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IDAHO PUBLIC
UTILITIES COMMISSION

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Attorneys For NPCR, Inc. d/b/a Nextel Partners

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of the Application of **NPCR, INC.**)
d/b/a NEXTEL PARTNERS Seeking)
Designation as an Eligible Telecommunications)
Carrier that may receive Federal Universal Service)
Support)

Case No. GNR-T-03-16
APPLICATION OF
NEXTEL PARTNERS

I. Introduction

1. NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners"), pursuant to 47 U.S.C. § 214(e)(2) of the Communications Act of 1934, as amended (the "Act"), hereby submits this Application for Designation ("Application") as a federal eligible telecommunications carrier ("ETC") in the state of Idaho.

2. Nextel Partners does not by this Application seek designation as an eligible telecommunication carrier for purposes of receiving support from the Idaho Universal Service Fund pursuant to Idaho Code § 62-610, *et. seq.*

3. Nextel Partners is licensed to provide, and does provide, wireless telecommunications services in certain designated areas (the "Designated Areas") of Idaho.¹ With the exception of areas served by Citizens Telecommunications Company of Idaho ("Citizens"), each of these Designated Areas is a study area of a rural telephone company as defined in Section 153(37) of the Act. With regard to areas served by Citizens, the Designated Areas are identified as specific Citizens exchanges. As demonstrated herein, Nextel Partners meets all of the requirements for designation as an ETC in each of these Designated Areas and respectfully requests that the Commission promptly grant this Application.

4. As set forth below, Nextel Partners requests conditional designation in the Citizens exchanges, with designation effective upon the redefinition of Citizens' ETC service area along exchange boundaries under the procedures identified in 47 C.F.R. § 54.207.

II. Identification of Nextel Partners

5. Nextel Partners is a Delaware corporation with a principal place of business located at 10120 West 76th Street, Eden Prairie, MN 55344.

6. Nextel Partners is a provider of commercial mobile radio services ("CMRS") licensed by the Federal Communications Commission ("FCC") under federal law.

7. Nextel Partners provides service to over 900,000 subscribers nationwide under the brand name "Nextel." Nextel Partners typically holds licenses in rural service areas, while Nextel Communications, Inc., a separately publicly traded company with over 11 million subscribers, typically holds licenses in urban areas.

¹ A list of the rural telephone company study areas for which Nextel Partners seeks designation in this Application (also referred to herein as the "Designated Areas") is set forth as **Attachment 1** hereto.

III. Statement of Facts Supporting Application

A. Nextel Partners Meets All the Requirements for Designation as an Eligible Telecommunications Carrier

8. Under 47 U.S.C. § 214(e)(2), the Idaho Public Utilities Commission ("Commission") has jurisdiction and authority to designate Nextel Partners as an ETC in its Designated Areas. The requirements for ETC designation are set forth in 47 U.S.C. § 214(e)(1)-(2) and 47 C.F.R. § 54.101. As set forth below, Nextel Partners: (1) is a common carrier; (2) provides the supported services; and (3) will meet all service and advertising obligations of an ETC. In addition, in areas served by rural telephone companies, Nextel Partners' ETC designation serves the public interest.

1. Nextel Partners is a Common Carrier Providing Service Over its Own Facilities

9. As a CMRS provider, Nextel Partners is a "common carrier" under federal law, as required by 47 U.S.C. § 214(e)(1). Nextel Partners is a facilities-based provider, and will provide supported services using its own facilities, or a combination of its own facilities and leased facilities.

2. Nextel Partners Offers All Required Services and Functionalities

10. Nextel Partners provides each of the supported services identified by the FCC in 47 C.F.R. § 54.101(a) as follows:

(a) Voice-grade access to the public switched telephone network. "Voice-grade access" means the ability to make and receive phone calls, within the 300 to 3000 Hertz frequency range. 47 C.F.R. § 54.101(a)(1). Through its interconnection arrangements with local telephone companies, all Idaho customers of Nextel Partners are able to make and receive calls on the public switched network within the FCC's specified bandwidth.

