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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

Case No. GNR-T-03-8

Case No. GNR-T-03-16

REBUTTAL TESTIMONY OF DON WOOD
FOR NPCR, INC. d/b/a NEXTEL PARTNERS

1 **Q: PLEASE STATE YOUR NAME.**

2 A. My name is Don J. Wood.

3 **Q: ARE YOU THE SAME DON J. WOOD WHO PREFILED DIRECT TESTIMONY ON BEHALF OF**
4 **NEXTEL PARTNERS IN THIS PROCEEDING?**

5 A: Yes, but my business address has changed since that time. My current business address
6 is 30000 Mill Creek Avenue, Suite 395, Alpharetta, Georgia 30022.

7 **Q: WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

8 A: I have been asked by NPCR, INC. d/b/a Nextel Partners to address the responsive
9 testimony of Daniel L. Trampush on behalf of The Idaho Telephone Association ("ITA")
10 and Citizens Telecommunications Company of Idaho ("Citizens"), and Lance A. Tade on
11 behalf of Citizens Telecommunications Company of Idaho (collectively, the "rural
12 ILECs"). Mr. Trampush and Mr. Tade present several well worn arguments in an effort
13 to persuade the Commission to deny Nextel Partners' request for designation as an ETC.
14 Without exception, these arguments (1) are wholly unsupported by either facts or sound
15 public policy, and (2) have been explicitly rejected by state regulators, the FCC, or both.
16 Neither Mr. Trampush nor Mr. Tade present any valid public policy or factual reason
17 why this Commission should not grant Nextel Partners' Application for ETC designation.

18 **Q: WHAT QUESTIONS ARE BEFORE THE COMMISSION IN THIS PROCEEDING?**

19 A: There are three relevant questions: (1) Has Nextel Partners committed to offer and
20 advertise the nine supported services throughout the proposed service area?, (2) Is the
21 designation of Nextel Partners as an ETC in the public interest?, and (3) Should this
22 Commission (and subsequently the FCC), after taking into account the recommendations
23 of the Joint Board, approve the service area "redefinition" requested by Nextel Partners?

24 **Q: ARE THERE ANY ADDITIONAL QUESTIONS BEFORE THE COMMISSION IN THIS CASE?**

1 A: No. While Mr. Trampush and Mr. Tade tirelessly argue otherwise, this proceeding is *not*
2 an opportunity to second guess Congressional policy as set forth in the 1996 Act or the
3 FCC's interpretation and implementation of that policy as set forth in the federal rules.
4 Although he takes a different approach later in his testimony, Mr. Trampush at least
5 initially acknowledges (p. 4) that the focus of this proceeding should be specific to the
6 applicants and specific geographic areas at issue in this proceeding.

7 **Q: DO MR. TRAMPUSH OR MR. TADE PROVIDE ANY SPECIFIC FACTS RELATED TO ANY OF**
8 **THE RURAL ILEC SERVICE AREAS THAT WOULD JUSTIFY A REJECTION OF NEXTEL**
9 **PARTNERS' APPLICATION?**

10 A: No. Both Mr. Trampush and Mr. Tade have instead elected to provide a litany of oft-
11 repeated general concerns and speculation. When these witnesses do provide information
12 that is at least in part specific to the areas in question (for example, Mr. Trampush at pp.
13 8-9, 19-20)¹ it is completely irrelevant with respect to the issues before the Commission.
14 In the end, the rural ILEC witnesses offer no facts that could form the basis of a decision
15 that it is not in the public interest to designate Nextel Partners as an ETC in these areas.

16 **Q: BOTH MR. TRAMPUSH (24-26) AND MR. TADE (12-13) ARGUE FOR A COST BENEFIT**
17 **ANALYSIS. DO YOU AGREE WITH THEIR REASONING?**

18 A: I have no problem with the application of a cost-benefit analysis as long as both the
19 benefits and costs considered are specific to matter before the Commission in this
20 proceeding. In its Application and direct testimony, Nextel Partners has presented facts
21 that are specific to the operation of Nextel Partners in the Idaho service areas in question.

¹ Mr. Trampush goes to some effort to demonstrate that (1) the area served by the rural ILECs is rural (a fact not in dispute and which is fully considered in the Act and FCC's rules), and (2) that these areas are more costly to serve, particularly for wireline carriers, than less rural areas (a fact also not in dispute and also fully considered in the Act and FCC's rules).

1 In direct contrast, Mr. Tade argues (p. 12) that the analysis should be much broader, and
2 consider "(a) the growth in the size of the federal USF needed to support multiple ETCs
3 and (b) the consequent increase in the interstate contribution factor required to finance
4 that growth."² Mr. Tade's focus here is at 30,000 feet when it should be at ground level.
5 An examination of the impact of fund size and the public support of multiple networks³ is
6 currently being undertaken, at the FCC's direction, by the Joint Board. Any costs to be
7 considered in this proceeding are those that are specific to the details of Nextel Partners'
8 application or specific to the characteristics of any of the rural ILEC service areas that are
9 the subject of the application.

10 Mr. Trampush similarly suggests that the Commission consider a question of whether the
11 (vaguely defined) costs of an ETC designation justify growth of the federal fund,⁴ and
12 whether any wireless services are currently available within the areas in question. Like
13 Mr. Tade, Mr. Trampush's focus is on the wrong questions.

² As I describe later in my testimony, Mr. Tade's statement of concern here is a bit disingenuous; by far and away the primary contributor to growth of the federal high cost fund has been the request of the rural ILECs – and the FCC's decision to grant that request – for an increase in the funding that they receive. Mr. Tade's concerns about growth in the fund and growth in the interstate contribution factor appear to be limited to those instances in which the growth at issue results in funds going to carriers other than the rural ILECs.

³ As I will explain in more detail later in my testimony, the funding of more than one network over the short run may be necessary in order to minimize the size of the fund over the long term. If Mr. Trampush is right when he insists that wireless carriers have much lower network costs than wireline carriers, then such a scenario exists in this case: it will be necessary to temporarily fund both a wireline and wireless network in the short run until the more efficient/less costly wireless network can take over and represent the only funded network. This would yield a significantly lower fund size over the long run.

⁴ Like Mr. Tade, Mr. Trampush spends very little time fretting about increases in the support provided to ILECs. Such increases dwarf any impact on the size of the fund attributable to the designation of CETCs.

1 **Q: MR. TRAMPUSH ARGUES (P. 4) THAT A NON-ILEC APPLICANT FOR ETC DESIGNATION**
2 **BEARS A BROAD BURDEN OF PROOF IN A PROCEEDING SUCH AS THIS ONE. DO YOU**
3 **AGREE?**

4 A: No. Nextel Partners clearly has a burden to demonstrate its ability and commitment to
5 offer the nine supported services throughout its requested service areas and that it will
6 advertise the availability of such services. Nextel Partners has made such a
7 demonstration in its application and direct testimony.

