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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
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Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services	)	**CC Docket No. 94-54**
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To: The Commission

OPPOSITION OF SOUTHERN COMPANY TO THE PETITION FOR RECONSIDERATION OF NEXTEL COMMUNICATIONS, INC.

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Dated: February 13, 1997

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OPPOSITION OF SOUTHERN COMPANY TO THE PETITION FOR RECONSIDERATION OF NEXTEL COMMUNICATIONS, INC.

Southern Company ("Southern") by its attorneys and pursuant to Section 1.106(g) of the Federal Communications Commission's Rules, submits this Opposition to the Petition for Reconsideration filed by Nextel Communications, Inc. in the Second Report and Order and Third Notice of Proposed Rule Making ("Second R&O") released August 15, 1996 in the above-captioned proceeding.[1/]

BACKGROUND

1. On June 27, 1996, the Commission adopted the Second R&O expanding its existing manual roaming rule, which previously applied only to cellular carriers, to include other Commercial

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[1/] Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, Third Notice of Proposed Rule Making, 61 Fed. Reg. 43977 (August 27, 1996). Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings, Public Notice Report No. 2174, January 24, 1997, 62 Fed. Reg. 4287 (January 29, 1997).

Mobile Radio Service ("CMRS") providers that offer comparable mobile telephony services (i.e., real-time, two-way voice service that is interconnected with the public switched network, either on a stand-alone basis or packaged with other telecommunications services).[2] The Commission determined that cellular, broadband Personal Communications Service ("PCS") and certain specialized mobile radio providers ("covered SMRs") must, as a condition of their license, provide service to any individual roamer whose handset is technically capable of accessing their network. The rule does not require licensees, however, to modify their systems in order to provide service to any end user.[3] The new manual roaming rules became effective October 28, 1996.

2. On September 26, 1996, Nextel Communications, Inc. ("Nextel") filed a Petition for Reconsideration of the manual roaming rules, mainly asserting that it is technically impossible for Nextel to meet the manual roaming requirements, and therefore, the rules should be reconsidered.

OPPOSITION

3. Southern continues to support the Commission's decision to impose manual roaming requirements on all CMRS providers. Southern agrees with the Commission that the manual roaming rules promote competition in the wireless market by enhancing the carriers' ability to compete, and will help to promote regulatory

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[2] Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54, Second Report and Order, 11 FCC Rcd 9462, 9470 (1996).

[3] Id.

parity among CMRS providers.[4] Southern believes that the Commission should continue to uphold its manual roaming rules, and dismiss the Petition for Reconsideration filed by Nextel for reasons discussed below.

I. Technical Problems Identified by Nextel Are Not Insurmountable.

4. As the basis for its Petition for Reconsideration, Nextel primarily cited technical difficulties that it would face in attempting to meet the manual roaming requirements. First, Nextel states that there is a problem associated with recognizing a roamer whose handset is not programmed to operate on the control channels utilized in Nextel's system. The purpose of the control channels is to activate service on a particular handset. To do this, the handset must be programmed to scan the list of licensed channels in a particular geographic area for the best signal strength, and to signal the best licensed channel to transmit or receive a voice transmission from the handset. Each SMR carrier independently creates a list of control channels for operation in its SMR system which, as Nextel points out, may lead to inconsistent control channels between carriers. Nevertheless, it is not impossible for SMR carriers to program their system to have some overlap of control channels, or to have each other's control channels. Indeed Southern, which is the only wide-area SMR provider other than Nextel using iDEN technology, has designated control channels which have some consistency with those channels designated by Nextel. Consequently, as long as

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[4] Id. at 9471.

the customer takes the steps necessary to initiate manual roaming, Nextel's customers can and do use Southern's iDEN system in areas where service is needed but Nextel's geographic footprint does not extend. Moreover, to accommodate a Southern customer desiring to roam onto Nextel's system, Nextel's system will only need to scan a larger list of channels to find a control channel programmed in the end user's handset. Therefore, the problem associated with control channels does not preclude meeting manual roaming requirements.[5/]

