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July 18, 2005

VIA ELECTRONIC MAIL

The Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: Applications for Consent to Transfer Control of Licenses and Authorizations Held by Nextel Communications, Inc. to Sprint Corporation, WT Docket No. 05-63; Ex Parte Presentation of SouthernLINC Wireless

Dear Chairman Martin:

Southern Communications Services, Inc., d/b/a SouthernLINC Wireless (“SouthernLINC Wireless”), respectfully submits this letter to again urge the Commission to adopt appropriate conditions on the proposed merger of Sprint Corporation (“Sprint”) and Nextel Communications, Inc. (“Nextel”), to ensure the availability of roaming for consumers of iDEN voice, digital dispatch, and data services. SouthernLINC Wireless has already raised this issue in both the comments and reply comments it filed with the Commission during the formal pleading cycle for this proceeding, as well as in a subsequent *ex parte* meeting on May 13, 2005, with Commission staff.

However, recent developments illustrate even more clearly the merger-specific nature of the roaming issues that SouthernLINC Wireless has raised and the need for a merger-specific remedy in the form of a condition on the proposed transaction. Specifically, the Commission should impose a condition that would require the merged Sprint/Nextel entity to provide voice, data, and digital dispatch roaming on reasonable, non-discriminatory terms and conditions and to make such roaming available for all services at reasonable and non-discriminatory rates.

First, as discussed in more detail below, the merger of Sprint and Nextel will trigger a contractual obligation that will result in the roll-up of Nextel’s affiliate Nextel Partners, thus reducing the number of iDEN-based CMRS carriers in the country from three to two: Sprint-Nextel and SouthernLINC Wireless. This degree of consolidation raises far greater concerns than those posed in other wireless mergers reviewed by the Commission – all of which involved GSM or CDMA carriers – since in those cases there were still numerous competitors following the merger using the same network technology as the merger parties.

Second, SouthernLINC Wireless's concerns regarding the effect of the proposed merger on roaming are neither broad in scope nor general to the industry, but rather go directly to the specific actions and behavior of Nextel and Nextel Partners. While SouthernLINC Wireless appreciates the Commission's recognition of the importance of roaming, it believes that any new proceeding on roaming will be neither timely enough nor sufficient or specific enough to address the harm to wireless consumers that would result from this merger absent the specific roaming condition requested herein.

There is ample reason for SouthernLINC Wireless's concern that yet another rulemaking on roaming will be too little too late. Many of the issues and concerns SouthernLINC Wireless has described in this proceeding regarding its attempts to roam with Nextel have already been raised by SouthernLINC Wireless in the Commission's previous roaming proceedings which, after eleven years, have yet to provide any sort of resolution or even guidance, let alone any form of relief. Another rulemaking is likely to take years, with the eventual outcome uncertain. This will not and cannot provide an adequate and timely solution to the immediate, concrete, and specific issues involving the specific parties to this merger.

Finally, SouthernLINC Wireless is deeply concerned that, to this day and throughout the entire course of this proceeding, Sprint and Nextel have been entirely dismissive of roaming or its impact on wireless consumers. This stands in stark contrast to previous CMRS merger proceedings where the merger parties emphasized their intention to be good roaming partners and made specific commitments regarding the availability of roaming services.

Discussion

Currently, Nextel and Nextel Partners provide each other with reciprocal roaming for the full range of iDEN voice, data and digital dispatch services and provide similar roaming services to customers of foreign iDEN carriers as well. However, Nextel and Nextel Partners have consistently denied equivalent roaming services to customers of SouthernLINC Wireless.

As described in detail in its previous submissions in this proceeding, SouthernLINC Wireless has had great difficulty over the years in negotiating a roaming agreement with either Nextel or Nextel Partners and, to this day, still has no roaming agreement with Nextel Partners and has only a limited, non-reciprocal arrangement with Nextel itself that requires SouthernLINC Wireless to pay excessive rates and which restricts SouthernLINC Wireless customers to voice roaming only, while denying them entirely the digital dispatch and data roaming services Nextel provides to customers of Nextel Partners, as well as to customers of foreign iDEN carriers. Furthermore, Nextel chose not to permit its own customers to roam on SouthernLINC Wireless's network at all, thus depriving its own customers of wireless access in areas of the Southeastern United States served by SouthernLINC Wireless, but not by Nextel, Nextel Partners, or even Sprint.

SouthernLINC Wireless's current limited agreement with Nextel will expire soon and, unfortunately, it has become clear over the course of this proceeding that Nextel's position that it does not have any obligation (or intention) to roam with SouthernLINC Wireless on terms equivalent to its other roaming partners will be exacerbated following its merger with Sprint and the roll-up of Nextel Partners. Therefore, SouthernLINC Wireless has concluded that only a specific merger condition will be sufficient to ensure the continued availability of roaming services for iDEN-based wireless consumers.