8 Mr. Trampush apparently believes that in addition to such a demonstration and
9 commitment, Nextel Partners or any other potential CETC should also be required to
10 prove that no harm will come to the rural ILEC serving the areas in question. While Mr.
11 Trampush may wish otherwise, this is simply not the standard. As I described in my
12 direct testimony, both the FCC and the Courts have been clear that the purpose of the
13 universal service provisions of the Act are to protect end user customers, not carriers or
14 types of carriers. Mr. Trampush argues (p. 5) that a purpose of the Act is to "protect
15 incumbent rural telephone companies."⁵ This is simply not correct. The Act and FCC
16 rules provide specific means (disaggregation of support, for example) for rural ILECs to
17 respond to competitive entry, but it is up to the ILECs to respond to competitive entry
18 using the provided tools. The Act is clear that no classification of carriers, including
19 rural ILECs, are to be protected from competitive entry.

⁵ Mr. Trampush refers specifically at this point in his testimony to protection from what he terms "unfair competition." He does not define this term, and I have been unable to identify, based on his testimony, any circumstances in which Mr. Trampush would consider competition to be "fair," short of requiring any CETC to operate exactly as the ILEC operates, offer the same services that the ILEC offers, and be hamstrung so that any network or operational efficiency advantages of the CETC can't flow through to consumers. From a consumer benefit standpoint, Mr. Trampush's version of "fair competition" would be pointless.

1 **Q: MR. TRAMPUSH AND MR. TADE ARGUE THAT THE ACT ONLY INTENDED TO BRING**
2 **COMPETITION TO SOME MARKETS. HOW DO YOU RESPOND TO THESE ARGUMENTS?**

3 A: Mr. Tade states (p. 16) that "clearly, Congress had questions about whether it was wise to
4 have competing ETCs in rural areas. In fact, the Act presumes that a single ETC will be
5 the norm for areas served by rural carriers." Mr. Tade must be reading a different
6 Telecommunications Act. In the copy that I have, the presumption is quite the opposite.
7 For example, the purposes of the Act are set forth in the Preamble: "To promote
8 competition and reduce regulations in order to secure lower prices and higher quality
9 services for American telecommunications consumers and encourage the rapid
10 deployment of new telecommunications technologies." Similarly, the introduction to the
11 Conference Report states the Act's purpose is to "provide for a pro-competitive,
12 deregulatory national policy framework designed to accelerate rapidly private sector
13 deployment of advanced telecommunications and information technologies and services
14 to *all* Americans by opening *all* telecommunications markets to competition." Section
15 254 (b) (3) likewise makes it clear that "rural, insular, and high-cost areas" were not to be
16 excluded from this new market paradigm. Now that a carrier such as Nextel Partners is
17 seeking to do exactly what the Act contemplates – invest in new facilities to provide
18 competitive services – Mr. Trampush and Mr. Tade argue that such activity is
19 inconsistent with the intent of the Act.

20 **Q: YOU STATED THAT THE FIRST RELEVANT QUESTION IN THIS PROCEEDING IS WHETHER**
21 **NEXTEL PARTNERS HAS COMMITTED TO OFFER AND ADVERTISE THE NINE SUPPORTED**
22 **SERVICES THROUGHOUT THE PROPOSED SERVICE AREA. HAS IT DONE SO?**

23 A: Yes. Nextel Partners made these commitments in its application. As described in more
24 detail by Nextel Partners witness Peabody, the Company stands ready and willing to meet
25 these commitments.

1 **Q: WILL NEXTEL PARTNERS OFFER SERVICES THAT PROVIDE BENEFITS TO CONSUMERS?**

2 A: Yes. As described in the Application and reiterated by Mr. Peabody, Nextel Partners will
3 provide the residents and businesses in the specified areas with important options. End
4 users will be able to choose the technology – wireline or wireless – that best meets their
5 individual needs. End users will also be able to choose from among rate plans that will
6 allow them to more closely match the service that they receive (and pay for) with their
7 calling patterns and frequency. Last, but certainly not least, end users will have greater
8 access to the personal and public safety benefits of wireless service.

9 **Q: IS THERE SOME FACT OR ISSUE THAT IS SPECIFIC TO NEXTEL PARTNERS, OR THE**
10 **SERVICE AREAS WITHIN WHICH IT SEEKS ETC DESIGNATION IN IDAHO, THAT WOULD**
11 **OUTWEIGH THOSE BENEFITS?**

12 A: No. Nextel Partners' desire to serve – and its commitment to do so – fully complies with
13 the service obligations set forth in the Act and is consistent with the obligations of the
14 rural ILECs that have already been designated as ETCs in their respective service areas.

15 **Q: AT PP. 8-9, MR. TRAMPUSH ARGUES THAT THE AREAS IN IDAHO FOR WHICH NEXTEL**
16 **PARTNERS SEEKS ETC DESIGNATION HAVE A VERY LOW POPULATION DENSITY. IS THIS**
17 **ANALYSIS RELEVANT TO THE QUESTIONS BEFORE THE COMMISSION IN THIS**
18 **PROCEEDING?**

19 A: No. Mr. Trampush describes the results of an analysis performed by ITA "in preparation
20 for an earlier proceeding" that indicates low line density. Even if accurate, these
21 calculations have no relevance for several reasons.

22 First, ITA has performed the wrong calculation. Mr. Trampush describes a calculation of
23 access lines per "square mile of service territory." For such a calculation to have
24 meaning, the denominator should be "square mile of area served." All ILECs, and
25 particularly rural ILECs, have portions of their service territory that are served, and
26 portions that are uninhabited and therefore unserved. A large proportion of unserved area

1 will significantly distort any line density calculations performed, and this appears to be
2 the case here. Network costs are a function of the line density of the area actually served;
3 not the lines divided by square miles of service territory.

4 Second, and more importantly, the identification of an area of low line density in no way
5 supports a conclusion that the designation of a CETC is not in the public interest.⁶ While
6 the service areas for which Nextel Partners seeks designation in rural ILEC areas differs
7 from more densely populated areas of the State, these differences were fully
8 contemplated by the FCC in the *Fourteenth Report and Order*. The question is not "*Is*
9 *the area served by the rural ILECs different from the area served by non-rural ILECs?*"
10 but rather "*Is the area served by the rural ILECs at issue in this proceeding demonstrably*
11 *different from the service areas of other rural ILECs, and different in a way that was*
12 *unanticipated by the FCC when it adopted rules for finding both incumbent and*
13 *competitive ETCs in high cost areas?*⁷ There is nothing in the record to suggest that this
14 is the case.

15 **Q: MR. TRAMPUSH AND MR. TADE ARGUE THAT NEXTEL PARTNERS SHOULD BE**
16 **REQUIRED TO TAKE ON ADDITIONAL REGULATORY REQUIREMENTS BEFORE THE**
17 **COMMISSION SHOULD CONCLUDE THAT NEXTEL PARTNERS' ETC PETITION IS IN THE**
18 **PUBLIC INTEREST. DO YOU AGREE?**

⁶ In fact, the opposite may be true. In many areas of low density, the low cost solution for providing service is a wireless solution. If the necessary wireless technology had been available at the time the ILEC networks in these areas were built, it is likely that many of them would have been constructed as wireless, rather than wireline, networks.

⁷ The FCC certainly anticipated competition in rural telephone company areas. As I discuss later in this testimony, the FCC, after much comment and careful consideration, adopted a mechanism to fund both incumbent and competitive ETCs in high-cost areas. *Fourteenth Report and Order, Twenty-Second Order on Reconsideration and Further Notice of Proposed Rulemaking in CC Docket No. 96-45*, Released May 23, 2001 ("*Fourteenth Report and Order*"). This funding mechanism will be in place until at least 2006, and the FCC viewed this as a way to generate competition in rural telephone company before moving to a forward-looking funding mechanism.

