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Missouri Public
Service Commission

FILED

November 30, 2001

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Missouri Public
Service Commission

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VIA AIRBORNE EXPRESS

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

**Re: Case No. TO-2000-374 - NEXTEL
RESPONSE TO STAFF MOTION**

Dear Mr. Roberts:

Enclosed for filing on behalf of Nextel West, Corp. in the above-captioned case are an original and eight (8) copies of **NEXTEL'S RESPONSE TO STAFF'S MOTION TO ESTABLISH COST ALLOCATION METHOD AND TO SET DEADLINE FOR INDUSTRY TO FILE A PROPOSED COST RECOVERY PLAN.**

Also enclosed please find an additional copy and a self-addressed stamped envelope. Please file stamp and return to us.

Thank you for your attention to this matter.

Sincerely,



Martin C. Rothfelder

MCR/rmc
Enclosures

cc: Enclosed Service List
Laura Holloway
Michael Stern

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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

**Missouri Public
Service Commission**

In the Matter of the Petition of the North)
American Numbering Plan Administrator,)
on behalf of the Missouri Telecommunications) Case No. TO-2000-374
Industry, for Approval of NPA Relief Plan for the)
314 and 816 Area Codes.)

**NEXTEL RESPONSE TO STAFF'S MOTION TO ESTABLISH
COST ALLOCATION METHOD AND TO SET DEADLINE
FOR INDUSTRY TO FILE A PROPOSED COST RECOVERY PLAN**

Nextel West Corp. (Nextel), a provider of wireless telecommunications service in Missouri¹ and a holder of Central Office Codes (NXXs) in NPA 816 and 314, provides this response to the STAFF'S MOTION TO ESTABLISH COST ALLOCATION METHOD AND TO SET DEADLINE FOR INDUSTRY TO FILE A PROPOSED COST RECOVERY PLAN filed under cover letter dated November 21, 2001. In this response, Nextel proposes that allocation of shared pooling costs be based upon clearly specified data and that the data not be NPA specific. Nextel advises the Commission that if it is based upon Missouri specific revenue data, Nextel (and probably other wireless carriers) will request confidential treatment. With regard to carrier specific pooling costs, Nextel opposes any regulation of wireless carriers that addresses recovery of those costs.

¹Nextel and its affiliates provide a unique combination of two way digital mobile telephone, text messaging, alpha-numeric paging and one-to-one and one-to-many dispatch services (Direct ConnectSM) using a single integrated handset. Such services are provided in Missouri and other jurisdictions through the use of Nextel's facilities and through interconnection with the public switched telephone network. Nextel provides these services through specialized mobile radio ("SMR") licenses issued by the Federal Communications Commission ("FCC") under Part 90 of its rules (47 C.F.R. § 90). SMR service is one type of commercial mobile radio service ("CMRS") as that term is defined in 47 U.S.C. § 332 and 47 C.F.R. § 20.3. Nextel is also a "telecommunications carrier" as that term is defined in 47 U.S.C. § 153 as amended by the Telecommunications Act of 1996.

I. THE ALLOCATION METHODOLOGY FOR SHARED POOLING COSTS SHOULD BE BASED ON SPECIFIC DATA AND SHOULD NOT BE NPA SPECIFIC

The Staff has proposed that the shared costs of pooling be billed to carriers based upon:

pro rata allocation of costs to all telecommunications carriers providing service within the state in proportion to each carrier's interstate, intrastate and international telecommunications revenues; irrespective of whether carriers may or may not participating in the pooling trial.

It is unclear from Staff's proposal whether such revenue data is NPA specific, Missouri specific, national or other. It is also unclear what time period the data covers and the extent to which such data is considered confidential or provided confidential treatment.

Nextel suggests any such allocation procedure should not involve revenues specific to any particular NPA because such information is not typically maintained, and the development of such data would be onerous. If the data is Missouri specific, however, it is important to note that Nextel (and probably other wireless carriers) will file for confidential treatment.

Use of wireless industry data that is not otherwise public information, e.g., NPA or State specific revenue data; is competitively sensitive and should not be made public for purposes of collecting shared pooling costs. Unlike Local Exchange Carriers ("ILECs") that are regulated by the Commission and whose revenue information is publicly available, wireless carriers are not subject to the Commission's rate regulation authority and do not typically release state-by-state or NPA-by-NPA revenue information. Review of such data would reveal sensitive market data for the competitive wireless industry which is not generally otherwise available. Therefore, Nextel will seek confidential treatment of any state specific (or NPA specific) data it is required to file.

