



PUBLIC NOTICE

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**WIRELINE COMPETITION BUREAU SEEKS COMMENT ON
PETITION OF NCPR, INC. D/B/A NEXTEL PARTNERS FOR WAIVER OF SECTIONS
54.307(C) AND 54.314(D) OF THE COMMISSION'S RULES**

CC Docket No. 96-45

Comment Date: February 27, 2004

Reply Comment Date: March 12, 2004

On December 11, 2003, NCPR, Inc. d/b/a Nextel Partners (Nextel Partners), a competitive eligible communications carrier, filed a petition with the Commission seeking waiver of the December 30, 2002 deadline set forth in section 54.307(c)(4) of the Commission's rules for filing line-count data with the Universal Service Administrative Company (USAC).¹ In addition, Nextel Partners requests a waiver of the January 1, 2003 deadline set forth in section 54.314(d)(2) of the Commission's rules for the Iowa Utilities Board (Iowa Board) to file an annual certification with the USAC and the Commission stating that all universal service high-cost support received by Nextel Partners will be used "only for the provision, maintenance, and upgrading of facilities and services for which support is intended."²

Nextel Partners' waiver request relates to its receipt of high-cost support and interstate common line support (ICLS) for service provided in the state of Iowa. Nextel Partners contends that granting its request for waiver of sections 54.307 and 54.314 is appropriate in light of the delay associated with its ETC designation. Specifically, Nextel Partners contends that because its ETC designation occurred on May 15, 2003, it was unable to meet the December 30, 2002

¹ *NCPR, Inc. d/b/a Nextel Partners Petition for Waiver – Expedited Treatment Requested*, filed Dec. 11, 2003 (*Nextel Petition*); 47 C.F.R. § 54.307(c).

² *See Nextel Petition* at 1; 47 C.F.R. § 54.314(d). Section 54.314 of the Commission's rules provides that states desiring rural ETCs to receive universal service high-cost support shall file an annual certification with the USAC and the Commission stating that all high-cost support received by such carriers within such state will be used "only for the provision, maintenance, and upgrading of facilities and services for which support is intended." 47 C.F.R. § 54.314(a). In instances where carriers are not subject to the jurisdiction of a state, the Commission allows an ETC to certify directly to the Commission and USAC that federal high-cost support will be used in a manner consistent with section 254(e). *See* 47 C.F.R. §54.314(b).

line count filing deadline and the Iowa Board could not have met the January 1, 2003 certification filing deadline, both of which must be satisfied to receive support in second quarter 2003.³ Nextel Partners further argues that granting its waiver request will advance the public interest by promoting the availability of competitive telecommunications services in underserved areas in Iowa and adhering to the Commission's principle of competitive neutrality.⁴ Nextel Partners therefore requests that the Commission grant its waiver request so that it can receive high-cost support and ICLS as of May 15, 2003, the date Nextel Partners received its ETC designation.

We invite comment on the Petition for Waiver. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, parties may file comments on or before **February 27, 2004**. Reply comments are due on or before **March 12, 2004**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.⁵

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to <ecfs@fcc.gov>, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial

³ *Nextel Petition* at 7.

⁴ *Id.* at 7. See also *Federal-State Joint Board on Universal Service*, CC Docket 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432, 20479-78, paras. 89-90 (1999) (*Ninth Report and Order*), reversed in part and remanded in part, *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001). See also *Federal-State Joint Board on Universal Service; Promoting Deployment of Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12264-65, para. 114 (2000) ("competitively neutral access to . . . support is critical to ensuring all Americans, including those that live in high-cost areas, have access to affordable telecommunications.").

⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-B540, Washington, D.C. 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20054.

Pursuant to section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

For further information, contact Thomas Buckley, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400, TTY (202) 418-0484.