1 A: No. Mr. Tade (p. 7) argues against the application of "asymmetric regulation" to ETCs,
2 and Mr. Trampush expresses a similar concern at pp. 5-7 of his testimony. Mr. Tade
3 notes that "the primary objective of a regulation in a competitive environment should be
4 to foster an equal opportunity to compete among market providers without pre-ordaining
5 marketplace outcomes." I agree with this statement if, but only if, it is clarified to mean
6 that each provider has an equal opportunity to compete on its own merits; I disagree with
7 any suggestion that a goal of regulation in this context should be to attempt to equalize
8 the position of the carriers by artificially removing advantages any carrier might have
9 over others.

10 Mr. Tade goes a step further and argues that "truly effective competition can emerge only
11 when all sellers in an industry enjoy the same freedoms, bear the same responsibilities
12 and endure the same constraints." This is simply not how competitive markets work.
13 The reality is that different providers face different freedoms, responsibilities, and
14 constraints. I doubt that Mr. Tade would agree for all of the regulatory constraints faced
15 by Nextel Partners as a FCC-licensed wireless provider to be applied to Citizens, nor
16 would it be meaningful to do so. The key to a successful regulatory structure that will
17 permit efficient entry into a market previously characterized by monopoly supply is a
18 mechanism that will prevent, or at least mitigate, any artificial advantages that one carrier
19 might possess. As I describe below in some detail, this mechanism is in place.

20 **Q: MR. TADE (PP. 4, 11) ARGUES THAT NEXTEL PARTNERS SHOULD BE REQUIRED TO**
21 **OFFER "UNLIMITED FREE LOCAL USAGE" BEFORE BEING DESIGNATED AS AN ETC. DO**
22 **YOU AGREE?**

23 A: No, for several reasons. First, Citizens does not offer "unlimited free local usage." It
24 does offer a rate plan to customers that rolls usage into the monthly line rate, so that

1 Citizens recovers usage and local loop costs on a bundled basis. I strenuously disagree
2 with Mr. Tade's theory that anything that is not charged for separately is "free." Under
3 that theory, may car came with a "free" stereo, "free" seats, and a "free" engine for that
4 matter. Paying a bundled priced doesn't mean the car manufacturer didn't recover its cost
5 of these different components. In contrast, Nextel Partners' service plans permit the
6 customer to pay for the amount of usage he or she wants, rather than the average amount
7 of usage that Citizens decides to include in its monthly rate.

8 Second, it is meaningless to compare local calling prices for Citizens and Nextel partners,
9 because the local calling areas are not the same. As is the case with the volume of local
10 usage, Nextel Partners – unlike Citizens – gives customers significant flexibility in
11 determining the effective size of their "local" calling area.

12 Third, the FCC has considered a requirement to require "unlimited" local usage as a part
13 of the nine supported services, but has chosen not to do so. This proceeding is not the
14 proper forum for Citizens to make a change to the list of services that an ETC must
15 provide. Mr. Tade correctly notes that an ETC designation creates obligations for the
16 requesting carrier. Nextel Partners has committed to meet those requirements.

17 Finally, this kind of regulatory requirement is unnecessary because it is duplicative of
18 market constraints. If end user customers do not consider Nextel Partners' service
19 offerings to be affordable and a good value (considering price, quality, mobility, and
20 features), they will not subscribe to them. Federal high-cost support is available on a per-
21 line basis for customers actually served. If customers do not subscribe to its services,
22 Nextel Partners will not receive support whether or not is has been designated as an ETC.

1 If customers demand an "unlimited" local calling plan, I expect that Nextel Partners will
2 respond.

3 The competitive market can be relied upon to effectively constrain a CETC's prices and
4 services: if the CETC's offering does not meet customer expectations, end users will not
5 purchase the service and the CETC will receive no federal support.

6 As recently noted by the Regulatory Commission of Alaska:

7 The FCC has previously rejected rural incumbent carriers' suggestions to
8 adopt eligibility criteria beyond those set forth in Section 214(e) to prevent
9 competitive carriers from attracting only the most profitable customers,
10 providing substandard service, or subsidizing unsupported services with
11 universal service funds. The FCC concluded that the statutory
12 requirements limiting ETCs, and requiring them to offer services
13 throughout the area and to use the support only for the intended services,
14 were sufficient. Similarly, we find little evidence that further protections
15 are needed to protect [the ILECs'] place in the market.⁸

16 **Q: DO THE ILEC WITNESSES ARGUE FOR OTHER CONSTRAINTS, BEYOND THOSE REQUIRED**
17 **BY LAW, TO BE APPLIED TO NEXTEL PARTNERS?**

18 A: Yes. Mr. Trampush (pp. 10-16) and Mr. Tade (pp. 8-9) make similar assertions regarding
19 Nextel Partners' requirements for designation. Both suggest that Nextel Partners be
20 required to submit business plans, investment timetables and other such analyses which
21 are well outside of the scope of this proceeding and are not required by the FCC. Nextel
22 Partners has committed to serving the whole of its FCC license area with universal
23 services, and has committed to meet all Federal and State requirements with regards to
24 service area and service quality.

⁸ *Order No. 10 in Docket No. U-02-39*, Regulatory Commission of Alaska, August 28, 2003 approving the application of Alaska DigiTel, LLC for ETC designation.

1 As explained in detail later in my testimony, a CETC's use of funds is closely monitored
2 on several levels. If, as a part of its annual recertification, the Commission were to
3 conclude that Nextel Partners is not using these funds as intended, it could request a
4 change in the company's plans or decide not to recertify the company as an ETC. The
5 production of extensive planning records prior to certification creates delay and causes
6 the applicant to incur significant costs to develop detailed plans for an area in which it
7 may or may not receive designation.

8 **Q: AT NUMEROUS PLACES IN THEIR TESTIMONY MESSRS. TRAMPUSH (PP. 7-11, 16-17) AND**
9 **TADE (PP. 7-10) EXPRESS CONCERNS ABOUT "CREAMSKIMMING" OR "CHERRY**
10 **PICKING." DO YOU HAVE A RESPONSE TO THEIR CONCERNS?**

11 **A:** Yes. After all of the discussion about "asymmetrical regulation," it appears that Mr. Tade
12 and Mr. Trampush are mostly concerned about what they believe is the ability of
13 "unregulated competitors to target only [the ILEC's] most profitable customers, while
14 leaving the incumbents with the COLR obligation for the very highest cost customers"
15 (Trampush, p. 7). There are several reasons why the Commissions (or the ILECs, for that
16 matter) need not worry about such an outcome.

17 Mr. Trampush claims (p. 17) Nextel Partners has engaged in "preferential targeting of a
18 select portion of a rural telephone company's customers," "has no intention of providing
19 ubiquitous universal service throughout the rural telephone company service areas for
20 which it seeks an ETC designation," and has filed only in "Citizens' most heavily
21 populated and lowest cost exchanges."