Although the Commission has looked at the issue of roaming in the context of previous mergers between CMRS carriers, including the Cingular/AT&T Wireless and ALLTEL/Western Wireless mergers, the proposed merger between Sprint and Nextel presents unique issues that must be dealt with specifically in this proceeding. First, this merger involves a distinct customer segment served by very few providers: namely, customers for interconnected voice, "push-to-talk" ("PTT") digital dispatch, and data services based on the iDEN air interface platform, a proprietary wireless technology that is not compatible with either CDMA or GSM networks. In addition to issues of network compatibility, it has been widely recognized – including by the Commission and by the merger parties – that PTT digital dispatch services in particular are a key differentiator of iDEN services. Existing CDMA/GSM-based PTT offerings simply do not offer an effective substitute to iDEN PTT, thus severely limiting the options available for the numerous personal, business, and public sector consumers who highly value the PTT digital dispatch capabilities and robust characteristics of iDEN service.

Throughout this proceeding, Sprint and Nextel have refused to even address the impact of their planned merger on roaming and have instead attempted to dismiss SouthernLINC Wireless's concerns as not "merger-specific." They take this position on the basis that Nextel is the only iDEN carrier that is a party to the merger, and the number of iDEN carriers will thus remain unchanged. However, as demonstrated in the parties' own filings, the proposed merger also triggers a contractual "put option" by which Nextel would be compelled to buy all of the outstanding shares of Nextel Partners that it does not already own. As a result, Nextel would assume 100% ownership of Nextel Partners and Nextel Partners would cease to be even a nominally independent entity.

Unlike the numerous nationwide, regional, and local CDMA or GSM carriers, there are only three commercial iDEN carriers in the entire United States: (1) Nextel, which is a party to the proposed merger; (2) Nextel's partially-owned affiliate Nextel Partners, which provides its services in conjunction with Nextel under the Nextel brand; and (3) SouthernLINC Wireless, a regional carrier that is the only iDEN-based CMRS carrier in the United States that is not affiliated with Nextel.¹ However, as stated above, the total number of commercial iDEN carriers

¹ / There are one or two small wireless carriers that operate in the Western United States using the "Harmony" platform, a proprietary Motorola platform that is based on iDEN technology and which operates on a smaller-scale network. See Motorola's "Harmony" website

in the United States will be reduced from three to two as a direct result of this merger, and SouthernLINC Wireless will therefore be left with only one potential roaming partner.

The roll-up of Nextel and Nextel Partners into a single entity as a result of this merger is not a speculative concern, but is in fact exactly what is happening. On June 23, 2005, Nextel Partners filed a preliminary proxy statement (Form PREM14A) with the Securities and Exchange Commission (“SEC”) calling for a shareholder vote on the “put option,” along with a recommendation from Nextel Partners’ directors strongly urging that shareholders vote to exercise the option and compel Nextel to buy them out. Additional proxy statements and other materials have since been filed with the SEC on behalf of Nextel Partners further advocating a Nextel buyout.²

A more recent – and significant – development is Nextel Partners’ decision to file a lawsuit against Nextel with the New York Supreme Court on July 5, 2005, seeking an injunction against those aspects of the proposed merger that would allegedly violate the marketing, branding, and territorial exclusivity provisions of the joint operating agreement between Nextel and Nextel Partners. A copy of Nextel Partners’ complaint is attached hereto both for the Commission’s convenience and for inclusion in the record of this proceeding. According to the complaint, Nextel Partners is not seeking to stop the actual merger of Sprint and Nextel, but is instead seeking to ensure that it receives the same merger-specific benefits of branding and marketing that the merger parties themselves will receive, as well as assurances that the merged Sprint-Nextel entity will not directly compete with Nextel Partners, particularly in Nextel Partners’ service territory. As stated in Nextel Partners’ public SEC filings, the purpose of the remedies it is seeking is to preserve the company’s valuation when it exercises the “put option” with Nextel. This further demonstrates that the merger of Sprint and Nextel will directly result in the combination of Nextel and Nextel Partners into a single entity, thus eliminating one of only two potential iDEN competitors.

Even if, *arguendo*, Nextel Partners decides not to exercise its “put option,” its complaint makes clear that, under its joint operating agreement with Nextel, it would continue to receive favorable and discriminatory treatment with respect to voice, digital dispatch, and data roaming and other services as compared to what Nextel has been willing to provide to customers of SouthernLINC Wireless.

at http://www.motorola.com/cgiss/harmony/harmony_overview.shtml (last visited July 18, 2005). As far as SouthernLINC Wireless is aware, none of these carriers are able to roam with Nextel or Nextel Partners.