(b) Local usage. An ETC must include an amount of free local usage as part of a universal service offering. 41 C.F.R. § 54.101(a)(2). To date, the FCC has not quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue. See *Universal Service Further Notice of Proposed Rulemaking*, FCC 98-278 (Oct. 26, 1998) ("*October 1998 NPRM*"). Nextel Partners will meet the local usage requirement by including local usage to its universal service customers.

(c) Dual-tone, multi-frequency ("DTMF") signaling, or its functional equivalent. DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. 47 C.F.R. § 54.101(a)(3). Nextel Partners currently uses out-of-band digital signaling and in-band multi-frequency ("MF") signaling that is functionally equivalent to DTMF signaling.

(d) Single-party service or its functional equivalent. "Single-party service" means that only one party will be served by a subscriber loop or access line, in contrast to a multi-party line. 47 C.F.R. § 54.101(d). In *the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report and Order, FCC 97-157, ¶ 162 (rel. May 7, 1997) ("*Universal Service Order*"). Nextel Partners meets this requirement of single-party service by providing a dedicated message path for the length of all customer calls.

(e) Access to emergency services. The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering. Enhanced 911 ("E911") which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), is only required if a public emergency service provider makes arrangements with the local provider for the delivery of such information. 47 C.F.R. § 54.101(a)(5). Nextel Partners provides universal access to the 911

system for its customers, and has implemented and will continue to implement E911 services consistent with the FCC's Rules and Orders and local PSAP requests. To date, Nextel Partners has launched Ada County, Idaho at Phase II E911 service. *See Core Wireless Communications, LLC*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 02-2855, ¶ 9 fn. 28 (rel. Oct. 31, 2002) (noting provision of 911, implementation of Phase I E911 where requested, and waiver of Phase II E911).

(f) Access to operator services. "Access to operator services" is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call. 47 C.F.R. § 54.101(a)(6). Nextel Partners meets this requirement by providing all of its customers with access to operator services provided by either itself or other entities (e.g. LECs, IXC, etc.).

(g) Access to interexchange service. A universal service provider must offer consumers access to interexchange service to make and receive interexchange calls. Nextel Partners presently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements it has with several interexchange carriers (IXCs). Additionally, customers are able to reach their IXC of choice by dialing the appropriate access code.

(h) Access to directory assistance. "Access to directory assistance" means the ability to place a call directly to directory assistance. 47 C.F.R. § 54.101(a)(8). Nextel Partners meets this requirement by providing all of its customers with access to directory assistance by dialing "411."

(i) Toll limitation for qualifying low income consumers. An ETC must offer either "toll control" or "toll blocking" services to qualifying Lifeline customers at no charge.

The FCC no longer requires an ETC to provide both services as part of the toll limitation service required under 47 C.F.R. § 54.101(a)(9). See *Universal Service Fourth Order on Reconsideration*, FCC 97-420 (Dec. 30, 1997). In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls. *Universal Service Order*, ¶ 82. Nextel Partners currently has no Lifeline customers because only a carrier designated as an ETC can participate in Lifeline. See 47 C.F.R. § 54.400-.415. Once designated as an ETC, Nextel Partners will participate in Lifeline and Link Up and will provide toll blocking in satisfaction of federal and state requirements. Nextel Partners will utilize toll blocking technology to provide the service to its Lifeline and Link Up customers, at no charge, as part of its universal service offerings.

3. Nextel Partners Will Offer and Advertise the Availability of Supported Services

11. Nextel Partners provides services today within the Designated Areas using its existing network facilities. Upon designation, Nextel Partners will provide the supported services within those Designated Areas consistent with the obligations of an ETC.

12. Nextel Partners will also advertise the availability of the supported services and charges therefore using media of general distribution, in accordance with the requirements of 47 C.F.R. § 54.201(d)(2). The Nextel brand name is currently advertised in newspapers and magazines and on radio and television. Nextel Partners will continue to advertise its services in Designated Areas once designated as an ETC.

B. Nextel Partners Requests Designation Throughout Each of the Designated Areas

13. Pursuant to 47 U.S.C. § 214(e)(1), Nextel Partners requests designation as an ETC throughout each of the Designated Areas within the state of Idaho, as set forth in **Attachment 1**. As noted above, with the exception of Citizens exchanges, each of these Designated Areas is a

study area of a rural telephone company. Because Nextel Partners is not able to serve all Citizens exchanges within Idaho, it has identified only those exchanges where it can meet its obligations as an ETC. As discussed below, Nextel Partners seeks conditional designation in the identified Citizens exchanges, and requests that the Commission initiate a proceeding in accordance with 47 C.F.R. § 54.207 to redefine the Citizens ETC service area on an exchange boundary. In **Attachment 2** hereto, Nextel Partners provides a map of its current signal coverage area².