22 Taking the factual matter first, a review of Citizens' plan for disaggregation shows that
23 Mr. Trampush is just plain wrong: rather than requesting ETC designation only in
24 "Citizens' most heavily populated and lowest cost exchanges, " Nextel Partners is actually

1 requesting designation in exchanges that cover the spectrum of Citizens' network costs.
2 Attachment 1 to Nextel Partners' application lists the 12 Citizens exchanges for which
3 Nextel partners is seeking designation. Citizens' Plan for Disaggregation⁹ shows that 5 of
4 these exchanges represent Citizens' lowest cost exchanges, 2 represent the medium cost
5 category, and 5 represent the areas in which Citizens incurs the highest cost to provide
6 service. In reality, Nextel Partners is seeking designation in both high and low cost areas.
7 There is absolutely no evidence of "preferential targeting" of customers.
8 Even if Nextel partners were to attempt to engage in such a targeted entry strategy, the
9 fact that Citizens has disaggregated support would effectively prevent such a strategy
10 from being successful. Nextel partners, like any ETC, would receive support based on
11 the disaggregated costs of the area being served. In Citizens' high cost areas, the
12 available support is \$74.81 per line. In contrast, in Citizens' low cost areas, the available
13 support is only \$4.27 per line. *Any carrier that selectively entered only low cost areas*
14 *would also be selectively entering the area with the lowest level of available USF*
15 *support.* Of course, this issue is moot, because Citizens' own cost data show that Nextel
16 Partners is seeking to enter as many high cost exchanges as low cost exchanges.
17 The FCC's rules provide an effective means of preventing such activity. 47 C.F.R.
18 § 54.315 allows rural ILECs to disaggregate universal service support in order to better
19 reflect geographic cost differences. Citizens has availed itself of this opportunity. This
20 disaggregation renders any potential "creamskimming" impossible. Finally, the

⁹ This information was produced in discovery.

1 "creamskimming" or "cherry picking" concern, while serving as the mantra of the rural
2 ILECs, is vastly overblown as a practical reality, a fact I will explain further below.

3 **Q: DID THE ILECS IN THIS CASE ACKNOWLEDGE THE POSSIBILITY OF SUPPORT**
4 **DISAGGREGATION TO ALLEVIATE THE POTENTIAL FOR "CREAMSKIMMING"?**

5 A: No. Both Mr. Trampush and Mr. Tade refer to disaggregation, but it is clear from their
6 testimony that they are failing to distinguish between disaggregation of USF support and
7 redefinition of an ILEC service area. Mr. Tade states (p. 9) that "Clear Talk, on the other
8 hand, appears to be proposing that CTC-Idaho's study area be disaggregated, for ETC
9 service area purposes" and later that "both Clear Talk and Nextel Partners are seeking to
10 have certain of CTC-Idaho's study area disaggregated and established as separate ETC
11 service areas." Mr. Trampush makes a similar statement that "Nextel Partners is simply
12 asking the Commission to disaggregate Citizens' service area so it can receive USF
13 support but avoid service territory to obviously views as unprofitable."

14 Section 54.315 permits ILECs to disaggregate support in order to reflect demonstrable
15 cost differences between different parts of its service areas. Once this disaggregation
16 takes place, a wireless carrier such as Nextel Partners, seeking to serve only a portion of
17 an ILEC study area because the boundaries of its FCC license are different from the
18 historical ILEC boundaries, will not receive support based on the overall average of the
19 ILECs costs, but instead will receive support that reflects the cost of serving that area.

20 **Q: IS THERE ANY REASON TO EXPECT NEXTEL PARTNERS TO HAVE THE ABILITY TO**
21 **"CREAMSKIM," WHETHER OR NOT ITS REQUEST FOR A SERVICE AREA DEFINITION**
22 **DIFFERENT FROM THE CITIZENS STUDY AREA IS ULTIMATELY GRANTED?**

23 A: None whatsoever. As noted above, the available evidence makes it abundantly clear that
24 Nextel partners is not attempting to engage in such a strategy. Such a strategy, even if
25 attempted by a CETC, would fail.

1 As a practical matter, even a carrier that diverts considerable resources away from its
2 business operation in order to attempt to exploit opportunities for geographic
3 "creamskimming" would find it almost impossible to successfully accomplish its
4 objective. In order to be successful, the new entrant would need to incur costs in the
5 same way as the ILEC; it is only if the "high cost" and "low cost" areas of the ILEC and
6 new entrant match that "creamskimming" is even theoretically possible, and as all parties
7 will agree wireless carriers have a cost structure that is different from that of wireline
8 carriers. An additional practical problem is that – when examined closely – network
9 costs do not vary in a predictable way. My review of hundreds of network costs study
10 reveals an inescapable truth: it is impossible to conclude that network costs vary based on
11 any set of broad criteria. Costs vary on a very discrete geographic scale, making it
12 difficult (if not impossible) to identify individual customers that are "low cost" and
13 thereby represent a "creamskimming" opportunity.

14 Nextel Partners is not attempting to define its service area at this level of geographic
15 detail; it is seeking to define its ETC service area by "redefining" the Citizens service
16 areas at the level of the wire center. Nextel Partners would have an obligation to serve
17 this geographic area unless its FCC license prevents it from doing so. As the FCC has
18 recently concluded, a commitment by a wireless CETC to provide the supported services
19 throughout its licensed service area, even when "the contour of its CMRS licensed area
20 differs from the existing rural telephone companies' study areas," indicates that the CETC

1 is not seeking to "creamskim" and any such "creamskimming" concerns are thereby
2 minimized.¹⁰

3 **Q: MR. TRAMPUSH BELIEVES THAT WIRELESS SERVICE IS "COMPLIMENTARY" TO**
4 **WIRELINE SERVICE, DOES NOT REPRESENT MEANINGFUL COMPETITION, AND**
5 **THEREFORE THAT WIRELESS CARRIERS SHOULD NOT BE GRANTED ETC DESIGNATION.**
6 **DO YOU AGREE WITH HIS ASSESSMENT?**

7 A: No. As an initial matter, this is not Mr. Trampush's decision to make. As he correctly
8 notes at p. 6 of his testimony, the FCC has implemented a principle that "requires that
9 universal service support mechanisms and rules neither unfairly favor nor disfavor one
10 technology over another." Mr. Trampush's opinions regarding the kind of technology
11 that CETCs ought to be using add nothing to this discussion.

12 Mr. Trampush's makes two main observations: (1)"wireless service is complementary to
13 wireline service with respect to basic local service" (p. 27) and (2) "rural Idaho customers
14 are not substitution their wireline phones for wireless phones to any major extent." (p. 28)
15 These two comments highlight a very important point regarding rural competition. One
16 of the main goals of the Act and subsequent orders was to facilitate entry of competitive
17 carriers to rural, insular and high-cost areas so that customers would have meaningful
18 competitive choices, furthering the goal of rural/urban parity. This ETC proceeding is
19 about precisely that, facilitating competition. Mr. Trampush's observation represents the
20 kind of circular logic that has made rural competitive entry such an elusive goal. He
21 claims that wireless carriers should not be allowed to compete for primary
22 telecommunications service in rural areas because they are not competing for primary

¹⁰ *Memorandum Opinion and Order*, CC Docket No. 96-45, released November 27, 2002 [DA 02-3181, paragraphs 27-28.

1 telecommunications service in rural areas. Only by providing access to funding will
2 wireless carriers be able to complete the network buildouts and service-quality upgrades
3 that *could* yield substitution. Making that scenario possible is central to the stated
4 purpose of the Act and would support the kind of "competitive parity" that the ILECs
5 argue for throughout their testimony.

