none of these universal service principles refer to the promotion of competition, nor do they guarantee customers a right to multiple, competing universal service providers.

**Q. WHAT DO YOU MEAN BY "UNFAIR" COMPETITION?**

A. The 1996 Act was a comprehensive reworking of the Communications Act of 1934. As such, it generated huge interest and massive lobbying efforts by virtually every segment of the telecommunications industry, in addition to consumer groups and other interested parties. After a long deliberative process,

[2] *Report and Order* in CC Docket No. 96-45, issued May 8, 1997 at ¶47.

Congress ultimately reached the compromise embodied in the Act, in which most of the industry groups got some of what they wanted, but not all.

The rural incumbent local exchange carriers ("ILECs") also participated in this legislative process, primarily through trade groups such as OPASTCO. Many of these companies, including many of those I am representing today, were then (and remain now) subject to the traditional state public utility regulation process that carries with it an obligation to serve as a carrier of last resort ("COLR") within their service territories. This COLR obligation means that incumbent rural telephone companies are not free to differentiate between profitable and unprofitable customers. They are compelled to serve one and all at regulated rates based on average costs.

Furthermore, because of their low population density service territories, the rural ILECs generally have high average service costs and often require support from federal and state universal service funds ("USF") to keep rates affordable and meet the universal service goals embodied in the federal Act and state legislation. But within their generally high cost service areas, most rural ILECs have some pockets of customers (primarily small towns, individual businesses, and government offices) that comprise their lowest cost and most profitable customers.

Thus, the rural ILECs argued that it would be unfair to allow unregulated competitors to target only their most profitable customers, while leaving the incumbents with the COLR obligation for the very highest cost customers. The rural ILECs pointed out that allowing this type of "cherry picking' or "cream skimming " competition would not only jeopardize the incumbents' financial viability, but would also provide an undeserved windfall to competitive ETCs and prove detrimental to universal service goals by causing increased rates for their remaining high cost customers and increased demands on federal and state USFs.

**Q. DO THESE SAME CONSIDERATIONS APPLY TO RURAL TELEPHONE COMPANIES IN IDAHO?**

A. Yes, in spades. In preparation for an earlier proceeding, the ITA surveyed its members to compile basic information about the members' service densities and costs. Of the 15 study areas represented by ITA's 14 member companies, the ITA collected information on 12 study areas. This response accounts for approximately 98 percent of the ITA membership's total access lines.[3] The ITA data presented in these comments is based on this survey.

We found that, on average, the ITA companies have only 2 access lines per square mile of service territory. This contrasts with the findings of the Rural Task Force, which determined that, on average, rural carriers serve 19 lines per square mile.[4] Four of the ITA study areas have a line density per square mile of less than 1 and three study areas have a density of between 1 and 2 lines per square mile. On the other end of the spectrum, one member with a comparatively small service territory has more than 100 access lines per square mile.

The lack of access line density and the necessity of providing ubiquitous coverage in these rural areas translates into high costs. At the end of 2002, the gross investment in telephone plant in service per access line for the ITA

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[3] Three member companies with combined access lines of approximately 1,000 were unable to respond to the data request in the time allowed.
[4] Rural Task Force, White Paper 2, *The Rural Difference*, January 2000, P. 33.

members was approximately $5,400. Plant specific operating expenses were $445 per line for this same period, or $37 per line per month.

**Q. CAN YOU PROVIDE SIMILAR NUMBERS FOR CITIZENS' SERVICE AREA?**

**A.** Yes. The density of Citizens Idaho service area is also far below the national average for rural telephone companies. Citizens averages 3.96 customers per square mile. If we blend the Citizens data with the ITA's, average density would equal 2.4 access lines per square mile.

Citizens also exhibits relatively high plant costs, with gross plant in service per access line of $4,213, with plant specific operating expenses of $144 per year.

Q. **WHAT DO THESE DENSITY AND COST FIGURES TELL US ABOUT COMPETITION IN RURAL TELEPHONE COMPANY SERVICE AREAS?**

A. With these types of average densities and costs, it is readily apparent that wireless competitors who concentrate primarily on towns or businesses, without serving the surrounding sparsely populated areas, have a potentially enormous competitive advantage *vis a vis* the incumbent who must serve the entirety of its study area.

**Q. DOES THIS POTENTIAL ADVANTAGE MEAN THAT WIRELESS COMPETITION SHOULD BE PROHIBITED IN RURAL TELEPHONE COMPANY SERVICE AREAS?**

**A.** No. In the end, the rural telephone companies did not get the full measure of protection they requested when the Act was passed. Congress expressly authorized wireless competition in rural telephone company service areas, and it refused to prohibit wireless carriers from "cherry picking" the most attractive customers or geographic portion of the incumbent rural telephone company's service area. But Congress did establish some important constraints on <u>subsidized</u> competition by wireless carriers.

**Q. WHAT ARE THOSE CONSTRAINTS?**

A. The first is that a rural telephone company competitor that seeks USF subsidies must in fact provide ubiquitous service throughout the entirety of the incumbent's service area. The second is that the state commission must explicitly find that a competitor's eligible telecommunications carrier ("ETC") status, and entitlement to USF support, is in the "public interest."

**Q. WHAT IS THE STATUTORY SOURCE OF THE FIRST CONSTRAINT YOU HAVE JUST DESCRIBED?**

A. The relevant provision of the Act is Section 214(e)(1), which provides that an applicant for ETC status,

> shall, throughout the service area for which such designation is received—
>
> (A) offer the services that are supported by Federal universal support mechanisms under section 254 . . . ; and
>
> (B) advertise the availability of such services and the charges therefore using media of general distribution.

47 U.S.C. § 214(e)(1). Section 214(e)(5) further provides:

> In the case of an area served by a rural telephone company "service area" means such company's "study area" unless and until the Commission and the States after taking into account

> recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

**Q. WHAT IS THE SIGNIFICANCE OF THESE PROVISIONS?**

A. Congress essentially offered wireless carriers a choice when they enter a rural telephone company's service area. They are free to skim the cream of the incumbent's customers, but if they do so they must forgo USF support. Alternatively, the competitor can attempt to qualify for USF subsidies equivalent to the incumbent's. If the competitor chooses the latter alternative it must, as a minimum threshold requirement, match the incumbent's obligation to serve and actively solicit customers throughout the entirety of a rural ILEC's territory. This requirement is mandatory and non-discretionary, unless the Joint Board recommends, and the FCC and states adopt, some lesser requirement.

**Q. HAS THE JOINT BOARD IN FACT RECOMMENDED A LESSER STANDARD THAN THE UBIQUITOUS SERVICE REQUIREMENT?**

A. No. In its Recommended Decision regarding the implementation of the universal service principles of the 1996 Act, the Joint Board stated that:

> We find no persuasive rationale in the record for adopting, at this time, a service area that differs from a rural telephone company's present study area. We note that some commenters argue that Congress presumptively retained study areas as the service area for rural telephone companies in order to minimize "cream skimming" by potential competitors. Potential "cream skimming" is minimized because competitors, as a condition of eligibility, must provide services throughout the rural telephone company's study area. Competitors would thus not be eligible for universal service support if they sought to serve only the lowest cost portions of a rural telephone company's study area.[5]

[5] *Joint Board Recommended Decision,* (November 8, 1996), FCC 96J-3 at ¶172.

**Q. DOES A COMPETITIVE ETC HAVE TO OFFER SERVICE TO ALL CUSTOMERS THROUGHOUT THE INCUMBENT RTC'S TERRITORY <u>BEFORE</u> IT IS GRANTED ETC STATUS?**

A. No. Clear Talk's witness, Mr. Ishihara correctly points out that the FCC has held that a competitive ETC must be granted the same opportunity to build out its facilities that the incumbent LEC received when it was first certificated to provide service. But this is only half the story, and Mr. Ishihara conveniently omits the conditions the FCC attached to this ruling. Following the passage cited by Mr. Ishihara, the FCC went on to hold that a competitive ETC applicant must make a reasonable demonstration to the state Commission of its "capability and commitment" to provide service throughout the proposed ETC serving area. The FCC stressed that this must be a meaningful demonstration:

> We caution that a demonstration of the capability and commitment to provide service must encompass something more than a vague assertion of intent on the part of a carrier to provide service. The carrier must reasonably demonstrate to the state Commission its ability and willingness to provide service upon designation.[6]

I assume the FCC's words were not chosen haphazardly. The FCC's analogy to the showing required of the incumbent when it was originally certificated, and its insistence that the applicant has the burden of proving "its ability and willingness" are significant. I interpret the FCC's ruling as requiring a showing by a competitive ETC that it is "fit, willing, and able" to provide ubiquitous service on reasonable terms and within a reasonable time.