C. Designation of Nextel Partners as an ETC for the Designated Areas In the State of Idaho Would Serve the Public Interest

14. For areas served by rural telephone companies, the Commission must find that designating serves the public interest in accordance with 47 U.S.C. § 214(e)(2). Designation of Nextel Partners as an ETC in its Designated Areas will serve the public interest.

15. The public interest is served where consumers will benefit from the provision of competitive universal services. Designating Nextel Partners as an ETC will increase competition and consumer choice, and will allow Nextel Partners to provide universal service on a more competitively-neutral basis than is the case today.

16. Nextel Partners will provide supported services to Idaho consumers with service offerings that will be different from landline offerings. Nextel Partners' offerings have a larger local calling area, and the benefits of mobility. Because Nextel Partners' network supports the provisions of data services, customers will be able to combine basic universal services with advanced services if they so desire.

² For purposes of this Application, the coverage map provided in **Attachment 2** hereto reflects the result of a conservative radiofrequency propagation analysis assuming a three-watt wireless phone. Actual service area will increase or decrease based on geographic and atmospheric conditions, as well as man-made radiofrequency or physical structure interference.

17. Wireless technology and networks have been rapidly deployed in the past 15 years. This deployment and network expansion must continue if rural consumers will have full access to this technology in the future. The use of federal universal service support to provide universal services and extend wireless networks in rural areas in Idaho clearly benefits the public interest by ensuring these networks will be available to deliver basic and advanced services to Idaho consumers.

18. Designation of Nextel Partners as an ETC will provide an incentive to the incumbent LECs in the Designated Areas to improve their existing networks in order to remain competitive, resulting in improved services to consumers. The benefits of competition are presumed—increased competition can be expected to lead to better service and the provision of new, innovative services. *In the Matter of Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 00-2896, ¶¶ 16-22 (rel. Dec. 26, 2000). Nextel Partners will provide benefits of mobility, large local calling areas, and where requested by the PSAP, GPS location, assistance for customers dialing 911.

19. Further, designation of Nextel Partners as an ETC will also serve the public interest because Nextel Partners will provide all of the supported services required by the Commission, will participate in the LifeLine and Link-Up programs as required by the FCC's Rules, and will otherwise comply with all FCC Rules governing universal service programs, which are designed to ensure that the public interest standards of the Act are achieved. Allowing Nextel Partners access to universal service subsidies will allow Nextel Partners to continue to enhance and expand its network infrastructure to better serve consumers in underserved, high-cost areas of Idaho, and to compete with other carriers on a level playing field.

20. Finally, designation of Nextel Partners as an ETC will also serve the public interest by further promoting the extensive role Nextel Partners plays in the provision of communications services to Idaho public schools, libraries and local, state and federal government agencies, specifically law enforcement. Nextel Partners provides wireless service to 9 Idaho colleges, universities, public school districts and libraries, 17 divisions of Federal Government agencies in the state, 12 state-level agencies, and in excess of 46 local government agencies, extensively including police, fire and similar first-responders.

21. Nextel Partners' designation will not threaten the provision of universal services by rural telephone companies. Under the current funding mechanisms, rural telephone companies will continue to receive funding based on an embedded cost methodology until 2006. This extended transition period ensures the rural companies can move successfully to competitive markets.

22. Accordingly, designation of Nextel Partners as an ETC will serve the public interest.

IV. The Commission Should Conditionally Designate Nextel Partners as an ETC in the Citizens Exchanges Where it Can Provide Universal Services

23. Section 214(e)(5) of the Act defines the term “service area” as a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. 47 U.S.C. § 214(e)(5). In an area served by a non-rural LEC, each exchange is an ETC service area. For an area served by a rural LEC, Section 214(e)(5) and 47 C.F.R. § 54.207(b) provide that the term “service area” means the rural telephone company’s “study area.”

