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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Common Carrier Bureau  
Network Service Division  
Office of the Chief

In the Matter of )  
)  
Common Carrier Bureau Seeks Comment )  
on New York Department of Public )  
Service Petition for Additional )  
Authority To Implement )  
Number Conservation Measures )

DA 99-462  
NSD File No. L-99-21  
CC DOCKET 96-98

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To: Chief, Common Carrier Bureau

APR - 7 1999

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

Federal Communications Commission  
Office of Secretary

I. INTRODUCTION

Pursuant to the Public Notice of the Federal Communications Commission ("Commission"), 1/ Nextel Communications, Inc. ("Nextel") respectfully submits these Comments on the Request of the New York Public Service Commission ("NY PSC") for additional authority to implement various number conservation measures and code allocation procedures that are outside the scope of the NY PSC's delegated authority.2/

In the Petition, the NY PSC seeks authority to investigate and implement three number pooling measures and various code allocation/conservation requirements, asserting that these measures have been necessitated by the increasing rate of telephone number assignments, thus requiring that the NY PSC have the ability "to

1/ Public Notice, "Common Carrier Bureau Seeks Comment on New York Department of Public Service Petition for Additional Authority to Implement Number Conservation Measures," DA 99-462, released March 5, 1999 ("Public Notice").

2/ New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures, filed February 19, 1999 ("Petition").

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implement number conservation measures and to explore alternatives to the current inefficient number assignment process. . ."<sup>3/</sup> Nextel does not disagree with the NY PSC's assessment of the current telephone numbering situation and for that reason is currently working with the Commission, the North American Numbering Council ("NANC") and the North American Numbering Plan Administrator ("NANPA"), as well as numerous state commissions, consumer advocates and other carriers, to correct these inefficiencies and improve the number allocation system in the U.S.

The NY PSC's Petition is an attempt to carve New York out of the ongoing federal evaluation of numbering system implementation. It would inject additional complexities into the numbering process by adopting potentially inconsistent code allocation rules and requirements. The NY PSC should continue to participate in the ongoing process to resolve these numbering issues on a nationwide, consistent basis. For these reasons, Nextel respectfully requests that the Commission deny the Petition.

## II. BACKGROUND

In its 1997 decision regarding the Pennsylvania Public Utilities Commission's decision ordering number assignment measures,<sup>4/</sup> the Commission affirmed its earlier conclusion that it has plenary authority over administration of the NANPA pursuant to

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<sup>3/</sup> Public Notice at p. 2.

<sup>4/</sup> Memorandum Opinion and Order and Order on Reconsideration, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42 (released September 28, 1998) ("PA PUC Decision").

the Communications Act,<sup>5/</sup> and it delegated only limited authority for states to select among certain code relief alternatives. The PA PUC decision granted states additional authority to order code rationing in narrowly defined circumstances: (a) there is a specific code relief plan in place, (b) the Numbering Plan Area ("NPA") would run out of numbers prior to the implementation of relief, and (c) the industry has been unable to reach a consensus on a rationing plan.<sup>6/</sup> However, other conservation measures, such as number pooling -- whether thousands block pooling or individual telephone number pooling -- were not delegated to the states because "of the activity occurring at the federal level to develop such national standards" for number pooling.<sup>7/</sup> As the Commission stated therein, "[i]f each state commission were to implement its own NXX code administration measures without any uniformity or standards, it would hamper the [North American Numbering Plan Administrator's] efforts to carry out its duties as the centralized NXX code administrator."<sup>8/</sup>

Thus, in its most recent order, the Commission reaffirmed the demarcation of jurisdiction regarding numbering issues. At the same time, however, the Commission indicated that it would entertain state requests for additional authority to implement

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<sup>5/</sup> See Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) at para. 285.

<sup>6/</sup> PA PUC Decision at para. 24.

<sup>7/</sup> *Id.* at para. 27.

<sup>8/</sup> *Id.* at para. 33.

conservation measures outside the scope of their delegated authority.<sup>9/</sup> The Commission stated that it is "interested in working with state commissions that have additional ideas for innovative number conservation methods that this Commission has not addressed, or state commissions that wish to initiate number pooling trials the implementation of which would fall outside of the guidelines we adopt in this Order."<sup>10/</sup> Such requests, however, would have to demonstrate "a proposed conservation method [that] will conserve numbers and thus slow the pace of area code relief, without having anti-competitive consequences. . ."<sup>11/</sup>

Additionally, the Commission has initiated a proceeding to investigate number conservation measures at the federal level.<sup>12/</sup> After the recent work of the NANC and its Number Resource Optimization working group ("NRO") to develop nationwide number pooling standards and other code conservation mechanisms, the Commission sought industry comment on the NRO's conclusions and is working to develop national number pooling and conservation measures. By conducting this investigation at the federal level, the Commission can ensure the adoption of nationwide standards

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<sup>9/</sup> *Id.* at para. 31.