**Q. WHAT TYPE OF SHOWING SHOULD BE REQUIRED TO MEET THIS TEST?**

[6] *Declaratory Ruling,* released August 10, 2000, FCC 00-248 at ¶*24.*

A. At a minimum, I believe the Commission should insist on convincing proof that the applicant has a clear business plan and timetable for the required build out, the financial capacity to carry out that plan, and (in the case of wireless carriers) adequate spectrum to meet future customer growth requirements. Furthermore, in the case of companies that have an operating history in other jurisdictions, they should be required to show that they have followed through on their ETC commitments in those jurisdictions.

**Q CAN EITHER OF THE APPLICANTS MEET THIS THRESHOLD STATUTORY REQUIREMENT?**

A. No. But the reasons why differ between the two Applicants, so I will discuss each separately.

**Q. LET'S START WITH CLEAR TALK. WHY DOES IT FAIL TO QUALIFY FOR ETC STATUS UNDER THE UBIQUITOUS SERVICE REQUIREMENT?**

A. In his testimony on behalf of Clear Talk's Application in this case, Mr. Larry Curry describes the scope of Clear Talk's Application as follows:

> At this time, Clear Talk seeks designation as an ETC in certain exchange areas and/or wire centers (as set forth in Exhibit A) that fall within the boundaries of Clear Talk's FCC licenses.

Direct Testimony of Larry Curry, P. 12, L. 14-16.

I have reproduced Mr. Curry's Exhibit A[7] as my Exhibit No. 302. As the Exhibit shows, Clear Talk is requesting an ETC designation in the service areas of three rural telephone companies—Citizens, Fremont Telecom ("Fremont"), and

[7] Mr. Curry's Exhibit A is actually labeled "Exhibit 1".

Project Mutual Telephone Cooperative ("Project Mutual").[8] But Clear Talk's request is not coterminous with the rural telephone companies' study areas in any of these cases. In the case of Citizens, Clear Talk is requesting designation in Aberdeen only. This is only one of Citizens' 18 exchanges in its study area. In Fremont's case, Clear Talk requests designation in Fremont's Ashton, St. Anthony, and Chester wire centers, thus omitting Fremont's Island Park exchange. Finally, with regard to Project Mutual, Clear Talk omits the Oakley exchange from its request.

In short, Clear Talk is asking the Commission to do something that is absolutely prohibited by law by requesting an ETC designation for less than the entirety of the affected rural telephone company service areas. To make matters worse, Clear Talk acknowledges that it cannot even serve the entirety of all the exchanges listed in Exhibit A, and it is therefore requesting an ETC designation for "any partial wirecenters." Since these partial wirecenters are not identified, Clear Talk's Application is not only contrary to law, but it leaves the Commission in the extraordinary position of considering a request for an ETC designation whose geographic boundaries are unknown.

**Q. CAN CLEAR TALK SOMEHOW CURE THIS PROBLEM BY LATER EXPANDING ITS OWN SERVICE AREA?**

A. No. I read Mr. Clear Talk's testimony as saying that its requested ETC area is coterminous with its FCC license. If this is so, it presumably does not have either legal authority or spectrum capacity to expand beyond the requested geographic area.

[8] Clear Talk has apparently abandoned its request in its Petition to include ATC and Fremont Telecom.

**Q. DO YOU HAVE ANY OTHER CONCERNS ABOUT CLEAR TALK'S ABILITY TO MEET ITS ETC OBLIGATIONS?**

A. Yes. As of the date this testimony is being prepared, Clear Talk still has not provided the ITA with the promised response to its request for basic financial information, including a balance sheet and income statement. This makes me very suspicious about its financial ability to perform even if it had the legal ability to do so. That suspicion is compounded by the knowledge that Leap Wireless, which owns 30% of Clear Talk is now in bankruptcy.[9]

**Q. PLEASE SUMMARIZE YOUR FINDINGS WITH REGARD TO CLEAR TALK'S ABILITY TO MEET WHAT YOU HAVE CHARACTERIZED AS THE THRESHOLD REQUIREMENT FOR ETC DESIGNATION?**

A. Clear Talk does not even make a defensible attempt to meet the threshold legal requirement. It simply ignores the requirement that it must serve the whole of the incumbent rural telephone companies' service areas, and instead requests that the Commission grant it ETC status for its own service territory. The Commission simply has no legal authority to grant this request.

**Q. LET'S TURN OUR ATTENTION TO NEXTEL. DOES NEXTEL MEET THE THRESHOLD REQUIREMENT FOR ETC STATUS?**

A. Nextel's case is both more complicated and more interesting than Clear Talk's, but in the end my conclusions are the same. Nextel is a large, profitable publicly traded company, and it therefore probably has the financial capability to provide ubiquitous service if it chooses to do so. The problem is with Nextel's

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[9] Clear Talk's financial information reached ITA's counsel late in the afternoon of October 14th, too late for analysis in ITA's testimony due the following day.

"willingness" to meet its obligations under the Act. Ordinarily, proof about a party's intentions is difficult to establish. But in this case there is strong evidence that, despite the thin promises to the contrary in its testimony, Nextel has no intention of providing ubiquitous universal service throughout the rural telephone company service areas for which its seeks an ETC designation.

Q. **BEFORE WE FOLLOW UP ON THE ALLEGATION CONTAINED IN THE LAST SENTENCE IN YOUR PREVIOUS ANSWER, WOULD YOU PLEASE EXPLAIN WHY THE NEXTEL CASE MORE COMPLICATED THAN CLEAR TALK'S?**

A. In the first place, Nextel has filed on more rural telephone company service areas. Like Clear Talk, it has filed on a portion of Citizens' service area and all of Project Mutual's service area. But in addition it has also filed on the service areas of Albion Telephone Company ("Albion"), Filer Mutual Telephone Cooperative ("Filer Mutual"), Farmers Mutual Telephone Cooperative ("Farmers Mutual"), and Mud Lake Telephone Cooperative ("Mud Lake"). Each of these filings presents slightly different circumstances.

Q. **PLEASE START BY DESCRIBING THE SITUATION WITH RESPECT TO THE APPLICATION CONCERNING CITIZENS' SERVICE AREA.**

A. Mr. Lance Tade will describe the filing in Citizens' service area in some detail, and I will not attempt to duplicate his description here. In brief, Nextel has filed on approximately two-thirds of Citizens' Idaho exchanges. Not surprisingly, these are generally Citizens' most heavily populated and lowest cost exchanges.

Q. **HOW DOES NEXTEL JUSTIFY THIS TARGETING?**

A. Nextel really offers no justification at all, other than the fact that this is the customer base it would like to serve, and the tired refrain that this will somehow promote competition. Nextel is simply asking the Commission to disaggregate Citizens' service area so it can receive USF support but avoid serving territory it obviously views as unprofitable. This area it will happily leave to Citizens.

**Q. IS THIS REQUEST CONSISTENT WITH THE STATUTORY MANDATES YOU DESCRIBED ABOVE?**

A. No. In short, this is precisely the type of preferential targeting of a select portion of a rural telephone company's customers that the threshold requirement is designed to prevent. Allowing this sort of phony competition would be a breach of faith with the rural telephone companies who justifiably believed that subsidization of this type of cherry picking would never be allowed under the Act.

**Q. PLEASE DESCRIBE THE SITUATION REGARDING THE OTHER RTCS AFFECTED BY NEXTEL'S APPLICATION.**

A. The circumstances vary. In the case of Farmers Mutual and Project Mutual, Nextel arguably has the ability to provide service in all, or virtually all, of the incumbents' service area, if one accepts Nextel's propagation map at face value. The same cannot be said of the Albion, Filer and Mud Lake service territories. In those companies' areas, Nextel would have to build out to meet its ubiquitous service requirement.

**Q. HAS NEXTEL PROVIDED ANYTHING MORE THAN "A VAGUE ASSERTION OF INTENT" REGARDING THIS BUILD OUT REQUIREMENT?**

A. On the contrary, it has admitted it has no specific plans to do so. The ITA's Discovery Request No. 24 asked Nextel to, "Please provide details of Nextel's specific plans to extend its network in each of the requested Designated Areas." To which Nextel replied, "Nextel Partners will meet its obligation as an ETC to expand its network, over time, to meet reasonable requests for service. <u>Nextel offers no specific plans for consideration in this case</u>." (Emphasis added.)