24. Because Citizens’ Idaho study area includes groups of non-contiguous exchanges, Nextel Partners does not serve the entire study area of Citizens.

25. In situations like this, the Commission, in conjunction with the FCC, can approve a redefinition of Citizens' ETC service area to allow a competitive ETC to enter the market. The Commission would conditionally grant Nextel Partners' Application as to these exchanges, and initiate a proceeding at the FCC to redefine the ETC service area by exchange. That process is set forth in 47 C.F.R. § 54.207. This proceeding would have no effect on Citizens' provision of service or receipt of federal universal service funding.

26. Citizens now receives federal universal service disaggregated to the exchange level. As a result, there is no risk that the redefinition would allow Nextel Partners to obtain high funding amounts for serving low-cost exchanges.

27. As a result, Nextel Partners hereby requests that the Commission, in conjunction with the FCC, redefine Citizens' service area to permit Nextel Partners to obtain ETC designation in only those Citizens exchanges set forth in **Attachment 1**.

28. Nextel Partners will be represented by, and all pleadings, communications, notices and orders should be served upon:

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29. Nextel Partners has brought this Application to the attention of parties likely to be interested in this proceeding by mailing a copy of this Application to the persons listed on the attached Certificate of Service.

Prayer for Relief

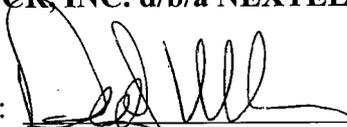
WHEREFORE, Nextel Partners respectfully requests that the Commission:

- A.) Enter its order establishing an intervention deadline;
- B.) Promptly convene a pre-hearing conference;
- C.) Thereafter, after such procedure as the Commission may prescribe, enter its Order designating Nextel Partners as an eligible telecommunications carrier in the Designated Areas identified herein, effective July 1, 2003.

Respectfully submitted,

Dated: April 18, 2003

NPCR, INC. d/b/a NEXTEL PARTNERS, INC.

By:  _____

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COUNSEL FOR APPLICANT

NPCR, INC. d/b/a NEXTEL PARTNERS

CERTIFICATE OF SERVICE

I certify that the original and seven copies of the foregoing Application of Nextel Partners were filed on April 28, 2003 with:

Jean Jewell, Secretary
Idaho Public Utilities Commission
P.O. Box 83720
Boise, Idaho 83720-0074

and true and correct copies were forwarded on April 28, 2003, via the method(s) indicated below, to the following:

