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VIA AIRBORNE EXPRESS

Dale Hardy Roberts, Secretary
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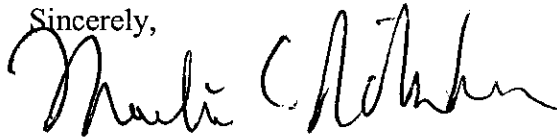
FILED²
SEP 18 2000
Missouri Public
Service Commission

**Re: I/M/O an Investigation into the Exhaustion of
Central Office Codes in the 314 and 816
Numbering Plan Area - Case No. TO-2000-374**

Dear Judge Roberts:

On behalf of Nextel West, Inc. (Nextel) enclosed for filing in the above referenced matter is the original and eight (8) copies of the INITIAL BRIEF OF NEXTEL WEST, INC. Also enclosed is an extra copy of this filing with a self-addressed stamped envelope. Please stamp the extra copy "filed" and return the extra copy to us in the enclosed self-addressed stamped envelope.

Sincerely,



Martin C. Rothfelder

MCR/rmc
Enclosure
cc: Service List
Michael Stern

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

FILED²

SEP 18 2000

**Missouri Public
Service Commission**

IN RE:

**THE MATTER OF AN)
INVESTIGATION INTO THE)
EXHAUSTION OF CENTRAL OFFICE)
CODES IN THE 314 AND 816)
NUMBERING PLAN AREA)**

CASE NO. TO-2000-374

**INITIAL BRIEF
OF
NEXTEL WEST, INC.**

September 18, 2000

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I. Introduction and Summary

Nextel West, Inc. (hereinafter "Nextel") is a wireless carrier¹ that intervened in this docket when the Commission received authority to implement number conservation techniques.² Nextel shares the concern of this Commission that numbering resources be used efficiently and that the telecommunications industry implement cost effective techniques to conserve Central Office Codes³ ("Codes" or "NXXs"). Nextel has a history of supporting and actively working on cost effective national solutions⁴ to these problems in the numbering system— which is of course national in nature.

In this brief, Nextel supports the industry area code relief plan. Nextel agrees with Commission staff's conclusion that implementing a Missouri pooling plan ahead of the Federal roll-out of pooling would be counter-productive. Similarly, Nextel opposes developing Missouri specific code utilization rates for carriers to meet prior to receiving a new code when preemptive

¹ Nextel Communications, Inc. (Nextel) provides 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 Partner's facilities and through interconnection with the public telephone network. Nextel provides its services through special mobilized 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.

² In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, FCC DA 00-1616, Order, July 20, 2000, paragraph 35.

³ Central Office Codes refer to the second three digits (NXX) of a ten-digit telephone number in the form NXX-NXX-XXXX, where N represents any one of the numbers 2 through 9 and X represents any one of the numbers 0 through 9. 47 C.F.R. § 52.7(c)

⁴ Nextel participates as a member of the North American Numbering Council (see internet url <http://www.fcc.gov/ccb/Nanc1>) and regularly participates in national numbering dockets and many state dockets. See i.e. Exhibit 24, paragraph 78, footnote 143.

Federal rates will be issued shortly. Finally, the record provides no support or basis for implementing code sharing.

II. The Commission Should Implement the Industry Overlay Area Code Relief Plans Immediately.

Nextel supports the recommendations of the staff of the Commission (hereinafter "Staff") and the Industry in supporting an overlay plan which would provide a retroactive all-services overlay of 636 into 314.⁵ (Tr. p. 73, 14-15). Nextel also supports an all-services overlay be done for the 816 area code. (Tr. p. 73, 23-24). As detailed in the record, all-services overlays involve the least disruption to customers, as they all maintain their present telephone numbers and have no need to contact people with new numbers or recreate brochures, business cards, personal and business checks, advertisements, stationery, etc. (Exhibit 15, p. 5, 19-23). The retroactive all-services overlay also provides for efficient use of numbers and avoids the unnecessary addition of a third NPA into the St. Louis area. (Exhibit 15, p. 5, 17-18; Tr. 292, 20).

III. The Public Service Commission Should Wait for the National Roll-Out of 1000 Number Block Pooling.

Nextel supports the Staff and Industry witnesses in requesting that the Commission wait for the national roll-out of 1000 number block pooling instead of implementing state pooling. The record shows that this is the most cost-effective and efficient approach.

The FCC and other national entities with authority over numbering have worked for years on the development of appropriate changes to the national numbering system to provide for more

⁵ Cites to the transcript of the formal evidentiary hearings of July 31, 2000 and August 1, 2000 are cited as ("Tr."), followed by the page number and line number.

efficient allocation of numbering resources. The stark increase in the pace at which numbering resources are used demonstrates the proliferation of new technologies, including wireless technologies, and competitive numbering resources to conduct their businesses. The culmination of these efforts is the Order released by the FCC on March 31, 2000⁶ ("NRO Order"), which is Exhibit 24 in this case.

