

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

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	

**COMMENTS OF SPRINT CORPORATION  
ON THE JOINT BOARD RECOMMENDED DECISION**

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## EXECUTIVE SUMMARY

- Sprint supports imposing reasonable limits on universal service fund growth. However, the Recommended Decision's focus on fund growth due to competitive entrants, who currently receive only about 7% of high-cost funds, is misplaced.
- The Commission should consider alternative means to limit fund growth, such as:
  - Adopt the Joint Board's recommendation to impose a cap upon high-cost support disbursements per line when a competitive ETC is present.
  - Consider developing a system of high-cost support based on forward-looking economic costs.
  - Devise incentives for states to ensure that ILECs recover a reasonable (larger) portion of their costs from their own local exchange customers, thereby reducing the need for explicit support.
- The Commission should not restrict high-cost support to "primary lines."
  - All three options offered for mitigating the impact on ILECs would violate competitive neutrality, since each of them would guarantee no initial revenue changes for ILECs while ensuring substantial revenue reductions for wireless ETCs. Two of the three options also violate the statutorily mandated requirement of fund portability.
  - Primary line restrictions would be extremely difficult and costly to implement. There is no principled way to determine whether a consumer's wireline or wireless phone is "primary."
- Any new ETC designation guidelines must be competitively neutral.
  - In non-rural ILEC areas, designation of additional ETCs that comply with basic ETC requirements is *per se* in the public interest. The statute mandates no additional "public interest" test for such applications.
  - The ETC designation process must not include improper criteria such as:
    - \* equal access requirements for wireless carriers;
    - \* wireline-oriented or monopoly-focused consumer protection rules;
    - \* rate structure regulation through the guise of local usage requirements; or
    - \* consideration of macro-policy issues such as per-line funding levels.

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Sprint Corporation, on behalf of its local, long distance, and wireless operations ("Sprint"), submits comments on the Notice of Proposed Rulemaking and on the Joint Board Recommended Decision regarding the designation of Eligible Telecommunications Carriers ("ETCs"), the scope of universal service support, and related issues. 1/

**I. INTRODUCTION: THE COMMISSION MUST LIMIT THE GROWTH OF THE UNIVERSAL SERVICE FUND THROUGH COMPETITIVELY NEUTRAL POLICY CHANGES.**

Sprint approaches this proceeding with the uniquely balanced perspective of a company that is, at the same time, a competitive ETC ("CETC"), a rural incumbent local exchange carrier ("ILEC"), and a net payor into the universal service fund. 2/ As such, Sprint agrees with the primary policy objective that the

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1/ *Federal-State Joint Board on Universal Service, Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 04-127 (released June 8, 2004), 69 FR 40839 (July 7, 2004) ("NPRM"); Federal-State Joint Board on Universal Service, Recommended Decision, 19 FCC Rcd 4257 (Joint Board 2004) ("RD").*

2/ Sprint's wireless division has received ETC designation in eight states and Puerto Rico, and has applications pending for a number of others, including eight that have been pending for almost a year before the FCC. On the other hand, Sprint's local operating companies – most of

Joint Board apparently pursued – to impose reasonable limits on the growth of the universal service fund and thereby “ensure long-term sustainability of the universal service fund.” <sup>3/</sup> Sprint also agrees with the Joint Board that the Commission must “ensure that the dual goals of preserving universal service and fostering competition continue to be fulfilled.” <sup>4/</sup> Sprint is concerned, however, that the Joint Board’s focus on “slow[ing] fund growth due to competitive entry” <sup>5/</sup> is misplaced, since competitive entry has not been the main cause of fund growth.

Sprint believes that it is imperative for the Commission to impose limits on the growth of the universal service fund. Growing contribution burdens pose a drag on the telecommunications sector of the economy, limit economic growth, and harm telecom consumers. Moreover, universal service contributions are increasingly unfair and distortive to competition, because universal service contributions are paid only by providers of “telecommunications,” and not by providers of competing services that fall outside the telecommunications category (or that claim, whether correctly or incorrectly, to fall outside that category – even though they reap the benefits of the public switched telephone network that universal service funding supports).

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which are classified by the FCC as “rural carriers” for universal service support purposes – have ETC designation in 17 states. Moreover, Sprint contributes far more to the fund (through its long distance and wireless, as well as local, operations) than it receives.

<sup>3/</sup> *RD*, ¶ 1.

<sup>4/</sup> *Id.*

<sup>5/</sup> *Id.*, ¶ 4

In order to address this problem effectively, policymakers must consider two fundamental questions. First, what factors are driving the fund to grow as much as it has, and to continue to grow in the future? And second, what is the best approach to limiting the size of the fund? The Joint Board seems to believe that (1) competitive entry is the most significant factor causing the fund to grow, and (2) the best approach to limiting the size of the fund is to impose restrictions on the designation of new CETCs and to discontinue support for multiple lines. 6/

Sprint respectfully submits that both of these answers are incorrect. First, from 1999 to 2004, support to ILECs has grown by over \$1.4 Billion – representing 85% of the total growth in the high-cost fund – and today CETCs receive only about 7% of total high-cost funding. 7/ Second, while the measures recommended by the Joint Board might have some impact on the size of the fund, they have other significant disadvantages – most importantly, they run counter to the pro-competitive letter and spirit of the Telecommunications Act of 1996 (“1996 Act”). The size of the fund should be addressed more directly by proceeding with the fundamental re-examination of the system for funding all rural carriers, including ILECs as well as CETCs, pursuant to the Commission’s recent *Rural Universal Service Referral Order*. 8/

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6/ RD, ¶¶ 1, 4.