Conley Ward GIVENS PURSLEY, LLP P.O. Box 2720 Boise, Idaho 83701-2720 <i>Attorneys for Idaho Telephone Association; Albion, Filer, Farmers, Mud Lake, and Project Mutual Telephone Companies</i>	Hand Delivered <input type="checkbox"/> Federal Express <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Telecopy <input type="checkbox"/>
Morgan W. Richards, Jr. MOFFAT THOMAS 101 So. Capitol Blvd., 10 th Floor P.O. Box 829 Boise, Idaho 83701-0829 <i>Attorneys for Citizens Telcom</i>	Hand Delivered <input type="checkbox"/> Federal Express <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Telecopy <input type="checkbox"/>
Mary S. Hobson STOEL RIVES, LLP 101 S. Capitol Blvd., Suite 1900 Boise, Idaho 83702-5958 <i>Attorneys for Qwest Communications</i>	Hand Delivered <input type="checkbox"/> Federal Express <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> Telecopy <input type="checkbox"/>
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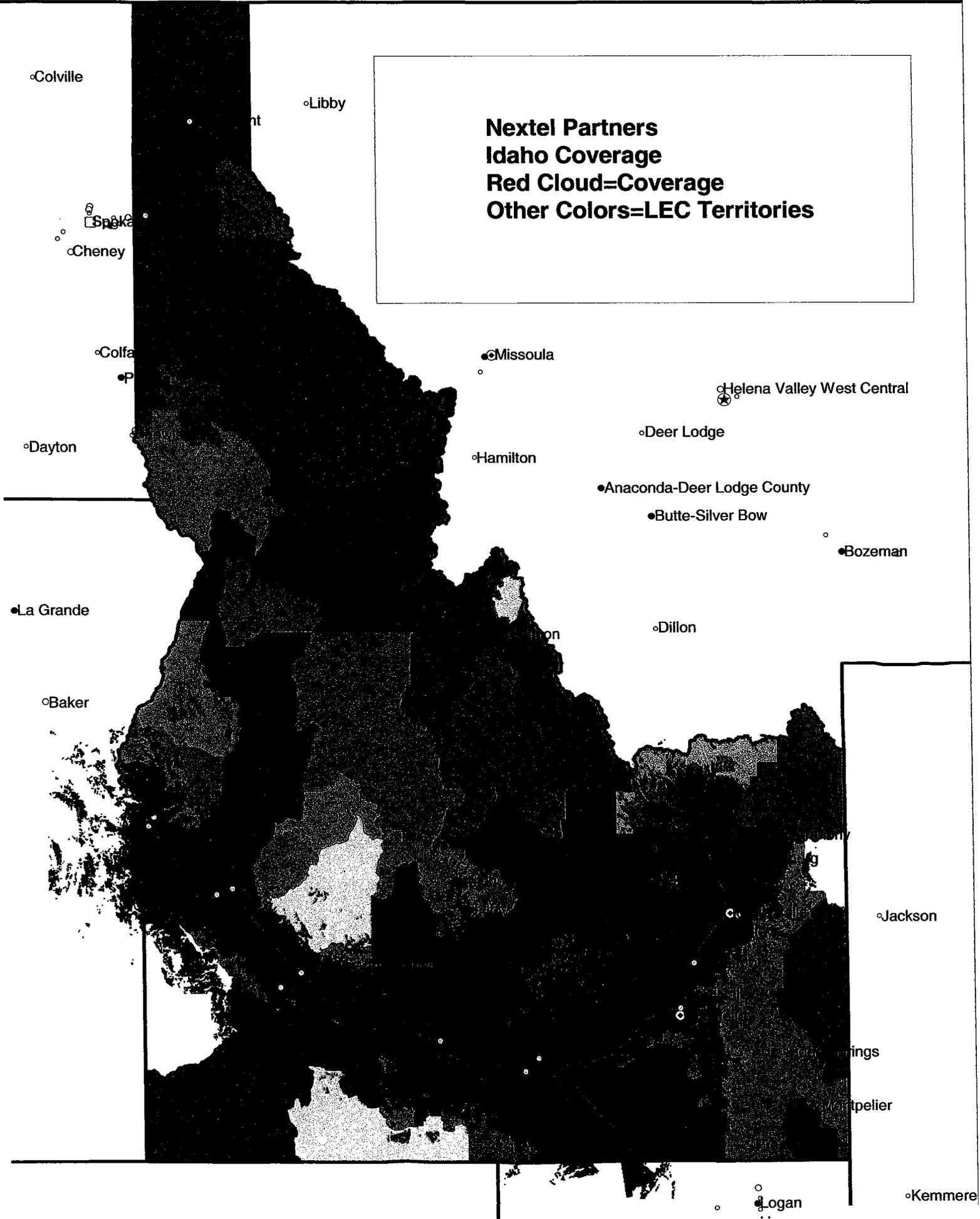
ATTACHMENT 1

**Rural Telephone Company Study Areas for Which Nextel Partners
Seeks ETC Designation in This Application**

<u>Study Area Code</u>	<u>Company Name</u>
472213	Albion Tel Co-ATC
472220	Filer Mutual Tel-ID
472221	Farmers Mutual Tel
472227	Mud Lake Tel Coop
472231	Project Mutual Tel

**Citizens Telecommunications Company of Idaho Exchanges for Which Nextel Partners
Seeks ETC Designation in This Application**

<u>Wire Center Code</u>	<u>Exchange Name</u>
ABRDIDXC	Aberdeen
CARYIDXC	Carey
DNLYIDXC	Donnelley
GRVYIDXC	Garden Valley
HMDLIDXC	Homedale
MRNGIDXC	Marsing
MCCLIDXC	McCall
NWMDIDXC	New Meadows
PARMIDXC	Parma
SPFDIDXC	Springfield
SWETIDXC	Sweet
WLDRIDXC	Wilder



**Nextel Partners
Idaho Coverage
Red Cloud=Coverage
Other Colors=LEC Territories**