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IDAHO PUBLIC
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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of IAT)
Communications, Inc. d/b/a NTCH-Idaho, Inc., or) Case No. GNR-T-03-8
Clear Talk, for Designation as an Eligible)
Telecommunications Carrier)

_____)
)
In the Matter of the Application of NPCR, INC.) Case No. GNR-T-03-16
d/b/a NEXTEL PARTNERS Seeking)
Designation as an Eligible Telecommunications)
Carrier that may receive Federal Universal Service)
Support)

**NEXTEL PARTNERS' SUPPLEMENTAL FILING TO ADDRESS THE FCC'S
VIRGINIA CELLULAR DECISION**

NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners" or the "Company"), submits this Supplemental Filing in support of its Application for designation as a federal eligible telecommunications carrier ("ETC") to address the FCC's recent decision designating Virginia

Cellular as an ETC in the Commonwealth of Virginia. *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338 (rel. Jan. 22, 2004) (“*Virginia Cellular Order*”).

I. THE COMMISSION CAN ADDRESS CONCERNS RAISED BY INTERVENORS INCORPORATING CERTAIN CONDITIONS APPROVED IN VIRGINIA CELLULAR

In the *Virginia Cellular Order* the FCC recognized that the designation of a wireless competitive ETC in rural areas serves the public interest and furthers the goals of universal service by providing, among other things, greater mobility, a choice of providers, and the benefits of larger local calling areas. *Virginia Cellular Order*, ¶¶ 12, 29. In addition, the FCC specifically recognized that greater access to mobile emergency services “can mitigate the unique risks of geographic isolation associated with living in rural communities.” *Virginia Cellular Order*, ¶ 29. As was demonstrated on the record in this case, Nextel Partners will provide these and other public interest benefits as an ETC in Idaho.

The FCC further considered voluntary commitments Virginia Cellular made regarding customer service, reporting, and extension of facilities. The FCC embraced these commitments as consistent with the public interest, and recognized that these commitments alleviated certain concerns raised by opponents of ETC designations.

The concerns acknowledged by the FCC in *Virginia Cellular* were similarly raised in this Docket. To address those concerns, Nextel Partners will make comparable commitments set forth below, which further demonstrate the public interest benefits associated with granting Nextel Partners’ Application in the state of Idaho. The Commission can incorporate these conditions into an order designating Nextel Partners as an ETC.

A. Adoption of the CTIA Consumer Code for Wireless Service

The wireless industry is a competitive industry, where market forces have been allowed to shape customer service. The FCC recognized, however, that the CTIA Consumer Code for Wireless Service contains important customer protections, and that the adoption of those standards evidences a wireless ETC's commitment to customer service and service quality consistent with the public interest. *Virginia Cellular Order*, ¶ 30. Nextel Partners will adopt the CTIA Consumer Code where it is designated as an ETC, and suggests that the Commission incorporate this commitment into a designation order. A copy of the Consumer Code is attached as Exhibit A. The Company hopes that its formal adoption of and compliance with these principles will allow Nextel Partners to build on its industry-leading reputation for customer satisfaction and retention.

B. Consumer Complaint Reporting

The FCC determined in *Virginia Cellular* that the public interest was served by further efforts to collect service quality data from competitive ETCs. *Virginia Cellular Order*, ¶ 30. Nextel Partners supports these efforts and likewise commits to providing the Commission, on an annual basis, with the number of consumer complaints per 1,000 handsets. *Id.* The company will also provide the Commission with a point of contact within the Company to contact to address any customer service or service quality complaint received by the Commission. That contact person will have access to customer account information and the authority to resolve customer service issues.

C. Service Provisioning Commitment

To ensure that Nextel Partners meets its ETC obligation to respond to reasonable requests for service, the Company will implement the following steps, which were presented by Virginia Cellular and embraced by the FCC:

- 1) If a request comes from a customer within its existing network, Nextel Partners will provide service immediately using customer equipment selected by the customer. In practice, if Nextel Partners receives an Internet or phone order prior to 4:00 p.m., the phone is delivered by overnight mail the following morning.
- 2) If a customer cannot be served by existing network facilities, Nextel Partners will allow the customer to make a written request for service in a specific location. In response, Nextel Partners will take a series of steps to provide service.

