

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

In the Matter of )  
)  
Tenth Annual Report and Analysis of ) WT Docket No. 05-71  
Competitive Market Conditions with )  
Respect to Commercial Mobile Radio )  
Services )  
)

To: The Wireless Telecommunications Bureau

**REPLY COMMENTS OF  
SOUTHERNLINC WIRELESS**

By:

Christine M. Gill  
David D. Rines  
McDERMOTT WILL & EMERY LLP  
600 Thirteenth Street, N.W.  
Washington, D.C. 20005-3096  
T: 202.756.8000  
F: 202.756.8087

Michael D. Rosenthal  
Director of Legal and External Affairs  
SouthernLINC Wireless  
5555 Glenridge Connector, Suite 500  
Atlanta, GA 30342  
T: 687.443.1500

Attorneys for SouthernLINC Wireless

Dated: April 12, 2005

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

In the Matter of )  
 )  
Tenth Annual Report and Analysis of ) WT Docket No. 05-71  
Competitive Market Conditions with )  
Respect to Commercial Mobile Radio )  
Services )  
 )

To: The Wireless Telecommunications Bureau

**REPLY COMMENTS OF SOUTHERNLINC WIRELESS**

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless

(“SouthernLINC Wireless”) hereby submits its reply comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) *Public Notice* requesting information on the state of competition among providers of commercial mobile radio services (CMRS) for its Tenth Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services.<sup>1</sup> Specifically, SouthernLINC Wireless is filing in support of those commenters seeking to bring to the Commission’s attention the problems and difficulties smaller regional carriers are experiencing in obtaining commercially reasonable reciprocal roaming agreements with large nationwide carriers.<sup>2</sup>

---

<sup>1</sup> / WTB Seeks Comment on CMRS Market Competition, WT Docket No. 05-63, *Public Notice*, DA 05-487, released February 24, 2005 (“*Public Notice*”).

<sup>2</sup> / See Comments of the National Telecommunications Cooperative Association (“NTCA”); See also Comments of Arctic Slope Telephone Association Cooperative (“Arctic Slope”), Comments of Great Lakes of Iowa, Inc., Comments of Leaco Rural

The availability of roaming is an issue of great importance for SouthernLINC Wireless, and SouthernLINC Wireless has long been an active participant in the Commission's roaming proceedings.<sup>3</sup> Most recently, SouthernLINC Wireless submitted comments in the pending Sprint/Nextel merger review proceeding in which it emphasized roaming as an essential component of the Commission's review of the proposed merger.<sup>4</sup>

As set forth below, SouthernLINC Wireless has experienced great difficulty over the years in its attempts to negotiate a roaming arrangement with Nextel and its partially-owned affiliate Nextel Partners. To this day, SouthernLINC Wireless, their only iDEN-based competitor in the United States, has no roaming agreement with Nextel Partners and only a limited, non-reciprocal arrangement with Nextel itself, for which SouthernLINC Wireless must pay rates that substantially exceed those typical in the industry. These practices inhibit competition and harm consumers of wireless services by restricting the availability of roaming services and by keeping roaming rates artificially high.

---

Telephone Cooperative, Inc. ("Leaco"), Comments of Mid-Tex Cellular, Ltd. ("Mid-Tex Cellular"), Comments of Public Service Communications ("PSComm") (collectively, "Rural Commenters").

<sup>3</sup> / See, e.g., Comments, Reply Comments, and *ex parte* filings made by SouthernLINC in the Commission's proceedings on *Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services*, CC Docket No. 94-54, and *Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services*, WT Docket No. 00-193.

<sup>4</sup> / *Applications of Nextel Communications, Inc. Transferor, and Sprint Corporation, Transferee, For Consent to Transfer Control of Licenses and Authorizations*, WT Docket No. 05-63 ("*Sprint/Nextel Merger Application*"), Comments of SouthernLINC Wireless (March 30, 2005).

## **I. SOUTHERNLINC WIRELESS**

SouthernLINC Wireless is a wholly owned subsidiary of Southern Company, which is a registered holding company under the Public Utility Holding Company Act of 1935. As a CMRS provider, SouthernLINC Wireless operates a digital 800 MHz ESMR system using iDEN technology to provide dispatch, interconnected voice, Internet access, and data transmission services over the same handset.

SouthernLINC Wireless provides these services to almost 300,000 subscribers in a 127,000 square mile service territory covering Georgia, Alabama, southeastern Mississippi, and the panhandle of Florida. SouthernLINC Wireless offers the most comprehensive geographic coverage of any mobile wireless service provider in Alabama and Georgia, serving the extensive rural territory within its footprint as well as major metropolitan areas and highway corridors.

