ORIGINAL

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

RECEIVED

AUG 3 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

DOCKET FILE COPY ORIGINAL

In the Matter of	)	
	)	
Changes to the Board of Directors of the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45

COMMENTS

Sprint Corporation, pursuant to the Public Notice released on July 24, 2000 (Report No. 2425), hereby respectfully submits its comments in support of the petitions for reconsideration filed by MCI WorldCom and USTA in the above-captioned proceeding.

On October 8, 1999, the Commission released an Order in the above-captioned dockets (FCC 99-291) in which it directed the administrator of the universal service support mechanisms, USAC, to recover e-rate discount funding erroneously paid for ineligible services, and for services provided by ineligible service providers. 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). Three parties – Sprint, MCI WorldCom and USTA – each sought reconsideration of the *October 8 Order,* and it is these three petitions which are the subject of the instant Public Notice.

Sprint agrees that discount funding disbursed in violation of federal statute must be recovered, and that USF amounts disbursed to ineligible service providers should be

No. of Copies rec'd 0+4
List A B C D E

recovered from such service providers. It is Sprint's understanding that both WorldCom and USTA hold this view as well. Thus, as regards statutory violations of the e-rate program, the only issue to be decided on reconsideration here is the party from which to recover disbursements for ineligible services. As urged by all three petitioners,[1] erroneously disbursed funds should be recovered from the party that actually received the benefit of the disbursement -- the school or library. To require recovery of erroneously committed funds from the service provider is inequitable and is not warranted as a matter of law or public policy.[2]

The *October 8 Order* appears to reflect a fundamental misunderstanding of the role of the service provider in the e-rate program. The service provider does not initiate or submit applications for support from the e-rate program on behalf of the school or library, does not review the applications to ensure that only eligible services are included, does not determine funding or discount levels, and does not provide the actual funding of the e-rate discount (WorldCom, p. 3). The transaction is between the school or library on the one hand, and USAC, the program administrator, on the other hand. Aside from providing the service, the service provider's role is limited to serving as a conduit for any discounts granted and disbursed by USAC, and received by the school or library (Sprint, p. 2; USTA, p. 6). Under this arrangement, there is no basis for holding the service provider responsible for recovery of erroneous disbursements.

The Commission also should be sensitive to the likely ramifications of adherence to a policy of requiring recovery of erroneous disbursements from service providers.

---

[1] See Sprint, p. 2; USTA, p. 5; WorldCom, p. 3.

[2] *Id.*; see also, *ex parte* letter, Attachment 1, filed on February 1, 2000 in this proceeding by USTA on behalf of AT&T, CommNet Cellular, Comptel, WorldCom, Nextel, Sprint, and USTA.

Forcing service providers to shoulder an unknown level of financial risk could discourage their participation in the e-rate program (in particular, discourage service providers from aggressively seeking to provide service to the highest risk schools and libraries – the very entities that most need e-rate funding), and will cause all participating carriers to increase their rates to reflect the added financial risk. As such results surely are contrary to the public interest, the Commission should grant the instant petitions for reconsideration and require recovery of any erroneous disbursements directly from the school or library that received the funds.

Respectfully submitted,

SPRINT CORPORATION

Richard Juhnke
Norina T. Moy
401 9th St., N.W., Suite 400
Washington, D.C. 20004
(202) 585-1915

August 3, 2000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **COMMENTS OF SPRINT CORPORATION** was sent by hand or by United States first-class mail, postage prepaid, on this the 3rd day of August, 2000 to the below-listed parties:

Christine Jackson

Christine Jackson

August 3, 2000

Dorothy Attwood, Chief
Common Carrier Bureau
Federal Communications
Commission
445 12th Street, S.W.
Washington, D.C. 20554

Irene Flannery, Chief
Accounting Policy Division
Common Carrier Bureau
Federal Communications
Commission
445 12th Street, S.W.
Washington, D.C. 20554

International Transcription
Service
445 12th Street, S.W.
Washington, D.C. 20554

John Hunter, Esq.
USTA
Suite 600
1401 H Street, NW
Washington, DC 20005

Larry Fenster, Esq.
WorldCom
1801 Pennsylvania Ave., NW.
Washington, DC 20006