6 Recent events also play a role. Many customers have reported a reluctance to substitute
7 wireless service for their current wireline service because they could not keep their same
8 telephone number. Wireline to wireless number portability would eliminate this barrier,
9 making substitution much more likely.

10 **Q: MR. TRAMPUSH ARGUES THAT BECAUSE SOME WIRELESS CARRIERS PROVIDE SOME**
11 **SERVICES IN SOME RURAL AREAS WITHOUT SUPPORT, NEXTEL PARTNERS SHOULD NOT**
12 **RECEIVE SUPPORT. DO YOU AGREE WITH HIS OBSERVATIONS?**

13 A: No. At p. 26 of his testimony Mr. Trampush states that "in many cases these CMRS
14 providers have been offering mobile service to 5 to 10 years. Even more significantly,
15 these carriers have been offering their services since inception without high-cost
16 support." He also states (p. 5) "there is no shortage of wireless competitors already
17 operating in Idaho's rural telephone company service areas." There is no dispute that
18 *some* providers are currently providing *some* services in *some* of the areas served by rural
19 ILECs in Idaho, but that fact has no bearing on this proceeding. Nextel Partners is
20 making a commitment (or more accurately, seeking the ability to make a commitment) to
21 provide the supported services throughout these service areas in *direct competition* with
22 the rural ILECs; something that, without USF support, it could not do.

23 A proper consideration of this issue requires more than the cursory observations of Mr.
24 Trampush. It is true that wireless companies, including Nextel Partners, are providing

1 services these areas; this does not mean that the market is competitive with respect to the
2 services Nextel Partners is committed to offering. No other company has committed to
3 offer supported universal services throughout these areas, and no other carrier is
4 attempting to provide consumers with a wireless service at a level of quality that can
5 compete directly with the current wireline local service offerings.

6 An understanding of why the Trampush analysis fails requires a more substantive look at
7 how the rural ILECs originally entered these markets and how competitive carriers seek
8 to do so now. The rural ILECs in Idaho did not begin by providing service with a
9 network whose reach extended throughout their current service areas; they began by
10 constructing facilities where it was most feasible and then expanding those facilities over
11 time – *while receiving implicit or explicit universal service support*. At no time was that
12 support withheld because the rural ILEC was "already providing" wireline service in
13 some part of these areas. Mr. Trampush acts as if the existing rural ILEC networks
14 sprang forth from the head of Zeus in their current form and with their current geographic
15 coverage. This did not happen: rural ILECs expanded and upgraded their wireline
16 networks over time while receiving support. At p. 12, Mr. Trampush argues that, with
17 respect to buildout plans, potential CETCs should be treated in a manner consistent with
18 "the incumbent when it was originally certificated." The same logic applies here; the
19 incumbents were not required show pre-existing ubiquitous coverage, and at no time
20 were the incumbents told that their access to USF support would be limited because they
21 were already providing service to some customers in the area.

22 The entry and expansion of a competitive carrier such as Nextel Partners is not
23 fundamentally different. Nextel Partners has demonstrated that it can and does provide

1 services throughout much of the area for which it seeks ETC designation. ETC
2 designation will enable Nextel Partners to take the next step and offer the supported
3 services throughout these areas in direct competition with the ILECs' wireline services.
4 Network buildout will improve service quality and coverage to the point that rural
5 consumers may find wireless service to be an acceptable alternative for the rural ILEC's
6 wireline service. Such an outcome is fully consistent with the stated objectives of the
7 Act.

8 **Q: BOTH MR. TRAMPUSH AND MR. TADE ARGUE THAT NEXTEL PARTNERS SHOULD NOT**
9 **BE DESIGNATED AS AN ETC BECAUSE IT COULD USE THESE FUNDS IN AN IMPROPER**
10 **MANNER. DOES THIS ARGUMENT HAVE ANY MERIT?**

11 A: No, these arguments have no factual foundation whatsoever and ignore the multiple
12 safeguards in place. To make such a suggestion without evidence of any kind is
13 irresponsible.

14 Mr. Tade states (p. 15) that "there is little or no accountability to ensure possible monies
15 received by the applicants from the federal USF would be used to construct infrastructure
16 in rural Idaho." He fears that there is nothing to "prevent Nextel Partners from receiving
17 distributions from the federal fund based on service provided to rural Idaho and using
18 those distributions to construct infrastructure in metropolitan Boise, or worse, in other
19 states."

20 Apparently Mr. Tade is unaware of exactly how the mechanism works. The use of
21 federal support funds by § 254 (e) is for "the provision, maintenance, and upgrading of
22 facilities and services for which the support is intended." To ensure that the use of
23 support funds by any ETC (incumbent or competitor) complies with this requirement, the
24 Universal Service Administration Company ("USAC") has the authority to conduct audits

1 and does so on a regular basis. Furthermore, this Commission has the ability to ensure
2 that any funds received by Nextel Partners or any other ETC are being used appropriately
3 through the annual ETC recertification process. There is no reason to assume that this
4 will not take place. Finally, wireless carriers, including Nextel Partners, are licensed by
5 the FCC, which has the authority to investigate the operation of wireless companies and
6 institute punitive measures if it deems necessary. In this light, Mr. Trampush's statement
7 (p. 29) that wireless companies are "unregulated" is utter nonsense. Mr. Tade's argues (p.
8 15) that there should be requirements that the funding is used only "to construct
9 infrastructure in rural Idaho." That requirement already exists, and Nextel Partners has
10 committed to using Universal Service Funds for exactly that.

11 **Q: MR. TRAMPUSH CLAIMS (P. 29) THAT USF MONIES WILL PROVIDE "A WINDFALL**
12 **PROFIT" TO WIRELESS ETCs. WHAT IS YOUR RESPONSE TO HIS CLAIM?**

13 A: There are two equally important points to be made about Mr. Trampush's "windfall"
14 claim. First, even if Nextel Partners' per-line costs prove to be lower than those of the
15 rural ILECs,¹¹ no "windfall" can occur: the rules specifically limit Nextel Partners' use of
16 these funds to the investment in, and operation of, network facilities in the high cost area.
17 Second, if one assumes the possibility of a "windfall" and then recognizes that such a
18 "windfall" will only occur if Nextel Partners' per-line costs are indeed lower, the worst
19 outcome that can be realized is that the carrier that all parties agree is a more efficient
20 provider will be encouraged to build out its network on an accelerated basis. Once this

¹¹ Mr. Trampush makes this assumption, but completely omits an explanation of why a mechanism that encourages investment by a lower cost/more efficient provider is not in the public interest (or conversely, why a decision to fund the higher cost/less efficient provider into perpetuity represents sound public policy).

1 buildout is complete, support can be based on this more efficient network (and ultimately
2 limited, if appropriate, to this single efficient carrier) thereby minimizing the size of the
3 fund over the long run. Nextel Partners has committed, as it must, to use the USF support
4 it receives to build out infrastructure and operate facilities in these areas, a result that is
5 fully consistent with the purpose of the Act and the interests of Idaho consumers.