In its NRO Order, the FCC adopted Section 52.20, which requires that pursuant to the FCC's adoption of thousands-block pooling as a mandatory nationwide numbering resource optimization strategy, all carriers capable of providing local number portability must participate in the pooling. The national roll-out will allow thousands-block number pooling to be implemented on a national level in three-month segments, with the first round of implementation beginning nine months after a Pooling Administrator is selected. (Exhibit 24, paragraph 161). All local number portability-capable carriers that are in the largest 100 metropolitan statistical areas (MSAs) are mandated to participate in the pooling process. (Exhibit 24, paragraph 125). Within 60 days after the thousands-block number Pooling Administrator is selected, he or she will establish the initial rollout schedule and submit it to the Common Carrier Bureau for approval; identifying the largest 100 MSAs within each NPAC region, noting the pooling trials initiated pursuant to delegated authority from the Commission, and identify the jeopardy NPAs, by NJAC region, which are scheduled to exhaust within one year. (Exhibit 24, paragraph 166). The roll-out schedule for each subsequent quarter will be at least 90 days prior to the effective date of that schedule. (Exhibit 24, paragraph 166).

⁶ In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, FCC 00-104, Report and Order and Further Notice of Proposed Rule Making, March 31, 2000.

Staff Witness Walter Cecil explained that CMRS providers in the largest 100 metropolitan statistical areas are mandated to become LNP capable by November 24, 2002, and prior to that date, "to prepare the necessary architecture for pooling to foreshorten the implementation lag of pooling." (Exhibit 18, p. 5-6). Those CMRS providers that will never be able to deploy local number portability, such as paging companies, will not be required to pool but will be subject to other criteria to ensure that the efficient allocation of NXXs occurs. (Exhibit 24, paragraphs 134-36).

The FCC seeks to maintain uniformity in the implementation of thousands-block number pooling on a nationwide basis. (Exhibit 24, paragraph 169). Under the NRO Order, the FCC will give state commissions until September 1, 2000, at the latest, to bring their pooling trials into conformity with the national framework set forth therein. (Exhibit 24, paragraph 169). In its NRO Order, the FCC said, "[w]e choose to implement pooling and certain administrative measures first because it is clear to us that these strategies can and will produce immediate and measurable results; they can be implemented in a relatively short amount of time; and some of these measures already have been implemented with some success." (Exhibit 24, paragraph 8).

At the Hearing on July 31, 2000, Staff was supportive of the FCC ordered national roll-out rather than implementing a special Missouri roll-out. Staff member Julie Kardis said:

The question of implementing pooling in the 314 NPA is not one of whether it should be implemented, but by whom and when. Staff believes the Commission should not order state pooling at this time. The FCC requires states implementing pooling trials to choose a pooling administrator, implement cost recovery mechanisms and conform state pooling trials to the national pooling framework. ... Additionally, the FCC is currently in the process of selecting a National Pooling Administrator. Given the apparent imminence of the national roll-out and the unresolved issues respecting state pooling trials, it is likely that a state pooling trial in

the 314 NPA would not precede the national roll-out by enough to justify the required resources.

(Tr. p. 52- 53). Further, Staff member Walt Cecil concurred, when he said at the hearing, "Staff is troubled at this late date with the idea of implementing a pooling trial in Kansas City, which by the way we are not authorized to do." (Tr., p. 345, 6-9). Cecil said he believed it would take several months for the Commission to get the authority to implement number pooling in the 816 NPA, and then would take between eight and twelve months for the carriers to implement whatever technical measures that would have to be implemented, which would make it difficult for there to be a benefit of pooling. (Tr. p. 345-346). If the Commission received interim permission to implement pooling relief, Cecil said it would only be ahead of the national schedule a minimum of six months, a maximum of about a year. (Tr. p. 348, 11-17). It is the Staff's position that the costs of pooling would outweigh the benefits. (Tr. p. 349, 1-3).

In addition, the Industry uniformly supports following the national roll-out. John Rollins, witness for GTE Midwest Inc. d/b/a Verizon Midwest (hereinafter "GTE"), said he was concerned that whatever approach is taken by the Commission should be long term and national. (Tr. p. 357, 16-20). Rollins explained that the FCC would begin implementation nine months after a pooling administrator was named. Rollins projected that the first number pooling would go into effect in 15 months, September 2001, and 21 NPAs could be effectively done each quarter. (Tr. p. 360, 361). However, if the Commission wanted a pooling trial in advance of the national roll-out, GTE recommended that the Commission establish a technical industry committee to provide recommendations concerning the deployment of pooling and the many related issues." (Opening Statement of GTE Attorney James M. Fischer, Tr., p. 42-43).

