

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
State of Tennessee Petition to)	CC Docket Nos. 96-45 and 97-21
Change Its Service Provider for)	
Schools and Libraries Universal)	
Service Support Mechanism)	
Funding Year 2002)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation hereby respectfully submits its comments in the above-captioned proceeding in response to the Public Notice released April 21, 2003 (DA 03-1186).

In its petition, the State of Tennessee requests that it be allowed to change its service provider for Funding Year 2002, before USAC has issued a Funding Commitment Decision Letter (FCDL). An investigation of Tennessee's current service provider, Education Networks of America, Inc. (ENA), is currently underway, and Tennessee filed its petition to ensure that Internet access for its 1900 K-12 schools is not jeopardized. Tennessee intends to appoint a common carrier (tentatively BellSouth) to replace ENA for the purpose of receiving the universal service funds and distributing payments to all underlying providers and subcontractors except ENA for the full funding year 2002 (Petition, pp. 1-2).

Sprint supports Tennessee's request to substitute a common carrier for ENA for E-rate funding purposes. As explained in its petition (p. 1), the Tennessee school system relies upon Internet services for its "grading systems, advanced placement exams for

seniors, year-end testing, teacher and student e-mail, and required teaching programs to remote schools.” To avoid serious harm to the students and educators of Tennessee, steps must be taken to ensure USF funding and continuation of the school system’s Internet access services.

Sprint shares the Commission’s concern over waste, fraud and abuse in the E-rate program, and supports the Commission’s recent steps to debar persons who have been convicted of criminal violations or held civilly liable for misconduct arising from participation in the program from future participation in the E-rate program.¹ In this case, ENA is apparently under investigation but has not been convicted of a crime, and it is not clear whether any conviction or finding of civil liability (which could preclude ENA’s participation in the E-rate program in funding year 2002 and beyond) might occur prior to the issuance of a FDCL for the current funding year. However, Tennessee is rightly concerned about the uncertainty inherent in this situation, and by the possibility of a denial of its application because of ENA’s role as its service provider. To ensure that there is no interruption in Tennessee schools’ Internet access services, and to ensure that service providers other than ENA are paid for the Internet access services rendered, Tennessee’s request to replace ENA with a common carrier for E-rate purposes should be granted.

¹ “FCC Takes Steps to Improve the Universal Service Schools and Libraries Program,” News Release dated April 23, 2003. In the *Second Report and Order* in CC Docket No. 02-6, the Commission adopted rules to debar persons convicted of criminal violations or held civilly liable for misconduct arising from participation in the program from participating in the E-rate program for a minimum of three years.

The Commission may waive its rules (and may direct USAC to waive its administrative procedures) if there is “good cause” to do so.² Waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule.³ Such is the case here. Given the peculiar circumstances in this case, Sprint believes that a waiver of the administrative procedures governing a SPIN change is warranted, and can be granted without detriment to the underlying goals which the general rule is intended to promote. Because there is no record evidence to date to suggest that the Tennessee/ENA case is anything other than an isolated problem, no changes to the generally applicable policies and procedures are necessary or warranted.

Respectfully submitted,

SPRINT CORPORATION



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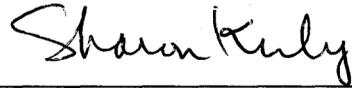
April 30, 2003

² See 47 C.F.R. Section 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

³ *Northeast Cellular*, 897 F.2d at 1166.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Sprint Corporation were delivered by electronic mail or U.S. First Class Mail, postage prepaid, on this 30th day of April 2003 to the parties listed below.



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