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December 4, 2002

**VIA ELECTRONIC DELIVERY**

William F. Maher, Esq.  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

RE: Written Ex Parte Presentation  
CC Docket No. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and  
98-170

Dear Mr. Maher:

On behalf of Nextel Communications, Inc. ("Nextel"), this letter responds to the November 19, 2002 *ex parte* filing by the Coalition for Sustainable Universal Service ("CoSUS"). In that transmittal, CoSUS suggested that the Commission increase the CMRS safe harbor figure from 15% to 40%.<sup>1</sup>

As the Commission recognized in embracing a safe harbor in 1998, there was no reliable mechanism in place to track interstate wireless traffic or revenues. Consequently, the Commission acted responsibly, but with little pertinent data, to establish a wireless carrier safe harbor of 15%. Indeed, the Commission expressed the expectation that wireless carriers would, over time, develop the capability of tracking interstate use as a proxy for interstate revenues.<sup>2</sup>

This much was obvious when CTIA filed an *ex parte* at the end of October that reported estimated interstate traffic from several carriers ranging from between 10 percent to 28.5 percent of the wireless carrier's total traffic.<sup>3</sup> This CTIA submission demonstrates that the 15% safe harbor was not an unreasonable choice in 1998 and remains a reasonable figure today. Nevertheless, if the Commission is going to revisit the wireless safe harbor, it now has information on wireless carrier traffic usage upon which to base a modification.

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<sup>1</sup> See Coalition for Sustainable Universal Service *Ex Parte* Letter (Nov. 19, 2002).

<sup>2</sup> See Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252 (1998).

<sup>3</sup> See Cellular Telecommunications and Internet Association *Ex Parte* Letter (Oct. 31, 2002).

In this case, CoSUS is again trying unreasonably to shift the USF funding burden from its IXC members and towards other parts of the telecommunications carrier community. It is no secret that CoSUS has targeted the wireless industry to pay the lion's share of the USF funding burden that CoSUS members seek to escape.

CoSUS uses a single, arbitrary set of wireline revenue figures as its preferred proxy for the amount of wireless traffic that is interstate. Not surprisingly, CoSUS' chosen figures are result-oriented and incomplete. CoSUS' figures represent only end-user telecommunications revenues of wireline carriers and leave out other wireline interstate carrier revenue. This is a problem, as CoSUS itself acknowledges that regulation limits the amount of interstate end user charges that are assessed to consumers. For example, if ILECs had the regulatory freedom to price their services differently, then the \$5.50 Subscriber Line Charge might be quite different. The real point here, however, is that there is a large pool of interstate revenue that is not accounted for in the chart CoSUS presented in its *ex parte*. When the data is corrected for this using information from the same USAC chart from which CoSUS derived its figures, a more appropriate wireline interstate revenue percentage would be 30.54%.<sup>4</sup>

	Total Revenues from Services Provided to End Users	Telecommunications Service Provided for Resale	New Total Revenues	Universal Service Contribution Base
ILEC	\$ 82,646	\$ 36,011	\$118,657	\$15,307
CLEC	8,261	4,406	12,667	2,283
Toll Carriers	74,878	18,688	93,566	51,095
Total Wireline	165,785	59,105	224,890	68,685
%Interstate/Intl. End User Revenue All Revenues				41.43% 30.54%

Nextel does not provide this chart to suggest that any wireline number ought to be the basis for a modification to the current 15% wireless safe harbor. Rather, it demonstrates that the Commission cannot take CoSUS' result-oriented approach as the basis for any change to the

<sup>4</sup> All figures are in the millions. See Universal Service Monitoring Report, CC Docket No. 98-202, Table 1.9 Full Year 2001 (Oct. 2002).

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wireless safe harbor. Wireless and wireline are, at least today, apples and oranges. Given that CTIA has presented a range of wireless carriers reports of interstate traffic figures, there is no reason that any wireline figures should be used as a wireless interstate revenue proxy.

Respectfully submitted,

/s/ Laura H. Phillips

Laura H. Phillips

Counsel for Nextel Communications, Inc.

LHP:css

cc: Marlene H. Dortch, FCC Secretary (via ECFS)  
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