First, Nextel Partners will determine whether the customer's equipment can be modified or replaced to provide service in a desired location.

Second, it will determine whether the customer could be provided with other network equipment (booster, antenna, or 3 watt unit) to provide service in the requested location.

Third, Nextel Partners will determine whether adjustments at the nearest cell site can be made to provide service.

Fourth, Nextel Partners will determine whether there are any other adjustments to either the network or the customer facilities that can be made to provide service.

Fifth, Nextel Partners will explore the possibility of offering resold service of carriers that have facilities available to provide service in that location.

Sixth, Nextel Partners will determine whether additional network infrastructure (additional cell site, extender or repeater) could be constructed to provide service, and evaluate the costs and benefits of using high-cost universal service support to serve a number of customers requesting service.

If, after these steps, the customer cannot be served, Nextel Partners will notify the customer and provide the Commission with an annual report of how many requests for service could not be filled. The Commission would retain jurisdiction and authority to consider whether Nextel Partners has responded appropriately to a request for service as required by an ETC.

Nextel Partners believes that the formalization of this process will benefit consumers and give the Commission more confidence that Nextel Partners will meet its obligations to provide service "upon reasonable request" as an ETC.

D. Use of Support and Progress Meeting Buildout Goals

The FCC's rules provide a mechanism for ensuring that all ETCs are using support for the purposes for which that support is intended. Nextel Partners will comply with all applicable rules addressing those standards. In addition, Nextel Partners will submit information to the Commission on an annual basis detailing its progress towards meeting its build-out plans in the service areas where it has been designated as an ETC. The FCC recognized that this commitment would provide important information that could be used to evaluate an ETC's progress towards meeting its obligation to provide service throughout a service area. *Virginia Cellular Order*, ¶ 30. Nextel Partners proposes that the Commission can and should incorporate these standards into an order approving Nextel Partners' Application.

II. NEXTEL PARTNERS' REQUEST TO SERVE IN CERTAIN CITIZENS WIRE CENTERS IS NOT AFFECTED BY VIRGINIA CELLULAR

The FCC's *Virginia Cellular Order* contains a significant amount of discussion regarding a competitive ETC's request to serve in a part of a rural telephone company's study area. For some such requests, the FCC adopted a more rigorous "creamskimming" analysis that compares population density for areas served with population density for areas not served. *Virginia Cellular Order*, ¶¶ 34-35. Where *Virginia Cellular* would have obtained a significant competitive benefit from serving only low-cost, high-support areas, the FCC denied the redefinition request.

The FCC's redefinition analysis is no consequence in this Docket. The FCC has continued to limit "creamskimming" to areas with low costs and high support amounts:

Rural creamskimming occurs when competitors seek to serve only the low-cost, high revenue customers in a rural telephone company's study area.

Virginia Cellular Order, ¶ 32. See also *In the Matter of Federal State Joint Board on Universal Service*, CC Docket No. 96-45, *Memorandum Opinion and Order*, DA 02-3181, ¶ 27 (rel. Nov.

27, 2002) (“Rural creamskimming occurs when competitors seek to serve only the low-cost, high revenue customers in a rural telephone company’s study area.”).

In this case, Nextel Partners seeks to serve entire rural company study areas in every case except for Citizens. Moreover, Citizens has gone through the process of targeting high support amounts to high-cost exchanges, and low support amounts to low-cost exchanges. As a result, there are no “low cost, high revenue” exchanges which could be “creamskimmed” by a competitor. As a result, there is no risk of “creamskimming,” and no need to open the record to conduct a population density as was done by the FCC in *Virginia Cellular*.

CONCLUSION

Nextel Partners respectfully requests that the Commission grant its Application promptly based on the existing record, so it may begin providing service as an ETC in Idaho.