Southwestern Bell Telephone Company (SWBT) witness Deborah F. Bell similarly said her company supported the national roll-out and did not support a special Missouri pooling roll-out, as it would not provide significant benefit to telephone subscribers and the telecommunications industry at this time. (Exhibit 18, p. 20). Under FCC rules, the states are required to shift over to the national plan once it is implemented, with the costs from the state pooling trials recovered by the customers. (*Id.*). In his Opening Statement at the Hearing, Southwestern Bell Attorney Paul Lane said, "We don't think it's in the interest of Missouri customers to potentially be in a position where they have to pay for number pooling twice if there's any difference between the number pooling plan adopted by this Commission on a trial basis and that which the FCC ultimately implements." (Tr. p.38, 9-14).

Nextel supports the positions of Staff and the Industry and respectfully requests waiting for the national roll-out. A special Missouri pooling roll-out would be inefficient and costly to consumers because the national plan has a time frame that is close in time to any potential Missouri state required plan.

IV. The Commission Should Wait For the Federal Utilization Rates in 2001 and Not Develop Its Own

The Commission should not develop its own utilization rates when federal rates, which will be preemptive, will be issued shortly. In its NRO Order, the FCC proposed to require carriers to meet a specific rate center-based utilization threshold for the rate center in which it is seeking additional numbering resources. (Exhibit 24, paragraph 248). In that Order, the FCC proposed that nationwide utilization thresholds for growth numbering resources should be initially set at 50 percent, increasing by 10 percent annually until it reaches 80 percent. *Id.* The FCC also requested further comment on several issues related to utilization rates before issuing

its final rates, which are expected to be out shortly. Comment was requested on the following issues:

1. What specific utilization threshold carriers not participating in thousands-block number pooling carriers should meet in order to request growth numbering resources;
2. Whether state commissions should be allowed to set the rate-center based utilization threshold within the range based on criteria the FCC establishes;
3. Utilization thresholds at the rate center level, that should operate in unison with the thresholds at the NPA level.

(Exhibit 24, paragraph 248). The comment date was extended until May 19, 2000. Therefore, the FCC is gathering these comments and will issue federal utilization rates in the near future, which would be preemptive to any Missouri code utilization rates.

In his pre-filed Direct Testimony, John C. Collins of GTE, said that he supports a uniform nationwide utilization threshold for all non-LNP carriers subject to the certain conditions or exceptions. (Exhibit 9, p. 17-18). In the Direct Testimony of Deborah Bell, she said that it is SWBT's position that it is in the best interest of number optimization for a nationwide and uniform standard to be utilized with no deviation permitted by any state commission. (Exhibit 15, p. 17-18). SWBT believes that an initial threshold of 55 percent to be increased five percent to a maximum of 70 percent at the carrier's Lowest Code Assignment Point (LCAP) is the best method. (Exhibit 15, p. 18). According to SWBT, if utilization is developed at an NPA level, the threshold should be 40-55 percent. (*Id.*). SWBT further believes that the exclusion of certain categories, such as employee/official company, test, location routing numbers, from the utilization calculation will not provide an accurate representation of the actual usage of the phone numbers by carriers or by the public telephone switched network. (*Id.*)

Although Nextel supported development of utilization rates on a national level⁷, Nextel opposes developing Missouri utilization rates when federal rates, which will be preemptive, will be issued shortly. Nextel further submits that Missouri lacks the necessary delegation from the FCC to implement code utilization rates and also lacks Missouri state statutory authority to take such action.

V. Code Sharing

The FCC Order addressing numbering authority in Missouri delegates authority to implement code sharing. The record in this case lacks details from any witness on exactly what code sharing would entail, what concerns are involved and what benefits, if any, it would bring. Thus, there is no basis in this case for any code sharing requirements.

Sprint witness Hoke R. Knox directly addressed code sharing in one paragraph of testimony. (Exhibit 6, p. 6). Mr. Knox indicates that one of the problems with code sharing is that only one carrier controls the terminating traffic for the entire NXX. In addition, under LNP carriers effectively share codes anyway.

Nextel submits that reported decisions appear to indicate that no state has implemented a code sharing scheme. In addition, the FCC Order commonly known as the Pennsylvania Order reflects the problems that Nextel encountered when it attempted to share a code assigned to a

⁷ In the FCC NRO Order, the FCC adopted the Nextel proposal on code utilization thresholds for non-LNP capable carriers. (Exhibit 24, paragraph 141).

CLEC.⁸ The problems included degraded service, higher costs and the other carrier receiving certain revenues from calls.

This record does not – and probably could not – solve these issues of code sharing. Thus, Nextel respectfully submits that the Commission should not implement code sharing.


CONCLUSION

The Commission should implement the Industry proposed area code relief plans and should await federal pooling and code utilization rates. The record contains no basis for code sharing.

Respectfully submitted,

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⁸ In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 19009, 19032-19038 (September 28, 1998).

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 September 18, 2000.


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