6 In a direct contradiction of Mr. Trampush's testimony, Mr. Tade argues (pp. 8-9)
7 "effective competition requires that all firms must compete on the merits of their
8 respective efficiencies." Unlike Mr. Trampush, who sees areas in which "a wireless
9 ETC's costs are less than the incumbent LEC's," Mr. Tade sees the incumbent LECs (pp.
10 8-9) as the more efficient providers. If Mr. Trampush is right, the designation of Nextel
11 Partners as an ETC will mean that the a more efficient provider will receive the necessary
12 support to serve the area, and over the long run, demands on the fund will decrease as a
13 result. If Mr. Tade is correct, then Nextel Partners would be unable to compete, even
14 after receiving the same per-line support as the ILEC. Recognition of this fact would
15 cause Nextel Partners not to seek entry into the market.

16 **Q: MR. TRAMPUSH ARGUES THAT NEXTEL PARTNERS SHOULD NOT BE DESIGNATED AS AN**
17 **ETC BECAUSE OTHER CARRIERS WILL THEN HAVE NO CHOICE BUT TO SEEK SUCH A**
18 **DESIGNATION. IS HE RIGHT?**

19 **A:** No. At p. 31, Mr. Trampush argues that "if the Commission grants these insupportable
20 applications, it is difficult for me to imagine any grounds that will suffice to deny
21 subsequent applications ... virtually all of the wireless carriers operating in Idaho will
22 apply for, and be granted, ETC status and federal USF support." He goes on to say that
23 "the result will be the creation of a whole new industry subset, founded on competitive
24 business principles, but rather on the desire to maximize regulatory subsidies." This

1 conclusion is inconsistent with both experience in other states and with the most basic
2 economics. As an initial matter, experience shows that the designation of a wireless
3 carrier as an ETC in a given geographic area has not resulted in a flood of petitions.
4 There are some basic economic reasons why this result is not unexpected. First, wireless
5 carriers may choose as their business plan to provide certain services in certain areas
6 without making a commitment to offer supported services as a viable competitive
7 alternative throughout the ILEC service area. Numerous carriers across the country have
8 clearly chosen this route. Second, a rational carrier will not be indifferent to whether a
9 CETC has already been designated in a given service area, but will factor that
10 information into its business case. A carrier considering entry as an ETC into an area
11 must consider the market share that it expects to capture (based on the number of
12 providers already present), the resulting unit costs to serve the area, and the amount of
13 support available. Because market share and the resulting number of subscribers is a
14 primary driver of unit costs (particularly for wireless carriers), the existing mechanism is
15 self-regulating to a significant degree: the first carrier seeking ETC designation may find
16 that entry into the area makes good business sense, but the next carrier (as a potential
17 ETC) is less likely to find the area economically viable. The likelihood that a given
18 carrier will seek ETC designation diminishes as additional ETCs are designated: the
19 market can be expected to limit the number of ETCs to the number that can be viable
20 given the rural ILECs cost structure. Of course, the answer may be one, in which no
21 carrier would seek CETC status and the incumbent would remain a monopoly provider.

22 **Q: BOTH MR. TRAMPUSH (P. 8) AND MR. TADE (PP. 12, 16) EXPRESS VARIOUS CONCERNS**
23 **REGARDING THE SIZE OF THE FEDERAL UNIVERSAL SERVICE FUND. ARE THESE**
24 **CONCERNS RELEVANT TO THIS PROCEEDING?**

1 A: No. These concerns are (1) not related to any of the specific characteristics of Nextel
2 Partners' Application or to any rural ILEC service area that is identified in Nextel
3 Partners' Application, and (2) to the extent they have merit, these concerns are currently
4 being addressed by the FCC and Joint Board in the proper forum. This Commission's
5 task in this proceeding is to apply the ETC rules as they currently exist.

6 To the extent that the Commission would like testimony that is well beyond the scope of
7 this proceeding, it is possible to show that the rural ILECs' arguments are disingenuous
8 and ultimately provide no plausible reason for this Commission to deny Nextel Partners'
9 Application.

10 There is certainly no argument that *all else equal*, a smaller fund is preferable to a larger
11 fund. There are several important reasons, however, why the conclusion that the
12 Commission should refuse to grant Nextel Partners ETC status in order to limit the size
13 of this fund is unsupported.

14 **Growth in the fund was explicitly anticipated and considered by the FCC when**
15 **developing the rural universal service mechanism.** The FCC fully contemplated
16 increases in the size of the fund when the decision was made to permit multiple ETCs.
17 When developing the rural universal support mechanism, the FCC carefully weighed
18 each aspect of the proposed elements, including the impact of that element on the size of
19 the fund. Many elements, including those intended to represent a direct benefit to the
20 rural ILECs, were adopted with full recognition that the fund size would be increased
21 significantly as a result. Other proposed elements were rejected, even though the stated
22 purpose of these proposed elements was to limit the size of the fund. For example, the
23 FCC rejected a proposal by the Rural Task Force to freeze high-cost loop support upon

1 competitive entry in high-cost areas. After noting that the stated "purpose of this
2 proposal is to prevent excessive fund growth following competitive entry," the FCC
3 concluded that such a provision should not be included, citing both the "limited benefit"
4 of the proposal, its potential for limiting public benefit, and the operation of other
5 elements of the mechanism with the same intended purpose.¹² Still other elements were
6 tailored in a way to limit fund growth. For example, certain rural ILECs requested that
7 the FCC completely remove the indexed cap on the high cost loop fund. The FCC
8 refused, in part because it considers the indexed cap to be "a reasonable means of limiting
9 overall growth of the high-cost loop fund."¹³ Finally, the FCC specifically noted that
10 while the current interim mechanism is in place, it would conduct "a comprehensive
11 review of the high-cost support mechanisms for rural and non-rural carriers," and that this
12 review will include issues related to fund growth.¹⁴

13 **The largest contributors to the size of the fund are the compromise elements that**
14 **were included by the FCC for the benefit of rural ILECs.** What Mr. Trampush and
15 Mr. Tade consistently fail to mention is that the size of the high-cost loop fund is in large
16 part a direct function of the FCC's decision to give the rural ILECs an extended transition
17 period in which to improve their efficiency, reduce their costs, and better prepare
18 themselves to operate in a competitive market. These elements of the mechanism,

¹² Fourteenth Report and Order, paragraphs 125-128.

¹³ Fourteenth Report and Order, paragraph 46.

¹⁴ *Id.*, paragraph 169.

1 implemented at the request of and for the exclusive benefit of rural ILECs, represent a far
2 greater impact on the size of the fund than any of concerns cited in this case.

3 For the current interim mechanism, the FCC set aside its consistent (and economically
4 valid) position that universal service funds should be sufficient to permit the recovery of
5 a carrier's forward-looking economic costs, but not necessarily its embedded costs. In
6 fact, the FCC did the rural ILECs one better, and adopted a modified embedded cost
7 mechanism that is projected to increase the size of the high-cost fund by \$1.26 billion
8 dollars over the amount that would have been required by the existing embedded cost
9 mechanism.¹⁵ To my knowledge, no estimate of the impact on the fund size caused by
10 the decision to permit rural ILECs to recover embedded, rather than economic, costs has
11 been published.