Dated: February 24, 2004

NPCR, INC. d/b/a NEXTEL PARTNERS

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COUNSEL FOR APPLICANT
NPCR, INC. d/b/a NEXTEL PARTNERS

CTIA

Consumer Code *for* Wireless Service

To provide consumers with information to help them make informed choices when selecting wireless service, to help ensure that consumers understand their wireless service and rate plans, and to continue to provide wireless service that meets consumers' needs, the CTIA and the wireless carriers that are signatories below have developed the following Consumer Code. The carriers that are signatories to this Code have voluntarily adopted the principles, disclosures, and practices here for wireless service provided to individual consumers.

THE WIRELESS CARRIERS THAT ARE SIGNATORIES TO THIS CODE WILL:

ONE

DISCLOSE RATES AND TERMS OF SERVICE TO CONSUMERS

For each rate plan offered to new consumers, wireless carriers will make available to consumers in collateral or other disclosures at point of sale and on their web sites, at least the following information, as applicable: (a) the calling area for the plan; (b) the monthly access fee or base charge; (c) the number of airtime minutes included in the plan; (d) any nights and weekend minutes included in the plan or other differing charges for different time periods and the time periods when nights and weekend minutes or other charges apply; (e) the charges for excess or additional minutes; (f) per-minute long distance charges or whether long distance is included in other rates; (g) per-minute roaming or off-network charges; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) whether a fixed-term contract is required and its duration; (k) any activation or initiation fee; and (l) any early termination fee that applies and the trial period during which no early termination fee will apply.

TWO

MAKE AVAILABLE MAPS SHOWING WHERE SERVICE IS GENERALLY AVAILABLE

Wireless carriers will make available at point of sale and on their web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain an appropriate legend concerning limitations and/or variations in wireless coverage and map

usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request and incorporate coverage maps from roaming partners that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

T H R E E

PROVIDE CONTRACT TERMS TO CUSTOMERS AND CONFIRM CHANGES IN SERVICE

When a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier will provide or confirm the material terms and conditions of service with the subscriber.

F O U R

ALLOW A TRIAL PERIOD FOR NEW SERVICE

When a customer initiates service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including airtime usage, may still apply.

F I V E

PROVIDE SPECIFIC DISCLOSURES IN ADVERTISING

In advertising of prices for wireless service or devices, wireless carriers will disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows: (a) activation or initiation fees; (b) monthly access fees or base charges; (c) any required contract term; (d) early termination fees; (e) the terms and conditions related to receiving a product or service for "free;" (f) the times of any peak and off-peak calling periods; (g) whether different or additional charges apply for calls outside of the carrier's network or outside of designated calling areas; (h) for any rate plan advertised as "nationwide," (or using similar terms), the carrier will have available substantiation for this claim; (i) whether prices or benefits apply only for a limited time or promotional period and, if so, any different fees or charges to be paid for the remainder of the contract term; (j) whether any additional taxes, fees or surcharges apply; and (k) the amount or range of any such fees or surcharges collected and retained by the carrier.

S I X

SEPARATELY IDENTIFY CARRIER CHARGES FROM TAXES ON BILLING STATEMENTS

On customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal state or local governments. Carriers will not label cost recovery fees or charges as taxes.

S E V E N

**PROVIDE CUSTOMERS THE RIGHT TO TERMINATE SERVICE
FOR CHANGES TO CONTRACT TERMS**

Carriers will not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

E I G H T

PROVIDE READY ACCESS TO CUSTOMER SERVICE

Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

N I N E

**PROMPTLY RESPOND TO CONSUMER INQUIRIES AND COMPLAINTS
RECEIVED FROM GOVERNMENT AGENCIES**

Wireless carriers will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

T E N

ABIDE BY POLICIES FOR PROTECTION OF CUSTOMER PRIVACY

Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online.

CERTIFICATE OF SERVICE

I hereby certify that on I caused to be served true and correct copies of the foregoing document, *Nextel Partners' Supplemental Filing To Address The FCC's Virginia Cellular Decision*, by the method(s) indicated, upon:

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