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July 6th, 1994

Federal Communications Commission  
Office Of The Secretary  
1919 M. Street, NW  
Washington, DC 20554

Re: GN Docket No. 93-252

To Whom It May Concern:

DCL Associates, Inc. ("DCL") is a management company which specializes in the construction and operation of wireless telephone systems. DCL's principals constructed the Benton Harbor MSA non-wireline cellular system in 1989 and have been operating such system ever since. Today, the Benton Harbor non-wireline cellular system claims over 4,000 subscribers, annual revenues exceeding \$5M, annual income in excess of \$1M, and has been distributing cash flow to its owners since 1993. DCL is also an SMR licensee and has been engaged by many other SMR licensees to manage the construction and operation of their SMR licenses in order to provide ESMR service in some fifty to seventy-five markets throughout the United States. In short, DCL intends to recreate its entrepreneurial cellular success, on a larger scale, in the ESMR industry.

DCL has carefully reviewed the Nextel Communications proposal for a new ESMR licensing plan and believes that such proposal would be a major blow to wireless industry competition. In its most distilled form, Nextel is proposing that: (1) only companies with ESMR grants or applications be allowed to participate in a new ESMR cleared block license, to be issued on an MTA basis; (2) where more than one ESMR company qualifies to apply for a given MTA block license, such competing ESMR companies would mutually agree to geographically divvy up the block license, thus avoiding ESMR competition in any given market; and, (3) if competing ESMR companies could not agree on a geographical division of an MTA block license, then the FCC would allocate the block license, prorata, based upon the number of mobiles serviced by the competing ESMR companies.

The startling reality of Nextel's proposed plan is that it would result in an ESMR monopoly, on an MTA basis. First, only a handful of SMR licensees would qualify to participate in the proposed Nextel plan because: (1) very few SMR licensees have ESMR grants or ESMR applications on file; and, (2) of those SMR companies blessed with ESMR status, even fewer service substantial numbers of mobiles (i.e. the criteria proposed to resolve ESMR licensing conflicts which would result in Nextel's procurement of the lion's share of all contested block licenses). Second, because Nextel suggests that competing ESMR companies would arrive at a mutually agreeable solution to geographically divide an MTA block license, Nextel proposes no ESMR competition on the cleared ESMR block in any given market. Though the cellular industry consists of two licensees in each MSA and RSA and the PCS industry proposes three or more

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licensees on an MTA and BTA basis - Nextel, essentially, proposes that the FCC "lock in" an ESMR monopoly on an MTA basis.

Even those ESMR companies whom Nextel proposes would divvy up an MTA monopoly are closely related. The ESMR industry today is 90% controlled by three companies - Nextel Communications, Dial Call and OneComm. Given that Motorola owns approximately 20% of Nextel, Motorola owns 35% of Dial Call, and Nextel owns approximately 40% of OneComm - it is clear that the potential for anti-trust concerns already exists and that this closely held ESMR industry is badly in need of competition.

Nextel's attempt to divide up the ESMR industry among existing ESMR companies servicing large numbers of dispatch customers is not only anti-competitive, but it makes no business sense. Companies servicing dispatch customers may have their "roots" in the SMR industry, but such "roots" have no bearing on their ability to provide ESMR service. ESMR service is similar in function and nature to cellular, and perhaps PCS, not analogue dispatch service. Thus, the provision of dispatch service should not be viewed by the FCC as a "special qualification" which one needs to participate in any proposed ESMR block licensing process.

Though, according to Nextel's plan, future ESMR competitors would not be prevented from utilizing their SMR licenses outside the cleared block for ESMR service, the grant of exclusive MTA licenses to only a handful of industry incumbents would make it virtually impossible for newcomers to compete. Any new ESMR competitor would be forced to "patch together" traditional SMR licenses, with coverage areas of 25 miles in radius, in a futile attempt to replicate the wide area MTA coverage offered by the "chosen few" vis-a-vis the Nextel proposal. Ironically, at the same time that Nextel is asking the FCC to level the ESMR/Cellular/PCS playing field, it is also asking the FCC to make the ESMR playing field quite uneven between existing and future ESMR competitors.

If a block of spectrum were to be cleared, then all licensees, and/or future licensees, on the private land mobile radio band should have the opportunity to elect to utilize their licenses to provide ESMR service and, thus, participate on the highly advantageous cleared block. Nextel makes the incorrect assertion that companies which have not yet attained the status of ESMR companies are little more than obstacles in the ESMR industry's path and, probably, speculators. Yet, many entrepreneurs still intend to follow in Nextel's footsteps, on a smaller scale, of course, and they have the right to do so. ESMR "speculators" could be eliminated by imposing financial and/or other requirements on any SMR licensee who elects to provide ESMR service and, thus, requests participation on a cleared spectrum block.

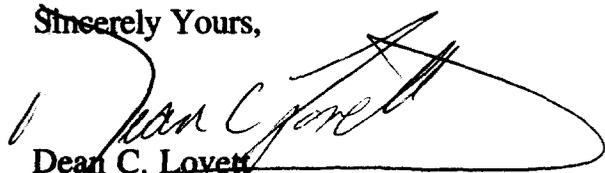
In order to ensure participation of small businesses, any ESMR licensing plan must be implemented on a Basic Trading Area ("BTA") basis. Contrary to Nextel's suggestion that the cellular industry has needed to consolidate on a wide area basis to be effective, the fact is that hundreds of cellular MSAs and RSAs are still operated by independent small businesses, like DCL. Further, the presence of entrepreneurial cellular companies like DCL has resulted in higher quality and lower priced services to cellular customers. It is also worth noting that the MSA and RSA geographic licensing boundaries successfully employed by the cellular industry are actually a little smaller than the BTA boundaries

proposed by PCS. Thus, it is clear that BTA licensing boundaries are more than large enough to promote efficient growth of the ESMR industry, while ensuring participation of small businesses and entrepreneurs.

Nextel and other ESMR companies have already received enormous favors from the FCC and tremendous allocations of SMR spectrum through their myriad expanded service area applications. The FCC has liberally permitted ESMR companies to assign dispatch customers to multiple SMR systems, thereby claiming the need for, and receiving, huge amounts of new SMR spectrum vis-a-vis these irregular FCC rulings. Whereas such rulings, and the resulting huge allocations of spectrum to ESMR incumbents, may have facilitated the development of the ESMR industry, Nextel and other ESMR companies are not owed, nor do they require, any additional special treatment from the FCC. By asking the FCC to institute an ESMR licensing plan which is closed to all but a handful of ESMR companies, Nextel has gone far beyond a request to facilitate competition. Nextel is requesting protection from competition and an incredible "pioneers preference" to which no company is entitled.

In conclusion, with the tremendously difficult issues now facing the FCC, it should not consider any ESMR licensing plan which proposes to exclude new competition from the ESMR industry. The Budget Act embodied a policy designed to protect and enhance opportunities for entrepreneurs, not to trample them. To ensure maximum ESMR industry competition, eligibility requirements for an ESMR cleared block must ensure equal opportunity for all current and future SMR licensees. Equal opportunity eligibility requirements should be as follows: (1) the ownership or management of SMR channels needed to provide ESMR service, on a market by market basis; and, (2) a demonstration of the ability to implement proposed ESMR service in any given market. Critically, the FCC must utilize BTA license areas to ensure small business participation in ESMR, just as the FCC has ensured small business participation in the cellular and PCS industries. Construction and technical rules should be revised for SMR licensees who intend to provide ESMR service and who demonstrate the ability to do so.

Sincerely Yours,



Dean C. Lovett  
President