² / Nextel Partners’ SEC filings are available online through the “Investor Relations” link on the Nextel Partners website at <http://www.nextelpartners.com/default.aspx> (last visited July 18, 2005).

At present, Nextel and Nextel Partners, despite being independent businesses, have coordinated their responses to SouthernLINC Wireless's multiple requests to obtain roaming. This coordination caused Nextel Partners to refuse to enter into a reciprocal roaming relationship with SouthernLINC Wireless and caused Nextel to provide only limited, non-reciprocal roaming to SouthernLINC Wireless. It is obvious from Nextel Partners' lawsuit that Nextel and Nextel Partners have coordinated to allocate their sales territories. This market allocation arrangement has allowed Nextel and Nextel Partners to engage in predatory tactics against SouthernLINC Wireless, while insulating each other from competition. The conduct of Nextel and Nextel Partners raises serious concerns under the antitrust laws which prohibit concerted refusals to deal and market allocation agreements.

SouthernLINC Wireless believes that Nextel's already close relationship with Nextel Partners will likely become even closer as a result of the proposed merger and the lawsuit, regardless of whether the Nextel Partners "put option" is exercised. This closer relationship will only exacerbate SouthernLINC Wireless's difficulties in obtaining roaming from the only two suppliers of iDEN roaming services. At the same time, Nextel Partners will continue to enjoy territorial protection against competition from the combined Sprint/Nextel entity, thus giving both Nextel Partners and the post-merger Sprint-Nextel an additional unfair competitive advantage over SouthernLINC Wireless. Although the Commission is not charged with direct enforcement of the antitrust laws, potential antitrust and unfair competition considerations are nevertheless an essential element of the Commission's broader public interest calculus and must therefore be taken into account in its review of the proposed Sprint/Nextel merger transaction.

Finally, SouthernLINC Wireless submits that the roaming issues it has raised in this proceeding are, unlike in other proceedings, specific to the actions and behavior of the merger parties and to the direct consequences of this particular merger. Over the course of the Cingular/AT&T Wireless and ALLTEL/Western Wireless merger review proceedings, as well as in this proceeding, the Commission received several comments from smaller CMRS carriers expressing their concerns over the impact of industry consolidation on roaming. As the Commission recognized, these comments did not identify specific behavior by any particular carrier, but rather expressed a more general and speculative concern over what may happen in the future. Therefore, it may be entirely appropriate for the Commission to address their concerns by initiating a new proceeding on roaming, as it has announced it intends to do.

However, unlike all of these other commenters, SouthernLINC Wireless has throughout this proceeding presented the Commission with specific and concrete facts regarding the ongoing roaming practices of Nextel and Nextel Partners and has provided a detailed description of the specific problems it has experienced over the years in its attempts to negotiate reasonable roaming arrangements with both of these parties. Furthermore, SouthernLINC Wireless has not requested a general "statement of policy" on roaming as other commenters have done, but rather has requested that the Commission adopt measures that directly target Nextel's demonstrated actions, behavior, and course of conduct with respect to roaming.

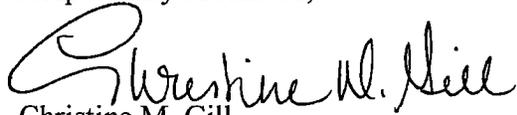
The Honorable Kevin J. Martin
July 18, 2005
Page 6

Therefore, SouthernLINC Wireless submits that the roaming problems it has identified with regard to Nextel and Nextel Partners can only be adequately and appropriately addressed through the imposition of a specific roaming condition in this merger review proceeding.

For the reasons discussed above, SouthernLINC Wireless respectfully requests that the Commission adopt as a condition of its approval of the proposed transaction the obligation for the merged Sprint/Nextel entity to provide voice, data, and digital dispatch roaming on reasonable, non-discriminatory terms and conditions and to make such roaming available for all services at reasonable and non-discriminatory rates.

Pursuant to the Commission's Rules, a copy of this letter is being submitted to the Secretary's office, with copies to the individuals listed below.

Respectfully submitted,



Christine M. Gill

Encl.

cc: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Marlene H. Dortch, Secretary
Michelle Carey
John Branscome
Paul Margie
Barry Ohlson
Louis Peraertz
Sara Mechanic
Scott Delacourt
Peter Tenhula
G. William Stafford
Walter Strack
Jeffrey Steinberg
Paul D'Ari
Ramona Melson
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James Bird
Neil Dellar
C. Anthony Bush