## **II. SOUTHERNLINC WIRELESS HAS FEW OPTIONS FOR ROAMING**

SouthernLINC Wireless faces unique circumstances with respect to roaming because it serves a distinct customer segment that is served by very few providers: namely, customers for interconnected voice and “push-to-talk” (“PTT”) digital dispatch services based on Motorola’s proprietary Integrated Digital Enhanced Network (iDEN) technology. Due to its use of the iDEN platform, SouthernLINC Wireless’ only potential domestic roaming partners are Nextel and Nextel Partners. However, neither Nextel nor Nextel Partners have any history or practice of entering into reciprocal roaming agreements with any domestic carriers other than each other.<sup>5</sup>

---

<sup>5</sup> / See *Sprint/Nextel Merger Application* at 39.

SouthernLINC Wireless currently has a roaming arrangement with Nextel that allows its customers to receive basic interconnected voice roaming service on Nextel's network at rates that are much higher than is typical in the industry for roaming. However, Nextel will not provide SouthernLINC Wireless customers with access to PTT digital dispatch roaming service (one of the key features of iDEN services) or data service when roaming on its network, even though Nextel provides all of these roaming services to customers of Nextel Partners and to Nextel's international partners in Canada and Mexico. Furthermore, Nextel does not permit its own customers to roam on SouthernLINC Wireless' network, and it objects to Nextel Partners doing so.

As described in more detail below, SouthernLINC Wireless has been unable to reach any roaming agreement whatsoever with Nextel Partners.

The practices of Nextel and Nextel Partners deprive their own customers of the ability to receive roaming service in areas of the Southeastern United States where they do not provide service, yet SouthernLINC Wireless does. Nextel and Nextel Partners further place severe constraints on the ability of SouthernLINC Wireless customers to roam by providing only basic interconnected voice roaming at rates that exceed industry standards, or – in the case of Nextel Partners – no roaming service at all. In contrast, the roaming services Nextel and Nextel Partners provide to each other's customers include dispatch and data roaming services in addition to interconnected voice. Furthermore, the many consumers of all three iDEN carriers who rely on or value the unique

characteristics and capabilities of iDEN services, such as PTT digital dispatch, cannot replace these services by switching to a GSM or CDMA carrier.<sup>6</sup>

As illustrated below, neither Nextel nor Nextel Partners appear to have any intention to enter into a reciprocal roaming agreement with SouthernLINC Wireless in the first place, even though their own customers would benefit from the increased coverage that access to the SouthernLINC Wireless network would offer, thus demonstrating apparent market failure in the provision and availability of iDEN roaming services.

### **III. SOUTHERNLINC WIRELESS' EFFORTS TO OBTAIN ROAMING WITH NEXTEL AND NEXTEL PARTNERS**

SouthernLINC Wireless' efforts to obtain roaming agreements with Nextel stretch back nearly ten years to 1996 and have been filled with delays and frustration. These efforts have been well-documented with the Commission through numerous filings and *ex parte* presentations over the course of these years.<sup>7</sup> Rather than recite all of the details from these previous filings, SouthernLINC Wireless provides below a summary of these efforts and incorporates its previous filings by reference.

From 1996 until early 2001, SouthernLINC Wireless was unable to obtain any roaming agreement with Nextel. During this time, Nextel refused to provide SouthernLINC Wireless with even *manual* roaming, despite its clear regulatory

---

<sup>6</sup> / Sprint and Nextel in fact rely on the lack of substitutability between Nextel's iDEN services and Sprint's CDMA services as a factor supporting their proposed merger. See *Sprint/Nextel Merger Application* at 25, 78 – 79, Attachment B at ¶¶ 86 – 106, 126, 156, and Attachment C at ¶¶ 10 – 11. Although some CDMA carriers have begun introducing PTT services, there has thus far been a lack of market acceptance for them due to latency inherent in the CDMA-based PTT technology that results in delays in PTT call set-up and between conversation breaks.

<sup>7</sup> / See *supra* note 3.

obligation under the Commission's Rules to do so. Nextel repeatedly claimed that technical issues made it impossible to provide roaming to SouthernLINC Wireless, even though both carriers operated in the same frequency ranges using the same Motorola iDEN technology and handsets. Nextel held to this position until at least 2001 despite the fact that, not only was manual roaming feasible, but automatic roaming could be implemented with only minor technical changes.

However, Nextel apparently did not have any technical problems in implementing an automatic roaming agreement in 1997 with Clearnet Communications (now Telus), an unrelated Canadian iDEN carrier that also uses the same Motorola equipment and technology as both Nextel and SouthernLINC Wireless, as well as subsequent agreements with a number of other international iDEN carriers. Similarly, Nextel and Nextel Partners have had an automatic roaming agreement with each other since 1999, shortly after Nextel Partners was incorporated.

Finally, in August 2001, after extended negotiations, Nextel finally agreed to enter into a rudimentary automatic roaming agreement that would allow SouthernLINC Wireless customers to roam on Nextel's network. However, this agreement is not reciprocal, since Nextel did not agree to let its own customers roam on SouthernLINC Wireless' network. As a result, Nextel is the recipient of any and all roaming revenues between the two companies and is able to charge SouthernLINC Wireless roaming rates that are well above industry standards. In addition, the agreement limits SouthernLINC Wireless customers to basic interconnect voice roaming only, and denies them digital dispatch or data roaming.