5. Even where additional control channels must be programmed into a unit, that is a minor ministerial task. After all, every unit is programmed to recognize certain control channels at least once in any case. So long as Nextel cooperates, this task can be carried out by the carrier to enable its customers to roam onto Nextel's system or from Nextel's system to other compatible carriers. Southern already has accommodated some of Nextel's customers in the southeast that desire to use Southern's iDEN system in areas where Nextel has not constructed its system. Where both carriers operate an iDEN system, as is the case with Southern and Nextel, there are no insurmountable technical barriers to manual roaming.

6. Second, Nextel contends that its system cannot recognize a roamer whose handset is programmed on a Nextel

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[5/] Southern continues to believe that uniform control channels will greatly enhance automatic roaming. See, Reply Comments of Southern in the Third Notice of Proposed Rule Making at 9.

control channel, but is not registered in its system. Manual roaming, unlike automatic roaming, does require some affirmative action on the part of the roamer to receive service.[6] The solution to this alleged problem merely requires the roamer to contact Nextel for roaming service and be registered in Nextel's system. While not as convenient as automatic roaming, this is not an overly burdensome task. Customers who want to use another carrier's system will make the effort, as Southern has learned when providing service to existing Nextel customers.

7. Additionally, Nextel argues that it would incur substantial costs to modify its Mobile Switching Centers and Home Location Register databases to accommodate manual roaming. Nextel overstates the modifications necessary to these databases. To accommodate manual roaming, a carrier need only estimate the amount of memory which should be allocated for roaming. This allocation can be done on an incremental basis, based on the number of end users requesting roaming. Therefore, based on experience with this technology, Southern does not believe that an immediate substantial investment of financial resources would be needed to modify databases to accommodate manual roamers. Southern believes the databases can be adjusted to meet growth in roamer traffic on an as needed basis.

8. Although Nextel is seeking reconsideration of a Commission decision that would require Nextel to facilitate manual roaming with compatible systems, Nextel fails to justify

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[6] Second R&O, 11 FCC Rcd at 9465.

its Petition in light of the fact that it currently provides roaming from region to region on its own system. Each region of Nextel's nationwide system is a self-contained system with its own central switch. Nextel does not disclose how some or all of its Los Angeles customers are programmed into its Chicago switch. Yet, Nextel does not find insurmountable registering its Los Angeles switch-based units in the Chicago switch in order to offer "free roaming" to its Los Angeles system customers.[7] Nextel's "insurmountable" obstacles are simply the administrative tasks inherent to manual roaming and provide no basis to give Nextel a special exemption from the manual roaming requirements, particularly where carriers, such as Southern, use the same iDEN technology. Nextel's apparent decision to facilitate roaming among the separate systems originally licensed to members of the "Digital Roaming Consortium" that became Nextel and its affiliates, yet deny equivalent accommodations to non-affiliated systems that use the identical technology, simply represents discrimination which is prohibited by Section 202 of the Communications Act of 1934.

II. Manual Roaming is in the Public Interest.

9. The Commission should continue to support its decision to impose manual roaming on all technically compatible CMRS providers because this policy serves the public interest. First, as the Commission has recognized, manual roaming benefits consumers. It is widely recognized from the cellular industry,

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[7] Communications Today, "Nextel Drops Roaming Charges", January 15, 1997.

for example, that roaming is highly valued by cellular subscribers. Roaming among cellular systems is a common practice even though cellular carriers charge premium prices for roaming services.[8] In other CMRS services, roaming is not only equally attractive, but necessary considering the limited service areas of many CMRS providers. Many of Southern's customers, most of whom are large industrial users, greatly benefit from Southern's extensive footprint. These customers, nevertheless, should not be denied access to service if they travel to areas outside the Southern footprint. Restricting consumers to limited service areas (even relatively large coverage areas such as Southern's) would be contrary to the Commission's concept of commercial wireless services. The Commission must uphold its manual roaming rules to give consumers the flexibility to be able to receive service regardless of their carrier's coverage restrictions.