12 In economic terms, the decision to permit rural ILECs to recover embedded costs
13 represents a dead weight loss. It is an inefficiency that is being institutionalized into the
14 existing cost structure for the duration of the interim mechanism. Rural ILECs are the
15 sole beneficiaries of this element. Not surprisingly, the FCC has put the rural ILECs on
16 notice that this windfall exists only for the duration of the interim mechanism:

17 Although we agree with the Rural Task Force that a distinct rural
18 mechanism is appropriate at this time, we believe that there may be
19 significant problems inherent in indefinitely maintaining separate
20 mechanisms based on different economic principles. The Commission
21 previously determined that support based on forward-looking cost is
22 sufficient for the provision of the supported services and sends the correct
23 signals for entry, investment, and innovation. Many commenters
24 representing the interests of rural telephone companies argue that the
25 Rural Task Force's analysis conclusively demonstrates that the forward-

¹⁵ *Id.*, paragraph 28. It should be noted that this estimate was provided by the Joint Board and Rural Task Force, and not by some party opposing the adoption of the modified embedded cost mechanism.

1 looking cost mechanism should not be used to determine rural company
2 support and that only an embedded cost mechanism will provide sufficient
3 support for rural carriers. We disagree. While the Rural Task Force
4 demonstrated the inappropriateness of using input values designed for
5 non-rural carriers to determine support for rural carriers, we do not find
6 that its analysis justifies a reversal of the Commission's position with
7 respect to the use of forward-looking costs as a general matter."¹⁶

8 The FCC also noted its agreement with the Joint Board that "to the extent that it differs
9 from forward-looking economic cost, embedded cost provides the wrong signals to
10 potential entrants and existing carriers."¹⁷ I agree. More importantly in the current
11 context, to the extent it differs from forward-looking economic cost, embedded cost
12 inflates the size of the high-cost fund to a level well above that which would otherwise be
13 necessary.

14 A second element of the interim federal universal service mechanism for rural areas,
15 again included for the sole purpose of benefiting rural ILECs, is the modification of the
16 concept of "portability." The FCC's decisions regarding the portability of these funds in
17 rural areas are responsible for a portion of the increase in fund size.

18 The rural ILECs' suggestion that the best means of limiting growth of the fund is to deny
19 Nextel Partners' Application for ETC status is disingenuous at best. In the simplest
20 terms, the facts are as follows: (1) rural ILECs asked for and received various protections
21 from the impact of competition as a part of the interim mechanism, (2) these protections
22 cause the size of the high-cost fund to increase, and (3) the rural ILECs are now using the
23 fact that the fund is growing to support an argument that actual competitive entry should

¹⁶ *Fourteenth Report and Order*, paragraphs 173-174 (footnotes and paragraph numbering omitted).

¹⁷ *Id.*, paragraph 174 and footnote 406.

1 be limited. Rural ILECs completely ignore the fact that these assurances of cost recovery
2 in rural areas are a gift from the FCC; they would not exist in a competitive marketplace.
3 The transition mechanism adopted by the FCC may be costly in the short term, but it can
4 serve to gradually wean the incumbent rural LECs over the period of time that it is in
5 effect. However, such weaning will only take place if competitors are permitted to enter
6 the market with ETC status.

7 If the interim universal service mechanism is implemented fully, the long-term result will
8 be the maximum benefit to the consumers of telecommunications services in rural areas
9 and to rural economic development. Rural ILECs can use this transition period, and the
10 "windfall" generated by the guarantee of embedded cost recovery and the receipt of
11 universal funds for customers not currently served, to update their networks, streamline
12 their operations, and prepare for competition. The piecemeal implementation of this
13 policy favored by the rural ILECs would inevitably harm rural consumers. Permitting
14 multiple ETCs to operate in an area prior to incumbent rural LECs being given the time
15 to wean themselves could, the FCC concluded, cause financial distress to the rural ILECs
16 and disruptions in service. Equally importantly, permitting the guarantee of embedded
17 cost recovery and the receipt of a constant amount of universal funds (regardless of the
18 number of retail customers actually being served), but refusing the certification of
19 multiple ETCs, such as Nextel Partners, gives the rural ILECs no incentive to act during
20 this interim period to increase their efficiency and prepare for the day that they will
21 actually be subject to competitive market forces.

22 **Q: AT P. 30, MR. TRAMPUSH ARGUES THAT GROWTH IN SUPPORT TO CETCS HAS GROWN**
23 **BY 71% OVER THE PAST YEAR. WHAT DOES THIS NUMBER REPRESENT?**

1 A: This number represents a modest level of growth being applied to a very small base of
2 support, which makes the percentage increase appear large in a way that is completely
3 misleading. Based on projections for 1Q 2004, CETCs would still receive only about
4 10% of the total federal high cost support. ILECs will receive the rest.

5 **Q: WHAT IS NEXTEL PARTNERS REQUESTING REGARDING ITS ETC SERVICE AREA**
6 **DEFINITION?**

7 A: Nextel Partners is requesting that it receive conditional ETC designation in the Citizens
8 exchanges listed in its Application, subject to the FCC's agreement that it is appropriate
9 to designate an ETC in these areas on an exchange – rather than study area – basis. Mr.
10 Tade and Mr. Trampush oppose this action for reasons that cannot be supported by law or
11 policy.

12 **Q: DOES AN ILEC SERVICE AREA "REDEFINITION" IMPACT THE ILEC'S NETWORK,**
13 **OPERATION, OR USF FUNDING IN ANY WAY?**

14 A: No. While the terminology refers to "redefining" the existing ILEC service area, it does
15 not mean that the ILEC service area is being redefined *for the ILEC*. Instead, the term
16 refers to the development of a CETC service area by beginning with the ILEC study area
17 and making changes that the FCC and state regulator have concluded are appropriate,
18 given the circumstances of the specific request in hand.

19 **Q: MR. TRAMPUSH AND MR. TADE ARGUE THAT NEXTEL PARTNERS' REQUEST FOR**
20 **SERVICE AREA "REDEFINITION" SHOULD NOT BE GRANTED. DO THEIR REASONS HAVE**
21 **MERIT?**

22 A: No. In addition to being untimely, the ILEC witnesses' arguments are, without exception,
23 based on one of four fundamental misunderstandings that he has about this process: (1) a
24 "redefinition" of Citizens service area for the purpose of establishing a CETC service area
25 will have an impact on Citizens, (2) a 1996 Joint Board recommendation to the FCC

1 represents the legal standard to be applied in this proceeding, (3) Nextel Partners could, if
2 it wished to do so, provide service anywhere in the Citizens study area, and (4) there are
3 significant differences between study area redefinition and support disaggregation.

4 **Q: PLEASE EXPLAIN WHY YOU BELIEVE MR. TRAMPUSH AND MR. TADE MISUNDERSTAND**
5 **THE IMPACT ON CITIZENS OF A SERVICE AREA "REDEFINITION."**

6 A: In numerous places their testimony betrays fundamental misconceptions regarding the
7 purpose of this proceeding and its impact on Citizens. Both testimonies fail to accurately
8 portray how Citizens will actually be impacted by redefinition. The "redefinition" that
9 Nextel Partners seeks will determine whether Nextel Partners will be eligible for USF
10 funding for services it provides in high cost areas. The requested redefinition will *not*
11 impact the eligibility of Citizens to receive USF, nor will it impact in any way the amount
12 of USF funding that Citizens receives. Although Citizens would have the Commission
13 think otherwise, the requested redefinition will apply specifically to the administration of
14 USF funds to Nextel Partners. It will in no way impact the operation of Citizens, its
15 network, or the costs it incurs to provide service. In short, the requested redefinition will
16 have significant consequences for Nextel Partners as a CETC¹⁸, but will have no direct
17 impact at all on Citizens. It will continue to operate as it does today and continue to
18 receive the current number of USF dollars regardless of how this Commission or the FCC
19 rules on Nextel Partners' request.

