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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

August 26, 1996

Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

BY HAND

DOCKET FILE COPY ORIGINAL

Re: In the Matter of Telephone Number Portability,  
CC Docket No. 95-116

Dear Sir:

Enclosed for filing on behalf of NEXTLINK Communications L.L.C. in the above-captioned matter are the Petition of NEXTLINK Communications L.L.C. for Reconsideration of the Commission's First Report and Order and Further Notice of Proposed Rulemaking, and an attached Declaration. An original and 9 copies are included for distribution to the Commissioners.

Copies of the Petition have been served on parties on the Commission's service list, a copy of which is attached, and upon counsel for US West. A copy of the Petition in hard copy and on 3.5" WordPerfect 5.1 diskette has also been delivered by hand today to the International Transcription Service. As a courtesy, NEXTLINK will also send copies of the Petition to the parties listed in the First Report and Order, Appendix A.

Please date stamp and return to the messenger the copy of this letter.

Very truly yours,



Richard L. Cys

Counsel for NEXTLINK  
Communications L.L.C.

RLC/ck  
Enclosures

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Additional copy to:

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BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of )  
 )  
Telephone Number Portability ) CC Docket No. 95-116  
 ) RM8535  
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**PETITION OF NEXTLINK COMMUNICATIONS L.L.C.  
FOR RECONSIDERATION OF THE COMMISSION'S  
FIRST REPORT AND ORDER AND FURTHER NOTICE  
OF PROPOSED RULEMAKING**

NEXTLINK Communication L.L.C. ("NEXTLINK") respectfully requests that the Commission reconsider that portion of its First Report and Order and Further Notice of Proposed Rulemaking ("Report and Order"), released July 2, 1996<sup>1</sup> which established a schedule for initial deployment of local number portability capability only in the 100 most populous metropolitan statistical areas ("MSAs") in the country. Initial deployment is to begin in the fourth quarter of 1997 and continue throughout calendar year 1998.

**SUMMARY**

1. Although the Commission's designation of the most populous 100 MSAs for initial deployment was reasonable under the

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<sup>1</sup> The Report and Order was published in the Federal Register on July 25, 1996. 61 F. Reg. 38605. Consequently, the due date for filing this Petition for Reconsideration is August 26, 1996. 47 C.F.R. § 1.106(f).

circumstances, NEXTLINK believes that there are additional markets which should also be designated for initial deployment of local number portability capability. Specifically, NEXTLINK requests that the Commission adopt a standard and procedures by which additional MSAs can be added to the initial deployment schedule or otherwise expedited upon a showing that, in any such MSA, there is sufficient evidence of the existence of local exchange competition which could be advanced by the deployment of local number portability.<sup>2</sup> In determining whether the evidence of the existence of competition is sufficient, the Commission also should solicit the views of the state commission where the MSA is located because a state commission may be in the best position to provide that evidence.

2. NEXTLINK believes that the Spokane MSA, one market where NEXTLINK offers service, presents a prototypical example of an MSA which should qualify for initial deployment on an expedited basis. Consequently, should the Commission grant this Petition, NEXTLINK requests that the Commission follow the procedures suggested here as to the Spokane MSA, including the

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<sup>2</sup> We note that the standard suggested here for deploying permanent local number portability is not the same as the standard of facilities-based competition contemplated by Section 271 of the Telecommunications Act of 1996 triggering interconnection requirements for InterLATA entry. Rather, NEXTLINK proposes a standard requiring only a showing of sufficient evidence of competition to allow for deployment of number portability. This would include, at a minimum, a demonstration that a competitive carrier has deployed a local exchange switch in the MSA, interconnected with the ILEC, that could itself provide reciprocal number portability to the ILEC.

solicitation of views from the Washington Utilities and Transportation Commission ("WUTC"). This should lead to adding the Spokane, Washington MSA (the 103rd largest) to the schedule for the initial deployment of local number portability capacity in the fourth quarter of 1998.