<sup>10/</sup> *Id.*

<sup>11/</sup> *Id.*

<sup>12/</sup> Public Notice, "Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures," NSD File No. L-98-134, DA 98-2265, released November 6, 1998.

rather than a patchwork of state rules and regulations that would be "impossible" for the NANPA to administer.<sup>13/</sup>

### III. DISCUSSION

#### A. Pooling Measures

In the Petition, NY PSC proposes to explore and implement 1,000 number block pooling, individual number pooling, and interim unassigned number porting.<sup>14/</sup> To the extent that carriers are Local Number Portability ("LNP")-capable and can thereby participate in 1,000 block number pooling, the NY PSC's proposal could improve efficiencies in the code allocation process in New York. Nextel, therefore, does not oppose the NY PSC's request to impose 1,000 block number pooling if (a) it is limited only to LNP-capable carriers, and (b) it is not a substitute for area code relief. Because wireless carriers are not LNP-capable and will not be prepared to implement LNP until well after the wireline industry, the NY PSC must ensure that wireless carriers continue to have access to 10,000 number blocks on a timely basis. Additionally, similar to the mandatory pooling trial in Illinois, the NY PSC should be required to establish a specific relief plan, i.e., split or an overlay, that can be implemented expeditiously should telephone numbers exhaust despite the use of 1,000 number block pooling.

With regard to the NY PSC's other pooling proposals, i.e., individual number pooling and interim unassigned number porting,

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<sup>13/</sup> See PA PUC Decision at para. 33.

<sup>14/</sup> Petition at pp. 6-10.

Nextel notes that the NANC's NRO has already studied these conservation measures. With regard to individual number pooling ("ITN") the NRO concluded that, although helpful in optimizing number usage, ITN would be significantly more costly than 1,000 number pooling, would take far longer to develop and implement, and would not provide significantly greater benefits. In fact, the NRO Report concluded that it would take four to six years to implement ITN, assuming the most favorable conditions, and it would result in significantly higher costs than 1,000 number pooling. Moreover, unassigned number porting, i.e., the direct transfer of telephone numbers from one carrier's inventory to another, would not be required with the implementation of 1,000 number pooling.

**B. Auditing and Enforcement Measures**

The NY PSC's request for authority over the auditing, reporting, allocation and enforcement of telephone numbers and their usage is an attempt to step into the shoes of NANPA and establish New York's own rules and requirements regarding the assignment of telephone numbers. Fill rates, the return of unused telephone numbers, completion of code usage surveys, and enforcement of code allocation measures all fall within the NANPA's authority, and the NY PSC has provided no reason why it should be allowed to overtake these responsibilities and create inconsistent guidelines for carriers operating in New York.

NANPA is charged with allocating numbers to carriers, pursuant to consistent nationwide standards, and enforcing compliance with those standards. As the Commission has already concluded, allowing

states to impose their own requirements could result in a hodge-podge of enforcement guidelines, making it "impossible" for the NANPA to administer the rules and carriers to comply with them. NANPA has initiated a process to improve its guidelines and enforcement. The NY PSC should participate in this process and assist in improving the efficiencies of NANPA guidelines on a nationwide basis. Nothing in the NY PSC's proposal avoids the inconsistencies and potential complexities that would result from its own set of code allocation and enforcement rules.

**IV. CONCLUSION**

To the extent described above, Nextel opposes the NY PSC's Petition and requests that the Commission encourage New York and other states to work with NANPA and the industry to resolve code allocation inefficiencies on a nationwide basis.

Respectfully submitted,



Robert S. Foosaner  
Vice President and  
Chief Regulatory Officer

Lawrence R. Krevor  
Senior Director - Government Affairs

Laura L. Holloway  
Director - Government Affairs

Nextel Communications, Inc.  
1450 G. Street, N.W.  
Suite 425  
Washington, D.C. 20005  
202-296-8111

Date: April 5, 1999

## CERTIFICATE OF SERVICE

I, Rochelle L. Pearson, hereby certify that on this 5th day of April 1999, caused a copy of the attached Comments of Nextel Communications, Inc. to be served by hand delivery to the following:

Al McCloud  
Network Services Division  
2000 M Street, NW  
Room 235  
Washington, DC 20554



Rochelle L. Pearson