Similarly, ITA Request No. 28 asked Nextel to, "Please describe the analysis that will be undertaken when a customer requests service in an area not currently served by Nextel, but within the requested Designated Area." Nextel responded by stating that, "Nextel Partners cannot state at this time what that analysis would be."

**Q. HOW DO YOU INTERPRET THESE RESPONSES?**

A. I am convinced Nextel is not serious about meeting its build out obligation.

**Q. IS THIS WHY YOU PREVIOUSLY EXPRESSED DOUBTS ABOUT NEXTEL'S WILLINGNESS TO PROVIDE UBIQUITOUS UNIVERSAL SERVICE THROUGHOUT THE INCUMBENT RTCS' EXCHANGES?**

A. It is one reason, but not the major one. My primary reason for concluding that Nextel is not willing to provide ubiquitous service is that its own business objectives concede as much. Nextel's business strategy is to target the very highest margin customers while largely ignoring the general populace of potential subscribers. This strategy is readily documented in the company's public filings, and is well known to the investment community. As Value Line recently stated, "The Company is best known for serving businesses and government entities, which account for over 70% of the subscriber base." (A copy of the Value Line article is attached as Exhibit No. 303.

Morningstar, an equally well-respected independent stock research firm, summarized the company's strategy in somewhat more colorful terms:

> Unlike rivals obsessed with subscriber growth, Nextel doesn't wave a cell phone at every Tom, Dick, and Harry. <u>Instead, it skims the cream of the crop</u>; lucrative business customers who tend to be heavy cell phone users and who are more concerned with quality and features than price.

(Emphasis added.) The full text of the Morningstar article is attached as Exhibit No. 304.

**Q. DO YOU HAVE ANY EVIDENCE THAT NEXTEL IS IN FACT PURSUING THIS CREAM SKIMMING STRATEGY IN IDAHO?**

A. Yes. In the ITA survey of its member companies that I previously described in this testimony, we asked the companies to break their access lines down into four categories: residential, single line businesses, multi line businesses, and special access. In the course of preparing this testimony, I requested similar information from Citizens. The results appear in the following table:

| **ITA** | 2000 | 2001 | 2002 | % of Total |
|---|---|---|---|---|
| Residential | 30,582 | 30,472 | 30,373 | 76.9% |
| Business - Single-Line | 4,715 | 5,040 | 4,537 | 11.5% |
| Business - Multi-Line | 3,745 | 3,631 | 3,991 | 10.1% |
| Special Access | 576 | 604 | 591 | 1.5% |
| Total Access Lines | 39,618 | 39,747 | 39,492 | 100.0% |

| **CTC-Idaho** | 2000 | 2001 | 2002 | % of Total |
|---|---|---|---|---|
| Residential | 16,845 | 16,908 | 16,752 | 79.1% |
| Business - Single-Line | 3,557 | 3,280 | 3,341 | 15.8% |
| Business - Multi-Line | 978 | 1,138 | 1,083 | 5.1% |
| Special Access | 0 | 0 | 0 | 0.0% |
| Total Access Lines | 21,380 | 21,326 | 21,176 | 100.0% |

| **ITA + CTC-Idaho** | 2000 | 2001 | 2002 | % of Total |
|---|---|---|---|---|
| Residential | 47,427 | 47,380 | 47,125 | 77.7% |
| Business - Single-Line | 8,272 | 8,320 | 7,878 | 13.0% |
| Business - Multi-Line | 4,723 | 4,769 | 5,074 | 8.4% |
| Special Access | 576 | 604 | 591 | 1.0% |
| Total Access Lines | 60,998 | 61,073 | 60,668 | 100.0% |

As you can see, residential customers comprised approximately 79% of the rural telephone companies' access lines. Single line businesses and multi line businesses comprised 13% and 5%, respectively.

Comparing these figures with Nextel's line counts is very instructive. In its Discovery Request No. 1, the ITA asked Nextel for its line counts in each of affected incumbents' service territories. Two of the service areas had so few customers that the results are perhaps not statistically significant. In the remaining service areas, Nextel broke out its line counts as follows:

| | Multi-line Business | Single-line Business & Residential |
|---|---|---|
| Citizens | 390 | 239 |
| Project Mutual | 105 | 92 |
| Filer Mutual | 31 | 39 |
| Mud Lake | 65 | 111 |

**Q. WHAT CONCLUSIONS DO YOU DRAW FROM THIS INFORMATION?**

A. My first conclusion is that Nextel is following, and presumably will continue to follow, its cream skimming strategy in Idaho. In the two areas where it has the highest penetration levels, multi-line business customers account for more than half of its total access lines, and in all the rural telephone companies' territories Nextel's percentage of business lines is several times the rural incumbent averages. In fact, Nextel doesn't even have a separate category for residential customers. They are lumped in with single-line businesses, presumably because the number of residential customers is not large enough (or of sufficient interest to the company) to justify tracking them separately.

My further conclusion is that the service Nextel offers has nothing whatsoever to do with universal service as that term is commonly understood. In fact, it is its antithesis. Nextel is engaged in exactly the type of cream skimming that threatens universal service, rather than strengthening it. There is no earthly reason to subsidize this service with universal service funds.

**Q. PLEASE SUMMARIZE THIS PORTION OF YOU TESTIMONY.**

A. Neither Clear Talk nor Nextel meet the fundamental threshold test for ETC eligibility. Clear Talk <u>can't</u> serve the entirety of the rural telephone companies' service areas, and Nextel <u>won't</u>. In fact, both simply ignore the statutory requirement to do so, and in effect ask the Commission to redefine their ETC service areas as the areas they have chosen to serve, without reference to the incumbents' service areas. This is contrary to both the spirit and the letter of the law, and their applications must therefore be rejected.

**Q. ASSUME FOR THE SAKE OF ARGUMENT THAT THE COMMISSION SOMEHOW FINDS THAT THE THRESHOLD REQUIREMENT HAS BEEN MET. SHOULD THE APPLICATIONS THEN BE GRANTED?**

A. No. The ubiquitous service requirement is only the first of two tests that must be satisfied before a competitor can be granted ETC status in a rural telephone company's service area.

**Q. WHAT IS THE SECOND TEST?**

A. Section 214(e)(2) states:

> [T]he State commission <u>may</u>, in the case of an area served by a rural telephone company, and <u>shall</u>, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier. . . Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission <u>shall</u> find that the designation is in the public interest.

(Emphasis added). Again, this statutory requirement is clearly mandatory and non-discretionary.

**Q. HOW DO THE APPLICANTS PROPOSE TO MEET THIS PUBLIC INTEREST TEST?**

A. The Applicants' witnesses uniformly argue that the theoretical or presumed benefits of their competition with the incumbent wireline carriers is sufficient to satisfy the public interest test. Representative samples of this line of argument include the following:

> Designating Clear Talk as an ETC in Idaho will bring competition to rural, high cost areas, and competition is in the public interest . . . The failure to designate Clear Talk as an ETC would deprive consumers of the benefits of competition, including increased choices, higher quality service, and lower rates. Glenn Ishihara, P. 23, L-6-7 17-19.

> Consistent with the Act, the "public interest" is served where designating a competitive ETC will benefit consumers in rural areas of the state. The Commission should make this determination from the presumption that competition benefits consumers, and that citizens throughout the state are entitled to the benefits of competitive universal service. Scott Peabody, P. 23, L. 12-17.

> Put directly, the purpose of this proceeding is *not*, as many rural LECs argue, to answer the question "Is the introduction of competition for basic telecommunications services in rural areas in the public interest?" That question has been answered and the policy direction has been set on a federal level by both Congress and the FCC. Don Wood, P. 4, L. 11-15.

**Q. DO YOU AGREE WITH THESE ARGUMENTS?**

A. No. They would be correct if were considering a non-rural ILEC's service area. But they are manifestly wrong as a statement of law and Congressional intent when applied to a rural telephone company's territory. If the presumptive benefits of competition were sufficient to satisfy the public interest test, the public interest test would be a *non sequiter* because Congress would have had no reason to include it in the law. It would have made multiple ETC designations mandatory, as it did in RBOC service areas, on the grounds that competition is always in the public interest.[10]

But that is not what Congress did. Instead it made multiple ETC designations permissive in rural telephone company service areas and further provided that these designations must first be determined to be "in the public interest." Thus, the only logical reading of the statute is that a company seeking ETC status in a rural telephone company service area must show some public interest benefit beyond the presumptive benefits of competition.