#### **STANDARDS FOR RECONSIDERATION**

3. Pursuant to 47 U.S.C. § 405, there is "sufficient reason" to grant this Petition for Reconsideration because NEXTLINK is proposing that the Commission supplement the initial deployment of number portability adopted in the Report and Order in order to foster additional competition consistent with the Telecommunications Act of 1996. NEXTLINK submits this Petition in order to give the Commission an initial opportunity to pass upon all matters relevant to this proceeding. See Action for Children's Television v. FCC, 564 F.2d 458 (D.C. Cir. 1977).

#### **BACKGROUND**

4. NEXTLINK is a competitive local exchange carrier that offers competitive facilities-based local exchange service in a variety of areas around the country, including Spokane, Washington.

5. In its Report and Order, the Commission selected the 100 most populous MSAs for initial deployment of the local number portability. Additional deployment in other MSAs will not occur until after December 31, 1998. As a result, deployment in the

Spokane MSA may not occur before mid-1999 at the earliest and perhaps not until the year 2000. Walker Decl. ¶ 5.<sup>3</sup>

6. NEXTLINK is certificated by the WUTC as a facilities-based local exchange carrier, and operates a Class 5 local exchange switch today in Spokane. That switch has been entered into the Local Exchange Reporting Guide as a bona fide central office and has NXXs assigned to it from the local number administrator. NEXTLINK also has a backbone fiberoptics network connected to its Spokane switch and an interconnection arrangement with US WEST that allows the exchange of local traffic, and 411 and 911 traffic. NEXTLINK has entered into an interim number portability arrangement with US WEST using remote call forwarding technology. NEXTLINK believes, based on discussions with US WEST, that US WEST's central offices in Spokane could provide permanent portability by software changes during the next two years. Walker Decl. ¶ 7.

7. Because NEXTLINK is offering a facilities-based local telephone service in Spokane at the present time, NEXTLINK requested that US WEST voluntarily add Spokane to the schedule for initial deployment of number portability in the fourth quarter of 1998. Walker Decl. at ¶ 8. US WEST, however, currently takes the position that early deployment is not required by the Report and Order. Id.

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<sup>3</sup> Attached to this Petition is the Declaration of Christine Walker, Manager, Interconnection and CLEC Service at NEXTLINK, describing relevant facts and background information. That Declaration is hereafter referred to as "Walker Decl. ¶ \_\_\_\_."

8. The Commission relied on measures of population density in choosing the MSAs for initial deployment. But the result was that US WEST's obligations are disproportionately small as compared to those of other RBOCs. For example, RBOCs operating in more densely populated states such as California, Ohio and Pennsylvania are responsible for several cities in each state pursuant to the initial deployment schedule. Walker Decl. ¶ 10. By contrast, US WEST's territory is comprised of 14 states, but US WEST must deploy number portability in only eight or nine MSAs throughout its entire service territory. Id. Therefore, it would not be unduly burdensome to US WEST to require adding Spokane to the schedule for initial deployment of local number portability.

#### **THE PROPOSED STANDARD**

9. NEXTLINK requests that the Commission adopt a standard for adding additional MSAs to the schedule for initial deployment of number portability. That standard should be whether there is sufficient evidence of the existence of competition which could be advanced by deployment of local number portability capability. Whether sufficient evidence exists would be determined with input from the appropriate state commission which has expertise and familiarity with the extent of competition in markets located in its state.

10. This pro-competitive approach is consistent with the goals of the Telecommunications Act of 1996 to foster competition

and remove barriers to entry into markets. It would promote the following objectives of the Report and Order:

- "In those areas beyond the 100 largest MSAs . . . the actual pace of competitive entry into local markets should determine the need for service provider portability." Report and Order, ¶ 82.
- "We note that while we prescribe the time constraints within which LECs must implement number portability, we strongly encourage carriers to provide such portability before the Commission-imposed deadlines." Report and Order, ¶ 78.
- While limiting deployment to the most populous MSAs, the Commission believes that these "are local markets where competition has begun to develop or is likely to develop in the near term." Report and Order, ¶ 59.