Furthermore, Nextel delayed the actual launch of basic voice roaming for SouthernLINC Wireless customers until June 2003, nearly two years after execution of a roaming agreement between the parties. Coincidentally, this was within days of Nextel's launch of its own nationwide digital dispatch roaming service with Nextel Partners, meaning that customers of Nextel and Nextel Partners could now enjoy voice and digital dispatch roaming on each other's networks, while SouthernLINC Wireless customers were (and still are) limited to basic voice roaming.

SouthernLINC Wireless' efforts to obtain a roaming agreement with Nextel Partners have been even more strenuous. At the outset, Nextel Partners attended the roaming negotiations between Nextel and SouthernLINC Wireless, thus creating the distinct impression that they were negotiating together with SouthernLINC Wireless as a single party. However, once the above-mentioned agreement was reached, Nextel Partners stated that it would not honor the prices agreed to by Nextel during the negotiations. Later, Nextel Partners verbally consented to sign an agreement with SouthernLINC Wireless largely similar to the Nextel agreement, but would only do so if SouthernLINC Wireless agreed to certain unreasonable conditions, such as the exclusion of select markets from the agreement and the imposition of an exorbitant pricing structure.

Last year, Nextel Partners approached SouthernLINC Wireless about the possibility of entering into a reciprocal roaming arrangement. However, when SouthernLINC Wireless expressed interest in entering into negotiations over such an arrangement, Nextel Partners advised that it needed to check with Nextel first. Nextel apparently refused to give permission to Nextel Partners to enter into reciprocal roaming

with SouthernLINC Wireless because Nextel Partners withdrew its proposal soon after checking with Nextel.

To this day, Nextel Partners has consistently responded to SouthernLINC Wireless' requests for roaming with unreasonable conditions, including roaming rates that are nearly double the already excessive rates that SouthernLINC Wireless pays to Nextel. SouthernLINC Wireless is therefore still without any type of roaming agreement with Nextel Partners whatsoever.

Based on these experiences, SouthernLINC Wireless believes that market forces alone have not proven sufficient to ensure that roaming is available to all wireless customers. Both Nextel and Nextel Partners have a strong motivation to withhold roaming as a means of placing SouthernLINC Wireless – their only iDEN competitor – at a competitive disadvantage, and this motive may far outweigh any benefit that they could provide their own subscribers by allowing them to receive roaming service in large areas of the Southeastern United States that are not covered by their own networks.

As a result, the current situation in the market for iDEN roaming services is not one of marketplace competition, but, if anything, of market failure.

#### **IV. CONCLUSION**

The Commission has thus far taken the position that roaming issues are, in general, being sufficiently addressed by competitive market forces. However, the Commission has received comments in this proceeding from the NTCA and several rural carriers clearly indicating that this is not the case, and it has certainly not been SouthernLINC Wireless' experience. As demonstrated above, Nextel and Nextel Partners – the only domestic carriers with whom SouthernLINC Wireless is able to roam – have consistently and repeatedly engaged in unreasonable roaming practices to the

detriment of wireless consumers, particularly those who rely on the unique services and capabilities that can only be found on iDEN networks. As the Commission looks at competition in the CMRS market, it should be aware that there is already market failure for iDEN roaming, and that serious questions remain regarding the availability of roaming in the United States.

**WHEREFORE, THE PREMISES CONSIDERED,** SouthernLINC Wireless respectfully requests the Commission to take into consideration in this docket the views expressed herein.

Respectfully submitted,

**SOUTHERNLINC WIRELESS**

/s/ Christine M. Gill

Christine M. Gill  
David D. Rines  
McDERMOTT WILL & EMERY LLP  
600 Thirteenth Street, N.W.  
Washington, D.C. 20005-3096  
T: 202.756.8000  
F: 202.756.8087

Michael D. Rosenthal  
Director of Legal and External Affairs  
SouthernLINC Wireless  
5555 Glenridge Connector, Suite 500  
Atlanta, GA 30342  
T: 687.443.1500

Its Attorneys

Dated: April 12, 2005

## CERTIFICATE OF SERVICE

I, Sarah Langer, hereby certify that on April 12, 2005, a copy of the foregoing "Reply Comments" was provided to each of the following:

### Filed Electronically

Heidi Kroll  
Spectrum Competition and Policy  
Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Best Copy and Printing  
445 12th Street, S.W.  
Washington, DC 20554

### U.S. Mail

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Commissioner Kathleen Q. Abernathy  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Commissioner Michael J. Copps  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Commissioner Jonathan S. Adelstein  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

\_\_\_\_\_  
/s/ Sarah Langer