Alternatives to state or NPA-specific revenues include the use of existing revenue data

such as the regional databases used by the FCC for national LNP cost recovery². This procedure, with state specific data, was recently adopted in Michigan³. Using numbers of NXXs or 1000 blocks as an allocator also is workable, as these holdings are verifiable through the Local Exchange Access Guide and are not confidential. California and New Hampshire have endorsed this method.⁴ Nextel also requests that any Commission Order be more specific than the Staff's proposal so that all parties understand based exactly what data is being used for the allocation.

II. COMMISSION REGULATION IS NOT APPROPRIATE FOR WIRELESS CARRIER SPECIFIC POOLING COSTS

Any requirement for an "industry proposal" on carrier specific cost recovery is unnecessary, counter-productive, unlawful and untimely with respect to the wireless carriers.

The carrier-specific costs of complying with pooling are only one of myriad costs a carrier incurs in providing service. Carriers recover these costs through the mechanisms available to them. Rate regulated carriers must address their costs pursuant to procedures and processes required by the Commission. With regard to wireless carriers, however, both federal law and state law prohibit any rate regulation⁵ -- thereby precluding the Commission from regulation of or involvement in wireless costs. Furthermore, many states have rejected special

² See 47 CFR §§52.21(l), 52.32(a).

³ See MI PSC Case No. U-13086, Opinion and Order, p. 3 (November 20, 2001)[available at MI PSC website at <http://cis.state.mi.us/mpsc/orders/comm/>]

⁴CA PUC Decision 01-08-028, ORDER DENYING REHEARING OF DECISION 01-04-029 (August 2, 2001)(available at CA PUC website at www.cpuc.ca.gov/published/final_decision/8980.htm); NHPUC Docket No. DT 00-001, Order No. 23,742, July 13, 2001, subject to additional hearing and reconsideration, in Order No. 23.762 [available at NH PUC website at <http://www.puc.state.nh.us/2001tord.htm>] (August 22, 2001).

⁵ See 47 U.S.C. §332 (c)(3); RSMo 386.020 (53).

ratemaking treatment of all carrier's (landline and wireless) specific pooling costs⁶.

As an additional matter, wireless carriers will not be capable of implementing pooling before November 24, 2002, the date on which wireless local number portability is required under FCC rules.⁷ Thus, the Staff-proposed deadline is not timely with respect to the wireless industry costs.

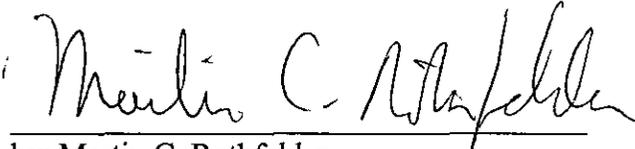
CONCLUSION

The Staff proposal for allocation of shared pooling costs should be rejected in favor of one that is clearly based on specific data and does not require carriers to develop NPA specific data. The Commission lacks jurisdiction over wireless carriers' specific costs and should exclude wireless carriers from any industry proposal, industry-wide solution or regulatory activity regarding such costs.

Date:

Respectfully submitted,

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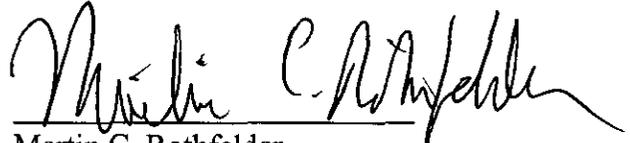
by: Martin C. Rothfelder
MO Bar. No. 31794

⁶ See e.g. CA PUC Decision No. 00-07-022, Rulemaking 95-04-043, Investigation 95-04-043 (July 6, 2000) [available at CA PUC website at www.cpuc.ca.gov/published/final_decision/776.htm]; MI PSC Case No. U-13086, Opinion and Order, p. 3 (November 20, 2001)[available at MI PSC website at <http://cis.state.mi.us/mpsc/orders/comm/>].

⁷ See 47 C.F.R. §52.31.

CERTIFICATE OF SERVICE AND SERVICE LIST

I hereby certify that copies of the foregoing document were served to all parties on the following Service List by first-class postage prepaid, U.S. Mail, mailed on or before November 30, 2001.


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