NEXTLINK submits that the goals sought to be achieved by the Report and Order will be advanced by mandating initial deployment in additional MSAs where competition is already in evidence. It is not just the top 100 MSAs where competition is presently developing or likely to develop. Conversely, delaying deployment in these MSAs until mid-1999 or possibly the year 2000 is, we submit, inconsistent with the purposes of the Report and Order and the Act itself.

#### **PROPOSED PROCEDURES**

11. NEXTLINK proposes that the procedures for requesting deployment of number portability in additional MSAs should be similar to those adopted in the Report and Order, ¶ 80. Competing carriers would request portability and provide a date six or more months in the future for implementation of portability. Upon receipt of the request, the Commission would solicit the views of the state Commission regarding the carrier's

request in order to determine whether the "sufficient evidence" test is met. If the Commission grants the request for additional deployment of number portability, the affected incumbent LEC could seek to avail itself of the waiver procedure adopted in the First Report and Order, ¶ 85.

#### CONCLUSION

12. The Commission should adopt procedures for allowing competing carriers to show that in any particular MSA, there is sufficient evidence of the existence of competition which could be advanced by deployment of local number portability. As part of those procedures, the Commission should solicit the views of states in making these determinations. The incumbent LEC could then avail itself of the waiver procedure adopted by the Report and Order if it believes that deployment in an additional MSA is unduly burdensome.

13. Should the Commission grant this Petition, NEXTLINK asks the Commission to apply this standard and to follow these procedures in determining that, in the Spokane MSA, there is sufficient evidence of competition which could be further advanced by deployment of local number portability. NEXTLINK also asks that the views of the WUTC be solicited, and NEXTLINK believes that the WUTC would support such a determination.<sup>4</sup>

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<sup>4</sup> As a part of any subsequent proceeding involving the Spokane MSA, in considering the views of the WUTC and any complaints of burdensomeness by US WEST, the Commission should consider that US WEST's obligations are disproportionately light in comparison with those of other RBOCs. Also, there are specific alternatives to the Commission's present initial

For the foregoing reasons, NEXTLINK requests that the Commission grant this Petition for Reconsideration.

Respectfully submitted this 26th day of August, 1996.

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Attorneys for NEXTLINK  
Communication L.L.C.

By: Richard L. Cys  
Daniel M. Waggoner  
Richard L. Cys

NEXTLINK Communication L.L.C.  
J. Scott Bonney  
Vice President  
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deployment schedule. For example, in a proceeding on local number portability pending before the WUTC, new entrants have identified switches in Spokane and three other Washington cities as areas of competitive interest. NEXTLINK believes that certain switches in the Seattle, Portland and Tacoma MSAs may not need to be converted to local number portability because there is a lack of competitive interest in the areas served by those switches. At the same time, there is no technical reason to delay conversion of switches in the Spokane area. Walker Decl. ¶ 9. While this concept is subject to refinement, it would allow the Commission in effect to allow a "swap" of these MSAs for switches in the Spokane MSA.

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of )  
Telephone Number Portability ) CC Docket No. 95-116  
 ) RM8535  
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DECLARATION OF CHRISTINE WALKER

1. My name is Christine Walker. I am Manager, Interconnection and CLEC Services of NEXTLINK Communications, L.L.C. ("NEXTLINK"). I understand that this Declaration will be submitted in support of NEXTLINK's Petition for Reconsideration in the above-captioned matter.

2. NEXTLINK is a competitive local exchange carrier ("CLEC") that has begun to offer competitive facilities-based service in a variety of areas around the country, including Spokane, Washington.

3. By its First Report and Order and Further Notice of Proposed Rulemaking ("Report and Order") released July 2, 1996, in this matter, the Commission established a schedule for deployment of local number portability in the 100 most populous metropolitan statistical areas ("MSAs") in the country. Deployment is to begin in the fourth quarter of 1997 and continue throughout the calendar year 1998.

