

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No: 99-21

In the Matter of)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)
)
Federal-State Joint Board on Universal Service)

CC Docket No. 96-45

PETITION FOR RECONSIDERATION

Sprint Corporation, pursuant to Section 1.106(f) of the Commission's Rules, hereby respectfully requests that the Commission reconsider its order in the above-captioned proceedings released on October 8, 1999 (FCC 99-291). In that Order (para. 7), the Commission directed the Administrator of the universal service support mechanisms (USAC) to recover discount funding erroneously paid to certain schools and libraries for ineligible services or for services provided by non-telecommunications carriers. The Commission stated that repayment would be sought "from service providers rather than schools and libraries because, unlike schools and libraries that receive discounted services, service providers actually receive disbursements of funds from the universal service support mechanism" (para. 8). To the extent that an eligible service provider does not retain the USAC disbursements, but rather forwards those disbursements to the appropriate school or library, the recovery mechanism prescribed in this Order should be reconsidered, and any overpayments should be recovered directly from the affected school or library by USAC.¹

¹ Where erroneous funding commitments have not yet been disbursed, Sprint does not object to USAC's reducing the funding commitment to the recipient school or library, or denying payment of any requests for compensation for

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Where Sprint provides services to schools and libraries under the universal service support program, the current process for handling USF payments is as follows. The school or library obtains a written commitment for USF funds from USAC which specifies the percentage discount for which it is eligible. Sprint provides the contracted services at the full, undiscounted rate; the school or library then submits Form 472 to USAC, requesting reimbursement equal to the invoiced amount multiplied by the promised percentage discount. USAC processes Form 472, and sends a check for the claimed amount to Sprint. Sprint then is required to forward this payment to the school or library within 10 days;² in this regard, Sprint is simply a conduit through which the USF support flows from USAC to the recipient school or library.

Sprint agrees that funds erroneously distributed in violation of a federal statute must be recovered. However, where an eligible service provider does not retain the support disbursement and is not the beneficiary of the USF payment, that service provider should not be held responsible for recovering and remitting any overpayments. In the situation described above, the relevant parties in this matter are the schools and libraries that received the funds, and USAC, the entity that disbursed the funds. Therefore, any recovery of erroneous payments should be sought directly from the relevant schools and libraries by USAC. This approach is preferable to the one adopted in the Order, for several reasons.

ineligible services. Sprint also does not oppose recovery of erroneous disbursements from ineligible service providers.

² In fact, Sprint is prohibited from depositing any USAC check until we have remitted the discount payment to the customer in the form of a check or credit to the customer's account.

First, the Commission's premise – that service providers retain any disbursement they receive from USAC – is incorrect here. There is no basis for requiring an eligible service provider to refund monies that it has remitted to the customer, and any proposal to allow USAC to hold that service provider liable for those monies (*e.g.*, by withholding payment to service providers for valid funding commitments -- in essence, holding valid payments to the service provider hostage against repayment of erroneous disbursements retained by the school or library) should be rejected. The inequity of holding the service provider liable for funds under the control of the recipient school or library is compounded by requiring the service provider to bear the cost (which takes the form of both out-of-pocket expenses and customer ill-will) of recovering the funds.

Second, recovery of erroneous payments is most efficiently handled on a centralized basis by the USAC. USAC is the entity responsible for ensuring that only valid, eligible requests are approved, and, where errors are identified, for ascertaining which school or library was over-funded, what ineligible services were erroneously funded, and what dollar amount must be recovered. The most logical, and cost-efficient, approach is for USAC personnel to also be responsible for the final step in the process -- recovering any erroneous disbursements. In contrast, inserting service providers in the process by forcing them to act as the collection agents on behalf of USAC requires each service provider to allocate the employee and system resources to perform this function.

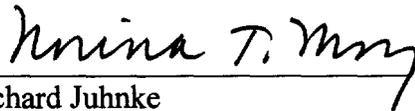
Third, customer confusion is minimized by having USAC be the party to seek recovery of any erroneous disbursements. USAC will be sending letters to the affected schools and libraries explaining the error that occurred, and describing the impact of that error on any past disbursements and any future funding commitments. There is no reason why USAC could not

request return of any erroneous disbursements already made in the same correspondence. On the other hand, schools and libraries are likely to be confused and irritated if they receive a second letter from the service provider asking for return of any erroneous disbursements, and may even believe that the service provider is somehow cheating them out of their previously promised discount.

Sprint recognizes that the amounts erroneously funded are relatively minor.³ However, the concept of recovering funds from eligible service providers, when such funds are already in the hands of the affected service subscriber, is unsound and should be reversed. Further, Sprint's approach is simpler and less confusing, and should accordingly be adopted.

Respectfully submitted,

SPRINT CORPORATION



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³ USAC states that the erroneous funding commitments for ineligible services totaled \$966,000 and for ineligible service providers totaled \$1,322,072. See letter from D. Scott Barash, USAC, to Magalie Roman Salas, FCC, dated October 22, 1999 filed in CC Docket Nos. 97-21 and 96-45.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Petition For Reconsideration** was sent by hand on this the 8th day of November, 1999 to the below listed parties:


Christine Jackson

November 8, 1999

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