**Q. HAVE THE APPLICANTS IN FACT INTRODUCED EVIDENCE OF ANYTHING OTHER THAN THE PRESUMED BENEFITS OF COMPETITION.**

A. No, and they effectively admit as much in their testimony and discovery responses.

[10] "It appears that, in finding that CETCs should be designated in rural ILECs' territories, the Commission and some states have found the mere encouragement of competition sufficient under the law to meet the public interest test. If that were sufficient, Congress would not have needed to establish the public interest test; the Commission and the states would simply have been directed to authorize multiple ETCs in all ILECs' territories, rural or not." NASUCA Comments, P. 9, CC Docket No. 96-45.

**Q. BUT HAVEN'T SOME STATES ACCEPTED THE ARGUMENT THE APPLICANTS ARE ADVANCING IN THIS CASE?**

A. Many industry observers, consumer advocates and even FCC Commissioners apparently believe that to be the case. The National Association of State Utility Consumer Advocates ("NASUCA") speculates that this is occurring because:

> Under current rules, states have something of a conflict of interest. That is, there may be a bias toward granting of ETC status because, when new ETCs are created, more federal dollars flow into the state. Conversely, there is a disincentive for states to ensure that the public interest is fulfilled on a national basis because the benefit of additional federal funds may outweigh a state regulators' (sic) concerns about the sustainability of the federal program.[11]

**Q. DO YOU AGREE WITH THE NASUCA'S SUGGESTION?**

A. Without reviewing the records in other states, I cannot say. But if this in fact is occurring, I would observe that it is very shortsighted on the state commissions' part. As Milton Friedman famously observed, 'There is no such thing as a free lunch." The collective effect of the individual states' actions is to needlessly drive up the cost of universal service and the funds that must be collected from consumers. In addition, I would submit that the misapplication of the public interest standard can, and probably will, have adverse unintended consequences.

**Q. IF THE PROMOTION OF COMPETITION ALONE IS NOT SUFFICIENT TO SATISFY THE PUBLIC INTEREST, HOW SHOULD THE COMMISSION MAKE SUCH A DETERMINATION?**

A. The Act itself does not define the term. I would observe, however, that a legislative direction to an administrative agency to determine whether an action is in the "public interest" generally requires the agency to engage in a weighing of

[11] NASUCA Comments, pp.8-9, CC Docket No. 96-45

all the relevant factors or considerations. That is the course I recommend in this case.

**Q. HOW SHOULD THE COMMISSION CONDUCT THIS WEIGHING PROCESS?**

A. The ultimate question here is whether the federal USF should be employed to subsidize the Applicants' competitive efforts in the rural telephone companies' service areas. I suggest, therefore, that we must first consider what we are trying to accomplish with USF payments, what is the likelihood that we will achieve our goals, and whether the expected results justify the costs. In FCC Commissioner Adelstein's words, regulators should consider the following issues in administering the public interest test:

> Whether granting ETC status to a competitor will bring benefits to a community that it does not already have and what effect it will have on the overall size of the fund, and thus on consumers' bills. So, a threshold question is, does the benefit to consumers outweigh the ultimate burden on consumers.[12]

**Q. HOW SHOULD THE PROMOTION OF COMPETITION FIT INTO THIS ANALYSIS?**

A. The Applicants argue that competing universal service providers will force all competitors to provide more efficient and more attractive service, thus presumably lowering the costs and improving the value of service for everyone. Further, to quote Mr. Ishihara, they argue that the failure to subsidize the Applicants' competitive efforts "would deprive consumers of the benefits of competition. . . ." Ishihara Direct, P. 23, L. 18.

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[12] Remarks of Commissioner Johnathan S. Adelstein before the National Association of Regulatory Utility Commissioners on February 25, 2003, quoted in NTCA Reply Comments, P.5, CC Docket No. 96-45.

So the first question is whether Mr. Ishihara is correct. Is a subsidy necessary to bring rural customers the competitive benefits of wireless competition?

**Q. AND THE ANSWER IS?**

A. The evidence simply doesn't support Mr. Ishihara's assertion. The FCC's most recent CMRS Competition report found that 94 percent of the total United States population lives in counties with three or more mobile telephone service operators.[13] ITA members' customers also generally have a wide choice of wireless providers. In the survey I discussed earlier, we found an average of 5 wireless carriers serving the ITA members' study areas. Four study areas reported between 1 to 3 wireless providers, four additional study areas stated that there were 4 to 6 providers, and the remaining four study areas identified between 7 to 10 wireless carrier alternatives. In many cases, these CMRS providers have been offering mobile service for 5 to 10 years. Even more significantly, these carriers have been offering their services since inception without high-cost support. This is impossible to square with the Applicants' contention that, without USF subsidies, there will be no wireless competition in the rural telephone companies' service areas.

**Q. BUT ISN'T IT POSSIBLE THAT USF SUBSIDIES WILL INCREASE WIRELESS CARRIER'S COMPETITIVE EFFORTS?**

A. Perhaps, if one believes that wireless carriers and incumbent LECs are direct competitors. But the evidence for this proposition is not persuasive. As the table on page 19 of my testimony indicates, access line counts for both Citizens and the

[13] *Notice* at para. 12.

ITA members have been essentially flat during the last three years. This is not surprising given the economy in this area of the country, with continuing small business closures, and population declines.

But if the many wireless carriers in the rural telephone companies service areas were in fact competing with the incumbent to provide universal service, we would expect to see significant line count losses by the incumbents. This simply hasn't happened. While discussions with ITA members indicate there is anecdotal evidence that a few customers may have "cut the cord", the companies are not experiencing major access line losses to CMRS providers.

The story is different when examining interstate access minutes of use. For the combined study areas, interstate access minutes of use increased three percent from 2000 to 2001, and were essentially flat from 2001 to 2002. However, when the data is disaggregated to the study area level, the majority of ITA members experienced interstate access usage declines in the four percent to eight percent range.

**Q. WHAT CONCLUSIONS DO YOU DRAW FROM THIS EVIDENCE?**

A. Based on the foregoing rural Idaho specific information, I believe that wireless service is complementary to wireline service with respect to basic local service, but that customers are substituting wireless service for their long distance calling. This understandably reflects the regional and national "buckets of minutes", free night and weekend calling, and other features being offered by the CMRS providers. Dr. William R. Gillis in recent testimony before the Senate Subcommittee supports this view:

> ...I would observe mobile wireless and traditional telecommunications are not for the most part competing services and have been inappropriately characterized as such. With the exception of those cases where mobile wireless has resulted in the ability of customers to eliminate their traditional telecommunications connections, we are discussing complementary services, both desired by consumers for different reasons[14].

As the data indicates, rural Idaho customers are not substituting their wireline phones for wireless phones to any major extent. Rather, as observed by Dr. Gillis, they value both services for different reasons. With respect to wireline service, customers place importance on reliability, quality of service, public safety, and the ability to receive service regardless of where they live in the ILEC's service territory. Wireless service offers the customer a different value proposition; namely mobility, nationwide calling, different ringing tones, and differentiated phones, among other factors.

This situation raises a couple of compelling public interest questions. First, how can the presumed benefits of competition occur when there appears to be little direct wireless competition with the incumbents for the provision of universal service? Second, does it make sense to devote scarce federal universal service funds to promote wireless competition in rural areas when that competition is largely directed against interexchange carriers who do not qualify for similar subsidies?

**Q. BUT EVEN IF WIRELESS USF SUPPORT IS NOT NECESSARY TO PROMOTE USF GOALS IN RURAL AREAS, ISN'T IT APPROPRIATE**

[14] Testimony of Dr. William R. Gillis, Director, Center to the Bridge to the Digital Divide, Washington State University, before the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation, April 2, 2003.

**TO ENABLE WIRELESS PROVIDERS TO "COMPETE EQUITABLY WITH THE INCUMBENT ETCS"?**

A. I take issue with this statement for a number of reasons. First, as I pointed out earlier, the goal of the federal USF is to promote universal service rather than competition. Moreover, wireless carriers have a number of competitive advantages over rural telephone companies. These include the fact that wireless carriers:

> Are generally unregulated entities that provide highly variable service quality, varying levels of customer service, unilaterally determined billing and collection practices, unilaterally determined rates and have no requirement to provide facilities in specific areas.[15]

In addition, wireless companies have no Carrier of Last Resort Obligations, do not provide equal access to long distance services as do the incumbents, and any USF funding they receive is based on the incumbent's costs that have no relation to the wireless carrier's specific costs of providing service.