10. Roaming capability can be particularly important in certain situations. During natural disasters, where extensive damage may result in widespread loss of electric service, each of Southern's five operating companies deploys utility crews from their respective states to assist in restoration of electric power. For communications within Southern's system, each of the utility crews utilizes the Southern SMR system to simultaneously communicate and coordinate restoration efforts during the

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[8] Id. at 9469.

emergency.[9] However, Southern is often called on to assist in restoration activities by utilities outside its footprint. Roaming capability would greatly assist in these emergency situations by allowing the utility crews to have wireless communication service while in a neighboring utility's service area. In instances like these, the public safety is served by a requirement that carriers cooperate in providing manual roaming capability.

11. Moreover, as the Commission has recognized, manual roaming will promote competition among CMRS providers. Southern appreciates the ability to offer roaming service to Nextel customers now, and believes that this will greatly enhance competition in the future. Nextel asserts that its customers will not benefit from requiring manual roaming with other iDEN systems because "Nextel's continued implementation of a ubiquitous nationwide system and the limited number of non-Nextel iDEN systems on which Nextel users could roam should eliminate the need for roaming by Nextel iDEN users."[10] This assertion contradicts the fact the Nextel's so-called "ubiquitous nationwide system" actually serves only limited densely populated urban areas and selected transportation corridors. Nextel has never committed to a construction program to provide a "ubiquitous nationwide system." In fact, Nextel has, in the

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[9] Southern's wide-area SMR system operating territory covers Georgia, Alabama, southeastern Mississippi, and the panhandle of Florida.

[10] Nextel Petition at 6.

past, candidly acknowledged that it has no intention of serving small cities or towns or rural areas within the foreseeable future, and that there is "room in the market" for a true wide-area provider such as Southern.[11/]

12. As stated above, Nextel's customers have already used Southern's system. Even if no new providers of iDEN systems ever enter the market, Nextel's claim that its customers would not benefit from roaming is refuted by its own admission of limited construction, and the fact the roaming between Southern's and Nextel's iDEN system has already occurred. Finally, it is quite possible that other iDEN systems will emerge, unless they are stifled by the absence of any option of their customers to roam onto Nextel's system. The Commission is obligated to uphold its manual roaming rules to prevent such discrimination.

CONCLUSION

13. Southern believes that the manual roaming rules serve an important public interest goal by providing consumers with the flexibility to use other carrier's networks. Manual roaming can also meet important public safety requirements by allowing access to other networks in times of crises. Finally, manual roaming

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[11/] One recent acknowledgement of that reality was made by Nextel's Director of Investor Relations:

> "There's plenty of room in the market for Southern" said Nextel's Paul Blaylock, Executive "director Investor Relations." We and they are positioned a little differently, focused on a different part of the South." Nextel's emphasis is covering the Southeast highway corridors. Southern's network covers rural areas, he said. Radio Communications Report, February 12, 1996.

promotes competition. The new manual roaming rules are carefully crafted to provide a reasonable exception which should address any technical concerns.[12/] The Commission should not succumb to the requests by carriers seeking exclusive relief from the new manual roaming rules.

WHEREFORE THE PREMISES CONSIDERED, Southern Company respectfully requests that the Petition for Reconsideration filed by Nextel Communications, Inc. be denied and dismissed, and that the manual roaming rules be maintained as written in the Second Report and Order.

Respectfully submitted,

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12/ Second R&O at 9, ¶ 13.

CERTIFICATE OF SERVICE

I, Jane Aguilard, a secretary of the law firm of McDermott, Will & Emery, hereby certify on this 13th day of February 1997, caused a copy of the foregoing "Opposition of Southern Company to the Petition for Reconsideration of Nextel Communications, Inc." to be served by hand delivery to the following:

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