20 Because Nextel Partners' requested service area redefinition will have no direct impact, in
21 and of itself, on Citizens, two conclusions can be reached. First, Citizens' opposition to

¹⁸ Of course, to the extent that the requested redefinition will remove existing barriers to entry (and I believe it will), consumers of telecommunications services in the rural areas in question will also be directly impacted.

1 Nextel Partners' request is an attempt to use this process to achieve anti-competitive goals
2 by limiting competitive entry in certain rural areas. Second, Citizens apparently believes
3 that the existing service area definitions represent barriers to competitive entry that would
4 be eliminated (or reduced) if Nextel Partners' requested is granted. Otherwise, the ILECs
5 and their witnesses would simply be indifferent to Nextel Partners' request.

6 **Q: PLEASE EXPLAIN WHY THE ROLE OF THE 1996 RECOMMENDATION OF THE JOINT**
7 **BOARD TO THE FCC IS LESS SIGNIFICANT THAN MR. TRAMPUSH APPEARS TO BELIEVE.**

8 A: Mr. Trampush (p. 11) seems to believe that the Joint Board's 1996 recommendation
9 regarding ILEC study areas represents a presumption that no service area "redefinition"
10 should take place, and that this Commission must somehow begin with this presumption
11 when reviewing Nextel Partners' request in this proceeding. As Mr. Trampush correctly
12 cites in his testimony, the rule that the Commission actually must apply, however, says
13 something completely different: 47 C.F.R. § 54.207 (b) states that "In the case of a
14 service area served by a rural telephone company, service area means such company's
15 'study area' unless and until the Commission and the states, after taking into account
16 recommendations of a Federal-State Joint Board instituted under section 410(c) of the
17 Act, establish a different definition of service area for such company."¹⁹

18 There are two important elements of this rule: (1) the CETC's service area is the same as
19 the ILEC study area, but only until the state regulator and FCC decide differently (with
20 no presumption that such a change should or should not be made), and (2) the
21 recommendation of the Joint Board is something that must be "taken into account" by the
22 state regulator and FCC, but does not represent anything more than that. Of course, it is

¹⁹ This language is consistent with § 214 (e) of the Act.

1 the FCC and state regulator that must review each request for "redefinition"; the Joint
2 Board has no role in this process.

3 Mr. Trampush would like to Commission to believe that the Joint Board has
4 recommended against "redefinition" of study areas of the rural ILECs, but this is clearly
5 not the case. Mr. Trampush is confused about the role of the Joint Board here; it has not
6 recommended "redefinition" for any rural ILEC because the Joint Board has neither the
7 responsibility nor the authority to make such recommendations. The FCC and state
8 regulator have this role, and the FCC and various state regulators have consistently
9 approved requests by CETCs for service area "redefinitions."

10 **Q: WHAT EXACTLY DID THE JOINT BOARD RECOMMEND TO THE FCC IN 1996?**

11 A: The Joint Board recommended that the FCC not change the service area definitions of the
12 rural ILECs *en mass*, but instead to leave rural ILEC study area boundaries as study area
13 boundaries at that time. The FCC accepted this recommendation and did not make a
14 global change in this regard.

15 The Joint Board also raised three areas of concern, and it is reasonable for the FCC and
16 state regulators to consider three areas when reviewing a specific "redefinition" request:
17 (1) the potential for the requested "redefinition" to increase the likelihood of
18 "creamskimming" by the CETC, (2) the potential for the requested "redefinition" to
19 create administrative costs for the rural ILEC, and (3) the potential for the requested
20 "redefinition" to impact the ILEC's status as a rural carrier.

21 Of course, no recommendation by the Joint Board could or did change the law: § 214 of
22 the Act and § 54.207 of the FCC's rules both leave the decision in the hands of the FCC
23 and state regulator. Neither require the FCC and state regulator to take a 1996 Joint

1 Board recommendation regarding a global change and make it a constraint when
2 considering a specific request for "redefinition," and neither require the FCC and state
3 regulator to apply this recommendation as a constraint without regard to events that have
4 occurred since 1996.

5 **Q: HAVE ANY IMPORTANT EVENTS TAKEN PLACE SINCE 1996 THAT PUT THE JOINT BOARD**
6 **RECOMMENDATION INTO PROPER PERSPECTIVE?**

7 A: Yes. With regard to the "creamskimming" concern, the FCC has adopted § 54.315 which
8 allows ILECs to disaggregate universal service support in order to better reflect
9 geographic cost differences. A better understanding has also developed in the industry
10 (though this understanding is by all appearances not universal) that the "redefinition" of
11 an ILEC's service area actually has not real implications for the ILEC's operations, and is
12 therefore not likely to create administrative costs and cannot change the ILEC's status as
13 a rural carrier.

14 Of course, it is reasonable for this Commission to consider each of the Joint Board's three
15 areas of inquiry when evaluating the facts related to Nextel Partners' request in this
16 proceeding, in order to determine if there is any reason to expect any of the Joint Board's
17 three concerns to come to fruition in this case.

18 **Q: IS THERE ANY REASON TO BE CONCERNED ABOUT CREAMSKIMMING IF NEXTEL**
19 **PARTNERS IS DESIGNATED IN CITIZENS' EXCHANGES, RATHER THAN ITS STUDY AREA?**

20 A: No. As noted above, Citizens has disaggregated its support by exchange, so that its high
21 cost exchanges receive higher per-line support, and low cost exchanges receive lower
22 per-line support. This eliminates any possible creamskimming argument.

23 **Q: IS THERE ANY REASON TO EXPECT THE SERVICE AREA "REDEFINITION" REQUESTED BY**
24 **NEXTEL PARTNERS TO IMPACT CITIZENS' STATUS AS RURAL CARRIERS?**

1 A: No. Mr. Trampush and Mr. Tade offer no arguments that Citizens' status as a rural
2 carrier will be impacted.

3 **Q: IS THERE ANY REASON TO EXPECT THE SERVICE AREA "REDEFINITION" REQUESTED BY**
4 **NEXTEL PARTNERS TO CREATE ADMINISTRATIVE COSTS FOR CITIZENS?**

5 A: No. Some rural ILECs have argued that redefinition could potentially create
6 administrative difficulties. Fortunately Citizens in this case have recognized that no such
7 difficulties will occur because service area "redefinition" has no impact whatsoever on
8 the rural ILECs.

9 **Q: SO WHAT ACTION SHOULD THE COMMISSION TAKE WITH REGARD TO THE CITIZENS**
10 **EXCHANGES?**

11 A: I recommend that the Commission approve Nextel Partners' designation in the Citizens
12 exchanges identified in its Application, to be final upon the FCC's approval in accordance
13 with FCC Rule 54.207.

14 **Q: DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

15 A: Yes.

CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2003 I caused to be served true and correct copies of the foregoing document, *Rebuttal Testimony of Don Wood*, by the method(s) indicated, upon:

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