Given these advantages, there is no reason to believe wireless carriers need subsidies to level the competitive playing field. It is at least equally likely that competitive ETC designations for wireless carriers, "that arguably level the playing field, in fact, provide windfalls to carriers with lower costs and lesser regulatory burdens."[16]

**Q. ARE THERE ANY OTHER MATTERS THE COMMISSION SHOULD CONSIDER IN DETERMINING THE PUBLIC INTEREST?**

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[15] NASUCA Comments, P. 8, CC Docket No. 96-45.
[16] NTCA Reply Comments, P. 2, CC Docket No. 96-45.

A. Yes. There is always the question of costs. The many comments before the Federal-State Joint Board on Universal Service, CC Docket No. 96-45, have been nearly unanimous in citing an alarming rise in federal USF payments to competitive ETCs. According to the Universal Service Administrative Company, universal service payments to competitive ETCs in the most recent quarter have increased 71% over the quarterly payments of a year ago, and they now amount to $62.7 million per quarter.[17]

This would perhaps be tolerable if we had a high degree of assurance that these funds are in fact promoting universal service goals. But as this testimony points out, the evidence suggests that subsidizing wireless ETCs does little or nothing for universal service. What it does promote, as both investment analysts and consumer groups have pointed out, is a growing contribution to the wireless industry's bottom line.

**Q. WHAT IS YOUR BASIS FOR THAT STATEMENT?**

A. In the first place, it is a simple mathematical fact that, in any service area where the wireless ETC's costs are less than the incumbent ILEC's, the wireless carrier will recover a windfall profit in excess of its cost of service because its support payments are based, not on the amount it needs for universal service support, but on the payments necessary to meet the incumbent's needs.

Moreover, those whose business it is to analyze the industry's economics have reached the same conclusion. For instance, a recent Solomon Smith Barney

[17] OPASTCO Reply Comments, P. 2, CC Docket No. 96-45.

report concluded that Western Wireless's "USF subsidy represents an incremental revenue source" where the "incremental revenue is almost all margin."[18]

**Q. DO THESE CONSIDERATIONS HAVE RAMIFICATIONS BEYOND THE PRESENT CASE?**

A. Yes. If the Commission grants these insupportable Applications, it is difficult for me to imagine any grounds that will suffice to deny subsequent applications. In that event, we can assume that virtually all of the wireless carriers operating in Idaho will apply for, and be granted, ETC status and federal USF support. Furthermore, I would expect that these carriers will ultimately seek funding from the state universal service fund as well.

The result will be the creation of a whole new industry subset, founded not on competitive business principles, but rather on the desire to maximize regulatory subsidies that have little or nothing to do with universal service. The ultimate irony is that this will distort, rather than advance, competition, and place legitimate universal service funding at risk.

**Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

A. The facts in this case indicate that the Applicants cannot, and will not, meet the minimum threshold statutory requirement for ETC status because they will not be providing service throughout the entirety of the incumbent rural telephone companies' service areas. Furthermore, even if the Applicants met the threshold test, their Applications are not in the public interest and should be denied.

**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

A. Yes.

[18] Cited in NTCA Reply Comments, P. 7, CC Docket No. 96-45.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of October 2003, I caused to be served a true and correct copy of the foregoing document by the method indicated below, and addressed to the following:

| | |
|---|---|
| Jean Jewell<br>Idaho Public Utilities Commission<br>472 W. Washington Street<br>P.O. Box 83720<br>Boise, ID 83720-0074 | [ ] U.S. Mail<br>[✓] Hand Delivered<br>[ ] Overnight Mail<br>[ ] Facsimile |
| Molly O'Leary<br>RICHARDSON & O'LEARY<br>99 E. State Street, Ste. 200<br>Eagle, ID 83616 | [✓] U.S. Mail<br>[ ] Hand Delivered<br>[ ] Overnight Mail<br>[ ] Facsimile |
| Sean P. Farrell<br>IAT Communications, Inc.<br>NTCH-Idaho Inc., d/b/a Clear Talk<br>703 Pier Avenue, Suite B<br>PMB 813<br>Hermosa Beach, CA 90254 | [✓] U.S. Mail<br>[ ] Hand Delivered<br>[ ] Overnight Mail<br>[ ] Facsimile |
| Dean J. Miller<br>MCDEVITT & MILLER<br>420 W. Bannock Street<br>P.O. Box 2564<br>Boise, ID 83701-2564 | [✓] U.S. Mail<br>[ ] Hand Delivered<br>[ ] Overnight Mail<br>[ ] Facsimile |
| Philip R. Schenkenberg<br>2200 First National Bank Building<br>332 Minnesota Street<br>Saint Paul, MN 55101 | [✓] U.S. Mail<br>[ ] Hand Delivered<br>[ ] Overnight Mail<br>[ ] Facsimile |
| Morgan W. Richards<br>Moffatt, Thomas, Barrett, Rock & Fields<br>101 S. Capitol Blvd., 10th Floor<br>P.O. Box 829<br>Boise, ID 83701-0829 | [✓] U.S. Mail<br>[ ] Hand Delivered<br>[ ] Overnight Mail<br>[ ] Facsimile |

| | |
|---|---|
| Lance A. Tade, Manager<br>State Government Affairs<br>Citizens Telecommunications Company of Idaho<br>4 Triad Center, Ste. 200<br>Salt Lake City, UT 84180 | [✓] U.S. Mail<br>[ ] Hand Delivered<br>[ ] Overnight Mail<br>[ ] Facsimile |
| Robert M. Nielsen<br>548 E Street<br>P.O. Box 706<br>Rupert, ID 83350 | [✓] U.S. Mail<br>[ ] Hand Delivered<br>[ ] Overnight Mail<br>[ ] Facsimile |
| Charles H. Creason, Jr.<br>President and General Manager<br>Project Mutual Telephone Cooperative Association<br>507 G Street<br>P.O. Box 366<br>Rupert, ID 83350 | [✓] U.S. Mail<br>[ ] Hand Delivered<br>[ ] Overnight Mail<br>[ ] Facsimile |

Conley Ward

Conley E. Ward

**Daniel L. Trampush**
**Director, Telecommunications Consulting**
**Moss Adams LLP**

Dan has over 30 years of experience in the telecommunications industry. Prior to joining the firm, Dan was National Director of Telecommunication Consulting for Ernst & Young LLP where he was responsible for coordinating services to clients throughout North America and providing technical industry support to audit clients. The services he provides include product costing and profitability analysis; business planning, transfer pricing, development of access charges; and various accounting issues. He has performed valuation studies, evaluated targets for merger and acquisition purposes, evaluated organizational structures, and assisted clients with franchise applications. Dan has also provided assistance in rate cases, provided training to client personnel on a variety of accounting and business issues, and assisted cable television clients in conducting market entry studies and pricing services.

In addition, Dan has provided expert testimony before the Federal Communications Commission, Federal Energy Regulatory Commission, U.S. Federal Court, and several state regulatory bodies on various accounting and regulatory issues. He has delivered numerous seminars and presentations on issues affecting the telecommunications industry, including the development of competition, capital recovery, service and product costing, and alternative regulatory frameworks. He also served for three years as Chief Financial Officer for a publicly traded Competitive Local Exchange Carrier with over $1 billion in assets. His responsibilities encompassed accounting and SEC reporting, finance (including four publick offerings), and investor relations.