4. In Washington State, the Seattle MSA (ranked 22nd) is to be converted in the first quarter of 1998, the Portland MSA,

DECLARATION OF CHRISTINE WALKER - 1  
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(ranked 27th), which includes Clark County in Washington, is to be deployed in the second quarter of 1998, and the Tacoma MSA (ranked 77th) is to be deployed in the fourth quarter of 1998. The Spokane MSA (ranked 103rd), however, is not part of this scheduled initial deployment.

5. The Report and Order, para. 80, establishes procedures for competing carriers to request number portability beginning January 1, 1999, and provides a tentative date six or more months in the future for local number portability to become effective. Especially because the affected incumbent local exchange carrier ("ILEC"), US WEST, could seek to avail itself of the Commission's waiver procedure, Report and Order at para. 85, deployment of number portability in Spokane may not occur until mid-1999 at the earliest and possibly as late as the year 2000.

6. A proceeding on local number portability (WECA Docket 95-02) is currently pending as the result of the decisions of the Washington Utilities and Transportation Commission, Docket No. UT-941464, UT-941465, UT-950146, UT-950265 (Interconnection cases). In that Docket, CLECs have identified switches in Spokane and three other Washington cities as areas of interest for number portability. US WEST, GTE and other ILECs are also participants in that Docket.

7. In Spokane NEXTLINK has a switch now which could be upgraded with software changes to provide permanent local number portability to US WEST. I believe, based on discussions with

**DECLARATION OF CHRISTINE WALKER - 2**  
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US WEST in the context of the WECA Docket proceedings, that US WEST's central offices in Spokane could provide permanent local number portability by software changes.

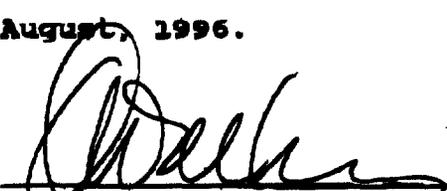
8. NEXTLINK has begun to offer a facilities-based alternative local service in Spokane at the present time. NEXTLINK, in the context of the WECA Docket proceeding, requested that US WEST deploy local number portability in Spokane in 1998, ahead of or contemporaneously with Tacoma. Initially, US WEST seemed willing to consider provision of permanent number portability in Spokane in the context of the WECA Docket. However, subsequent to the issuance of the Report and Order, US WEST's current position is that early deployment in Spokane is not required by the Report and Order.

9. NEXTLINK believes that certain switches in the Seattle, Portland and Tacoma MSAs do not need to be converted to local number portability because there is little or no competitive interest in the areas served by those switches, at least initially. At the same time, there appears to be no technical reason to delay conversion of switches in the Spokane area. As a result, NEXTLINK has suggested in the context of the WECA Docket proceedings that certain Seattle MSA and Tacoma MSA switches could be "swapped" for Spokane MSA switches. While this concept is subject to refinement and review by the WOTC, it would in effect allow an exchange of switches in these MSAs for switches in the Spokane MSA. In that way, any burden on US WEST would be minimized.

DECLARATION OF CHRISTINE WALKER - 3  
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10. In this regard, the burdens upon RBOCs as a result of the Report and Order are biased towards large metropolitan areas concentrated in the industrial Midwest. For example, within the first one hundred MSAs, Ohio has seven and Pennsylvania five. In contrast to this concentration for other RBOCs, US WEST is responsible for only eight MSAs in the 14 states comprising its territory. Three of them are wholly or partially in Washington State. As a result there appears to be an imbalance in the obligations imposed on the various RBOCs, and it would not be unduly burdensome for US WEST to be required to deploy number portability for the five switches in metropolitan Spokane as part of the initial schedule mandated by the Report and Order.

Pursuant to 28 U.S.C. § 1746 and 47 C.F.R. § 1.16, I declare under penalty of perjury that the foregoing is true and correct. Executed on this 23rd day of August, 1996.

  
CHRISTINE WALKER

DECLARATION OF CHRISTINE WALKER - 4  
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