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April 16, 2003

**VIA FEDERAL EXPRESS**

Ms. Blanca S. Bayo  
Director, Division of Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, Florida 32399-0850

030346-TP

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Re: *Petition for Declaratory Statement  
Concerning Jurisdiction for Competitive Eligible  
Telecommunications Carrier Status*

Dear Ms. Bayo:


On behalf of NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners"), transmitted herewith for filing with the Florida Public Service Commission are 5 copies of a substitute page 4 for Nextel Partners' Petition for Declaratory Statement, filed yesterday (April 15, 2003) with the Commission. This substitute page 4 corrects an inadvertent clerical error in the original, which left in a partial sentence that should have been deleted. The substitute page 4 deletes the partial sentence inadvertently left in the original. The substitute page 4 should be associated with the petition as originally filed, and the original page 4 containing the clerical error should be discarded.

I have attached a stamp-received copy for return to me in the enclosed pre-paid, self-addressed, Federal Express envelope. If there are any questions, please contact me directly.

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Very truly yours,



Ronald J. Jarvis  
Counsel for Nextel Partners

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Florida Statutes § 364.025,<sup>1</sup> an ALEC is a form of a “telecommunications company” and therefore cannot be a CMRS carrier. So, although Florida law makes provision for other types of telephone companies to seek certification from the Commission for ETC status, this pathway is denied to CMRS companies, because they are not regulated as “telecommunications companies” under state law.

Consistent with this overall approach, the Commission in a recent case<sup>2</sup> acknowledged that CMRS providers (such as Nextel Partners) are “not regulated by this Commission” in accordance with Section 364.02(12)(c) of the Florida Statutes, and that CMRS carriers are “not subject to Commission rules.”

WHEREFORE, for the foregoing reasons, Nextel Partners requests the Commission to issue a declaratory statement determining that Nextel Partners is not subject to the jurisdiction of the Commission for the purpose of determining entitlement to Eligible Telecommunications Carrier status under Section 214(e) of the Communications Act of 1934, as amended.

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<sup>1</sup> Section 364.025 of the Florida Statutes provides as follows:

After January 1, 2000, an alternative local exchange telecommunications company may petition the commission to become the universal service provider and carrier of last resort in areas requested to be served by that alternative local exchange telecommunications company. Upon petition of an alternative local exchange telecommunications company, the commission shall have 120 days to vote on granting in whole or in part or denying the petition of the alternative local exchange company. The commission may establish the alternative local exchange telecommunications company as the universal service provider and carrier of last resort, provided that the commission first determines that the alternative local exchange telecommunications company will provide high-quality, reliable service. In the order establishing the alternative local exchange telecommunications company as the universal service provider and carrier of last resort, the commission shall set the period of time in which such company must meet those objectives and obligations and shall set up any mechanism needed to aid such company in carrying out these duties.

<sup>2</sup> *Application for certificate to provide pay telephone service by Radio Communications Corporation, and request for waiver of Rule 25-24.515(6), (10), and (14), F.A.C., Docket No. 991821-TC; Order No. PSC-00-1243-PAA-TC, 2000 Fla. PUC LEXIS 801 (July 10, 2000).*

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