## CLEAR TALK COVERAGE AREA -- Idaho Exchanges and Wire Centers

### Idaho PUC Docket No. GNR-T-03-8
### EXHIBIT 1 TO CLEAR TALK DIRECT TESTIMONY

| Company | City | County | Wire Center Code | Exchange |
|---|---|---|---|---|
| Qwest Communications/RBOC | American Falls | Power | AMFLIDMARS1 | American Falls |
| | Blackfoot | Bingham | BLFTIDMADS0 | Blackfoot |
| (Note: Pursuant to PUC Order No. | Bliss | Gooding | BLSSIDMARS1 | Bliss |
| 29261, dated 6/10/2003, Clear Talk | Buhl | Twin Falls | BUHLIDMARS1 | Buhl |
| was designated as an Eligible | Burley | Cassia | BRLYIDMADS0 | Burley |
| Telecommunications Carrier in these | Firth | Bingham | FRTHIDMARS1 | Shelley |
| Listed Qwest Exchange Areas) | Fort Hall | Bingham | RVSDIDMARS1 | Pocatello |
| | Gooding | Gooding | GDNGIDMARS1 | Gooding |
| | Idaho Falls | Bonneville | IDFLIDMADS1 | Idaho Falls |
| | Inkom | Bannock | INKMIDMARS1 | Pocatello |
| | Jerome | Jerome | JERMIDNMDS0 | Jerome |
| | Kimberly | Twin Falls | KMBRIDMARS1 | Kimberly |
| | Lava Hot Springs | Bannock | LHSPIDMARS1 | Lava Hot Springs |
| | McCammon | Bannock | MCCMIDMARS1 | McCammon |
| | Pocatello | Bannock | PCTLIDMADS1 | Pocatello |
| | Rexburg | Madison | RXBGIDMADS0 | Rexburg |
| | Rigby | Madison | RGBYIDMARS1 | Rigby |
| | Shelley | Bonneville | SHLYIDMARS1 | Shelley |
| | Twin Falls | Twin Falls | TWFLIDMADS0 | Twin Falls |
| | Ucon | Bonneville | RGBYIDMARS1 | Idaho Falls |
| | Wendell | Gooding | WNDLIDMARS1 | Wendell |
| | | | | |
| Fremont Telecom | Ashton | Fremont | ASTNIDMARS0 | Ashton |
| | Chester | Fremont | STATIDMADS0 | St. Anthony |
| | StAnthony | Fremont | STATIDMADS0 | St. Anthony |
| | | | | |
| Project Mutual | Heyburn | Minidoka | HYBNIDO1RSO | Qwest/Burley |
| | Paul | Minidoka | PAULIDXCRS0 | Paul |
| | Rupert | Minidoka | RPRTIDXCDS0 | Rupert |
| | | | | |
| | | | | |
| Citizen Telecom of ID | Aberdeen | Power | ABRDIDXCDS0 | Aberdeen |
| | | | | |

DIRECT TESTIMONY OF DANIEL L. TRAMPUSH
IPUC Case Nos. GNR-T-03-08 and GNR-T-03-16
EXHIBIT NO. 302

Submitted by IAT Communications, Inc.
9/2/2003

# NEXTEL COMMUNIC. NDQ-NXTL

RECENT PRICE 16.95 | P/E RATIO 17.8 (Trailing: 34.6 Median: NMF) | RELATIVE P/E RATIO 1.07 | DIV'D YLD Nil | VALUE LINE 735

TIMELINESS 1 Raised 11/1/02

SAFETY 4 Raised 4/4/03

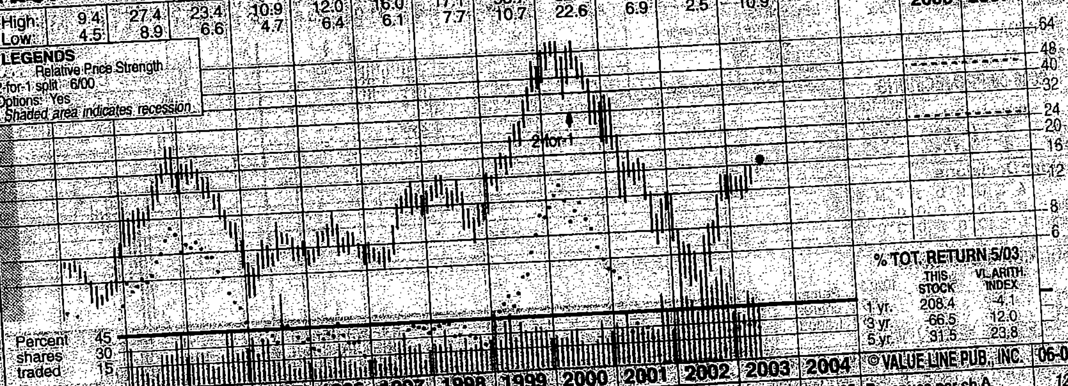
TECHNICAL 4 Raised 6/20/03

BETA 1.80 (1.00 = Market)

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| High: | 9.4 | 27.4 | 23.4 | 10.9 | 12.0 | 16.0 | 17.1 | 58.7 | 82.9 | 38.6 | 14.7 | 18.0 |
| Low: | 4.5 | 8.9 | 6.6 | 4.7 | 6.4 | 6.1 | 7.7 | 10.7 | 22.6 | 6.9 | 2.5 | 10.9 |

Target Price Range 2006 2007 2008

LEGENDS
.... Relative Price Strength
2-for-1 split 6/00
Options: Yes
Shaded area indicates recession




## 2006-08 PROJECTIONS

| | Price | Gain | Ann'l Total Return |
|---|---|---|---|
| High | 45 | (+165%) | 28% |
| Low | 25 | (+45%) | 10% |

## Insider Decisions

| | A | S | O | N | D | J | F | M | A |
|---|---|---|---|---|---|---|---|---|---|
| to Buy | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |
| Options | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 1 |
| to Sell | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 1 |

## Institutional Decisions

| | 3Q2002 | 4Q2002 | 1Q2003 |
|---|---|---|---|
| to Buy | 232 | 252 | 239 |
| to Sell | 144 | 182 | 178 |
| Hld's(000) | 647761 | 704101 | 768554 |

Percent shares traded 45 30 15

% TOT. RETURN 5/03

| | THIS STOCK | VL ARITH. INDEX |
|---|---|---|
| 1 yr. | 208.4 | 4.1 |
| 3 yr. | -66.5 | 12.0 |
| 5 yr. | 31.5 | 23.8 |

**CAPITAL STRUCTURE as of 3/31/03**
**Total Debt** $12025 mill. **Due in 5 Yrs** $4040 mill.
**LT Debt** $11789 mill. **LT Interest** $900 mill.
Includes cap'l leases and fin. oblig. of $165 mill.
(75% of Cap'l)

(Total interest coverage: 1.3x)

**Leases, Uncapitalized** Annual rentals $450.0 mill.

**No Defined Benefit Pension Plan**

**Pfd Stock** $947.0 mill. **Pfd. Div'd** $110.0 mill.
(6% of Cap'l)
.47 mill. Series D mand. red. ('09) shs., 13% cum. div. (payable in stock or cash), liqu. val. $1,000. .45 mill. Series E mand. red. ('10) shs., 11.125% cum. div. (payable in stk. or cash), liq. val. $1,000. .25 mill. 9.25% mand. red. ('13) zero coupon shs., cv. ratio 19.4882 com. shs. per pref. sh.

**Common Stock** 1,028,071,328 shares
**as of 4/30/03** (includes 35.66 mill. Class B shares)

**MARKET CAP: $17.4 billion (Large Cap)**

| 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | © VALUE LINE PUB., INC. | 06-08 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| .39 | .40 | .58 | .73 | 1.38 | 3.20 | 4.51 | 7.49 | 9.62 | 8.69 | 9.55 | 10.25 | Revenues per sh A | 12.05 |
| .01 | d.15 | d.25 | d.34 | d1.94 | d1.19 | d.62 | .09 | .40 | 1.61 | 2.65 | 2.95 | "Cash Flow" per sh | 3.70 |
| d.37 | d.63 | d1.16 | d1.25 | d3.21 | d2.99 | d2.29 | d1.58 | d1.84 | .03 | .95 | 1.20 | Earnings per sh B | 1.75 |
| -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | Nil | Nil | Div'ds Decl'd per sh | Nil |
| .92 | 1.61 | .70 | .96 | 2.97 | 3.61 | 2.64 | 4.61 | 4.28 | 1.86 | 1.75 | 1.25 | Cap'l Spending per sh | 1.50 |
| 4.82 | 6.01 | 6.83 | 5.51 | 3.02 | d.11 | 3.09 | 2.29 | d1.08 | 2.70 | 4.00 | 5.15 | Book Value per sh C | 9.90 |
| 175.68 | 211.19 | 387.11 | 455.17 | 537.28 | 577.03 | 738.00 | 763.00 | 799.00 | 1004.0 | 1030.0 | 1050.0 | Common Shs Outst'g D | 1100.0 |
| -- | -- | -- | -- | -- | -- | -- | -- | -- | NMF | Bold figures are | | Avg Ann'l P/E Ratio | 20.0 |
| -- | -- | -- | -- | -- | -- | -- | -- | -- | NMF | Value Line | | Relative P/E Ratio | 1.35 |
| -- | -- | -- | -- | -- | -- | -- | -- | -- | -- | estimates | | Avg Ann'l Div'd Yield | Nil |
| 67.9 | 83.7 | 225.2 | 332.9 | 738.9 | 1846.8 | 3326.0 | 5714.0 | 7689.0 | 8721.0 | 9825 | 10750 | Revenues ($mill) A | 13250 |
| NMF | NMF | NMF | NMF | NMF | NMF | 16.1% | 22.1% | 23.4% | 36.3% | 39.0% | 38.5% | Operating Margin | 37.5% |
| 58.4 | 94.1 | 236.2 | 400.8 | 526.4 | 832.3 | 1004.0 | 1265.0 | 1746.0 | 1595.0 | 1700 | 1800 | Depreciation ($mill) | 2050 |
| d56.9 | d125.8 | d331.2 | d556.0 | d1568 | d1519 | d1270 | d986.0 | d1197 | 236.0 | 1100 | 1355 | Net Profit ($mill) | 2085 |
| -- | -- | -- | -- | -- | -- | -- | -- | -- | 14.8% | 10.0% | 5.0% | Income Tax Rate | 5.0% |
| NMF | NMF | NMF | NMF | NMF | NMF | NMF | NMF | NMF | 2.7% | 11.2% | 12.6% | Net Profit Margin | 15.7% |
| 818.8 | 287.6 | 139.7 | d66.6 | 70.7 | d129.5 | 3789.0 | 3736.0 | 1146.0 | 1894.0 | 1900 | 3025 | Working Cap'l ($mill) | 4700 |
| 1080.7 | 1163.2 | 1653.4 | 2783.0 | 5038.3 | 7710.4 | 9760.0 | 14023 | 14720 | 12229.0 | 11750 | 11000 | Long-Term Debt ($mill) | 5850 |
| 846.3 | 1268.6 | 2945.1 | 2808.1 | 2441.5 | 1807.8 | 4344.0 | 3909.0 | 1532.0 | 3861.0 | 4525 | 5830 | Shr. Equity ($mill) | 11295 |
| NMF | NMF | NMF | NMF | NMF | NMF | NMF | NMF | NMF | 4.6% | 9.5% | 10.5% | Return on Total Cap'l | 14.5% |
| NMF | NMF | NMF | NMF | NMF | NMF | NMF | NMF | NMF | 6.1% | 24.5% | 23.0% | Return on Shr. Equity | 18.5% |
| NMF | NMF | NMF | NMF | NMF | -- | NMF | NMF | NMF | 9% | 25.0% | 24.0% | Retained to Com Eq | 18.5% |
| -- | -- | -- | -- | -- | -- | -- | -- | -- | 8% | 8% | 4% | All Div'ds to Net Prof | 2% |

**CURRENT POSITION ($MILL.)**

| | 2001 | 2002 | 3/31/03 |
|---|---|---|---|
| Cash Assets | 3717.0 | 2686.0 | 2277.0 |
| Receivables | 1129.0 | 1077.0 | 996.0 |
| Inventory (FIFO) | 260.0 | 245.0 | 194.0 |
| Other | 617.0 | 642.0 | 672.0 |
| Current Assets | 5723.0 | 4650.0 | 4139.0 |
| Accts Payable | 756.0 | 515.0 | 426.0 |
| Debt Due | 2010.0 | 251.0 | 236.0 |
| Other | 1811.0 | 1990.0 | 2055.0 |
| Current Liab. | 4577.0 | 2756.0 | 2717.0 |

**ANNUAL RATES**

| of change (per sh) | Past 10 Yrs. | Past 5 Yrs. | Est'd '00-'02 to '06-'08 |
|---|---|---|---|
| Revenues | 28.0% | 57.0% | 6.0% |
| "Cash Flow" | 15.0% | -- | 32.0% |
| Earnings | -- | -- | NMF |
| Dividends | -- | -- | Nil |
| Book Value | -1.0% | -24.0% | 40.0% |

| Cal-endar | QUARTERLY REVENUES ($ mill.) A Mar.31 | Jun.30 | Sep.30 | Dec.31 | Full Year |
|---|---|---|---|---|---|
| 2000 | 1175 | 1365 | 1528 | 1646 | 5714.0 |
| 2001 | 1742 | 1881 | 1992 | 2074 | 7689.0 |
| 2002 | 1957 | 2154 | 2279 | 2331 | 8721.0 |
| 2003 | 2371 | 2425 | 2475 | 2554 | 9825 |
| 2004 | 2575 | 2675 | 2725 | 2775 | 10750 |

| Cal-endar | EARNINGS PER SHARE AB Mar.31 | Jun.30 | Sep.30 | Dec.31 | Full Year |
|---|---|---|---|---|---|
| 2000 | d.45 | d.38 | d.31 | d.44 | d1.58 |
| 2001 | d.56 | d.53 | d.46 | d.29 | d1.84 |
| 2002 | d.34 | d.05 | .14 | .20 | .03 |
| 2003 | .20 | .22 | .26 | .27 | .95 |
| 2004 | .24 | .28 | .33 | .35 | 1.20 |

| Cal-endar | QUARTERLY DIVIDENDS PAID Mar.31 | Jun.30 | Sep.30 | Dec.31 | Full Year |
|---|---|---|---|---|---|
| 1999 | NO CASH DIVIDENDS BEING PAID | | | | |
| 2000 | | | | | |
| 2001 | | | | | |
| 2002 | | | | | |
| 2003 | | | | | |

**BUSINESS:** Nextel Communications, Inc. provides wireless communication services throughout the U.S. Its focus is Enhanced Specialized Mobile Radio (ESMR), using Motorola's iDEN digital technology to offer a combination of wireless phone, dispatch, paging, data transmission, and voice mail. Including its joint venture (Nextel Partners), the company reaches all of the top 100 markets in the nation. '02 depr. rate: 11.5%. Has about 17,000 employees, 3,700 stockholders. Offs. & dirs. (incl. Craig McCaw, 5.0%) control 5.7% of common; Legg Mason, 9.3%; Motorola, 8.3% (4/03 Proxy). Chairman: William E. Conway, Jr. President & CEO: Timothy M. Donahue. Inc.: DE. Address: 2001 Edmund Halley Dr., Reston, VA 20191. Tel.: 703-433-4000. Internet: www.nextel.com.

**Nextel Communications has made impressive strides over the past year.** During this stretch, the company expanded its subscriber base by about 20%, lifted its operating margins to the highest levels in the wireless industry, and reduced debt and preferred equity by about $3.8 billion. This progress was readily apparent in the March quarter, as share net reached $0.20, $0.05 above our estimate. In response, we are raising our full-year estimate by a dime, to $0.95.

**The company is retiring more of its high-cost capital.** Later this month, Nextel will use about $465 million of its cash to redeem its 13% preferred stock. The wireless service provider should be able to make use of cash, borrowing capacity, and rising free cash flow to further improve its capital structure going forward. Notably, nearly all of the company's debt and preferred stock is callable in the next two years. Meanwhile, Nextel also has a number of initiatives aimed at improving its performance at the operating level, including expanding the range of its popular "direct-connect" service, introducing new measures to reduce customer turnover, and utilizing new technology to expand the capacity of its wireless network.

**Nextel is reaching beyond its traditional markets to win subscibers.** The company is best known for serving businesses and government entities, which account for over 70% of the subscriber base. This strategy has worked well, with customers usually characterized by high revenues and low turnover. Individual accounts have contributed significantly to recent growth, though, with many of these subscribers using the service for business purposes, the shift has yet to diminish the quality of the subscriber base.

**These shares are ranked to outperform the market over the next six to 12 months.** The stock also has appeal for its above-average 3- to 5-year appreciation potential. Low marks for Safety and Price Stability make it best suited for risk-tolerant investors, though.

*Robert M. Greene, CFA* *July 4, 2003*

**CASH POSITION**

| | 5-Year Av'g | 3/31/03 |
|---|---|---|
| Current Assets to Current Liabilities: | 171% | 152% |
| Cash & Equiv's to Current Liabilities: | 117% | 84% |
| Working Capital to Sales: | 42% | 16% |

Company's Financial Strength C++
10

(A) Prior to '94, fiscal year ended Mar. 31 of following year, calendar thereafter. 1994 had only nine months.
(B) Diluted egs. Excl. nonrecur./extra. gain (losses): '97, (18¢); '98, 48¢; '99 (21¢); '00, 23¢; '01, ($1.83); '02, $1.61. Quarterly egs. may not add to total due to change in shares out. Next earnings report due mid-July.
(C) Incl. intangs. At 3/31/03: $6.6 bill., $6.57/sh.
(D) In millions, a



DIRECT TESTIMONY OF DANIEL L. TRAMPUSH
IPUC Case Nos. GNR-T-03-08 and GNR-T-03-16
EXHIBIT NO. 303

# Nextel Communications NXTL

| Rating | Risk | Moat Size | Fair Value | Last Close |
|---|---|---|---|---|
| ★★★ | High | Narrow | $13.00 | $11.55 |

**Company Profile**

With 9.2 million customers in the United States, Nextel Communications is the fifth-largest wireless carrier. The company's Direct Connect feature allows to customers to instantly communicate--without a traditional dialup--as they would using a walkie-talkie. This feature is what mainly differentiates Nextel among business users, the company's bread-and-butter clientele. Motorola, the exclusive provider of iDEN handsets to Nextel, owns 14% of the company.

**Management**

Nextel's key shareholders are Motorola, asset manager Legg Mason, and wireless pioneer Craig McCaw. Insiders have been buying Nextel shares. COO Jim Mooney recently resigned after just one year with the firm.

**Strategy**

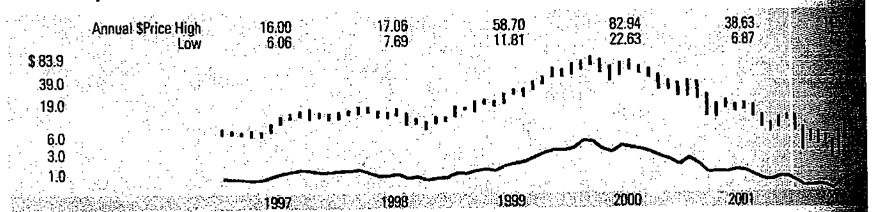
Nextel Communications targets mainly the high-end business user. This has resulted in a subscriber base that is one of the most profitable in the industry, with the highest monthly bills and the lowest churn rate. Part of the reason for Nextel's success is the Direct Connect feature, which functions much like a two-way radio.

2001 Edmund Halley Drive
Reston, VA 20191
www.nextel.com

| Industry | Investment Style | Stock Type | Sector |
|---|---|---|---|
| Wireless Service | Large Growth | Spec. Growth | Telecom |

| Competition | Market Cap $Mil | Debt/ Equity | 12 Mo Trailing Sales $Mil | Price/Cash Flow | Return On Assets% |
|---|---|---|---|---|---|
| Nextel Communications | 11,124 | 23.4 | 8,464 | 5.9 | -7.5 |
| Verizon Communications | 106,011 | 1.4 | 67,422 | 4.7 | -0.1 |
| AT&T Wireless Services | 15,300 | 0.4 | 15,112 | 5.8 | -7.5 |

**Price Volatility**




| Annual Total Return % | 99.5 | -9.1 | 336.5 | -52.0 | -55.7 |
|---|---|---|---|---|---|
| Fiscal Year-End: December | 1997 | 1998 | 1999 | 2000 | 2001 |
| Revenue $Mil | 739 | 2,295 | 3,786 | 5,714 | 7,689 |
| Net Income $Mil | -1,643 | -1,801 | -1,530 | -1,024 | -2,858 |
| Earnings Per Share $ | -3.30 | -3.23 | -2.40 | -1.35 | -3.67 |
| Shares Outstanding Mil | 499 | 558 | 639 | 759 | 779 |
| Return on Equity % | ELB | NMF | -67.0 | -58.7 | NMF |
| Net Margin % | ELB | -78.5 | -40.4 | -17.9 | -37.2 |
| Asset Turnover | 0.1 | 0.2 | 0.2 | 0.3 | 0.3 |
| Financial Leverage | 5.7 | NMF | 8.1 | 13.0 | NMF |

| Valuation Ratios | Stock | Rel to Industry | Rel to S&P 500 |
|---|---|---|---|
| Price/Earnings | NMF | — | — |
| Price/Book | 19.8 | 7.3 | 6.2 |
| Price/Sales | 1.3 | 0.5 | 0.7 |
| Price/Cash Flow | 5.9 | 0.5 | 0.4 |

| Major Fund Holders | % of Fund |
|---|---|
| Legg Mason Focus | |
| ProFunds Ultra Wireless Inv | |
| Fidelity Leveraged Company Stock | |
| Jundt Growth I | |

**Morningstar Grades**

| Growth [ B ] | 1998 | 1999 | 2000 | 2001 |
|---|---|---|---|---|
| Revenue % | 210.6 | 65.0 | 50.9 | 34.6 |
| Earnings/Share % | NMF | NMF | NMF | NMF |
| Book Value/Share % | NMF | NMF | -35.6 | NMF |
| Dividends/Share % | NMF | NMF | NMF | NMF |

Nextel is a growth machine. Sales soared 26% in the September quarter, driven by 480,000 new users and the highest average revenue per user in the industry. Nextel now has 10.1 million subscribers, and projects 10.6 million at year's end.

| Profitability [ C- ] | 1999 | 2000 | 2001 | TTM |
|---|---|---|---|---|
| Return on Assets % | -8.3 | -4.5 | -13.0 | -7.5 |
| Oper Cash Flow $Mil | 324 | 576 | 1,129 | 1,870 |
| - Cap Spending $Mil | 1,947 | 3,294 | 3,418 | 2,155 |
| = Free Cash Flow $Mil | -1,623 | -2,718 | -2,289 | -285 |

Nextel has been a money pit; however, shareholders should see a return in the next few years as strong sales growth and better operating efficiencies lead to profits. Nextel expects EBITDA to reach $3 billion in 2002--growth of 58% from 2001.

| Financial Health [ D+ ] | 1999 | 2000 | 2001 | 09-02 |
|---|---|---|---|---|
| Long-term Debt $Mil | 10,312 | 14,629 | 14,720 | 13,104 |
| Total Equity $Mil | 2,283 | 1,745 | -865 | 561 |
| Debt/Equity Ratio | 4.5 | 8.4 | ELB | 23.4 |

Nextel has smartly repurchased deeply discounted debt using cash and equity; the violation of debt covenants is no longer an issue. The firm will burn through cash of less than $1 billion this year, meaning it will end 2002 with roughly $2 billion.

**Morningstar's Take** By Todd P. Bernier, 12-27-2002 Stock Price as of Analysis: $12.07

We attribute Nextel's strong showing in a soft economy to its focus on Corporate America and the popularity of Direct Connect. It is the only wireless carrier worth owning, in our opinion.

Unlike rivals obsessed with subscriber growth, Nextel doesn't wave a cell phone at every Tom, Dick, and Harry. Instead, it skims the cream of the crop: lucrative business customers who tend to be heavy cell phone users and who are more concerned with quality and features than price. As a result, Nextel's average revenue per user is the highest in the industry at roughly $70 per month. And because market saturation is making it increasingly difficult to find new, high-value subscribers, it is imperative for carriers to retain existing customers. While the Sprints of the world struggle with a customer exodus, Nextel has kept subscriber churn to roughly 2%, the lowest among the major wireless carriers.

Nextel's strong performance is due primarily to Direct Connect. No other operator can offer a similar push-to-talk service, which explains why 90% of Nextel's new subscribers come from another carrier. Nextel should add to its lead in push-to-talk technology in 2003 when it unveils the next generation of service, Nationwide Direct Connect, which will allow users in Boston, for example, to reach those in San Francisco. In age when other carriers compete solely on price, Direct Connect is a unique service that gives Nextel a sizable economic moat.

Nextel's competitive advantage is sustainable, in our view. Although Sprint plans to someday offer a push-to-talk feature, liquidity issues will probably force it to scale back capital spending. And Nextel's exclusivity on qChat, Qualcomm's third-generation (3G) push-to-talk technology, protects the company from rivals who may be looking at the service.

As a result, Nextel need not frantically launch upgrades to gain an edge on rivals. There is no timeline for when Nextel's network must migrate to the next digital standard. Rather, in 2003 Nextel will flip the switch on new vocoder compression software from Motorola that promises to double data-throughput rates and network capacity. We suspect 3G will be a big dud, leading to low returns on 3G investments. Thus, we applaud Nextel's deferral of 3G until demand warrants, protecting shareholder capital.

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