7/ These figures were computed based on data from the Universal Service Administrative Co.’s quarterly filings, available at <http://www.universalservice.org/overview/filings/>.

8/ See generally *Federal-State Joint Board on Universal Service*, Order, CC Docket No. 96-45, FCC 04-125 (released June 28, 2004) (“*Rural Universal Service Referral Order*”).

Rather than focusing narrowly on competitive entry, the Commission should undertake a broad, comprehensive, and competitively neutral restructuring of the universal service program. The high-cost universal service support system today is badly broken and needs to be reformed. In particular, rather than imposing limitations and burdens exclusively upon competitive ETCs, as the Recommended Decision suggests, the Commission should address the most significant driver of fund growth – funding to rural ILECs. In particular, it is high time for the comprehensive review, recently referred to the Joint Board, of “how support can be effectively targeted to rural telephone companies serving the highest cost areas, while protecting against excessive fund growth.” <sup>9/</sup> Wide-ranging reform of the funding rules could target universal service support to more effectively achieve the goals of Section 254 of the Act. More effectively targeting support should benefit consumers in rural and high-cost areas as well as all providers of universal service to those customers. At the same time such reform could be far more effective in controlling the growth of the fund than imposing anti-competitive restrictions exclusively on CETCs.

Moreover, the Joint Board Recommended Decision focuses exclusively on measures designed primarily to reduce support to competitive ETCs. This focus on reducing funding to new entrants, however, flies in the face of Act, which is designed to promote both competition and universal service in all parts of the

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<sup>9/</sup> *Id.*, ¶ 1.

country, including high-cost and rural areas. 10/ The courts have confirmed that the Act mandates a competitively neutral funding system in which both incumbent and competitive ETCs receive portable support. 11/

Moreover, the Recommended Decision fails to appreciate that both wireless and wireline carriers provide beneficial universal service to consumers in rural areas, and that competitively neutral support for carriers using both technologies enables those carriers to construct and expand networks to serve many more consumers in rural and high-cost areas. By overstating the costs, and underestimating the benefits, of competitive universal service provided by wireless carriers, the Recommended Decision reaches conclusions that would not advance the public interest.

In particular, as discussed below, the Commission should consider more effective ways of achieving the goal of limiting funding growth than eliminating support for multiple lines – first and foremost, imposing a cap on per-line support upon competitive entry, as the Joint Board recommended, which could

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10/ “We believe these commenters present a false choice between competition and universal service. A principal purpose of section 254 is to create mechanisms that will sustain universal service as competition emerges. We expect that applying the policy of competitive neutrality will promote emerging technologies that, over time, may provide competitive alternatives in rural, insular, and high cost areas and thereby benefit rural consumers.” *Federal-State Joint Board on Universal Service*, First Report and Order, 12 FCC Rcd 8776, ¶ 50 (1997) (subsequent history omitted)

11/ See, e.g., *Alenco Communications v. FCC*, 201 F.3d 608, 622 (5th Cir. 2000) (“[P]ortability is not only consistent with [the statutory requirement of] predictability, but also is dictated by the principles of competitive neutrality and ... 47 U.S.C. § 254(e).”) See also *id.* At 616 (“[T]he program must treat all market participants equally – for example, subsidies must be portable - so that the market, and not local or federal government regulators, determines who shall compete for and deliver services to customers. Again, this [portability] principle is made necessary not only by the economic realities of competitive markets but also by statute.”)

and should be implemented in the absence of a primary line restriction. Each of the alternatives that the Joint Board suggests as ways to mitigate the impact of a primary line restriction on rural ILECs would violate the principle of competitive neutrality in unacceptable ways. Moreover, eliminating support for multiple lines would entangle the Commission in a morass of virtually unsolvable administrative problems. Finally, the Commission should proceed cautiously with any changes to the procedures and standards that states and the FCC are using for designating ETCs, since the process is already quite rigorous and is generally working well.

## **II. THE COMMISSION SHOULD NOT ADOPT A “PRIMARY LINE” RESTRICTION ON HIGH-COST SUPPORT**

### **A. Primary Line Restrictions Are Not the Most Effective Means to Control the Growth of the Fund**

The Joint Board’s recommendation to “limit the scope of high-cost support to a single connection” is motivated, in part, to “preserve the sustainability of the universal service fund” – *i.e.*, to “slow fund growth” – and to restrict funding to that “necessary to achieve reasonably comparable access” to telecommunications and information services in rural and high-cost areas. <sup>12/</sup> Sprint endorses these goals, but believes that there are much more effective ways to achieve them than primary line restrictions. The Joint Board also frankly states that the primary line restrictions it recommends are intended to “send more appropriate entry signals” – *i.e.*, to reduce the extent to which universal service funding encourages entry by

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<sup>12/</sup> RD, ¶¶ 56, 62, 68.

prospective competitive ETCs – and to “avoid or mitigate reductions in the amount of high-cost support flowing” to rural ILECs. <sup>13/</sup> Sprint respectively submits that these latter two objectives are improper and disserve the public interest, because they violate the statutory mandate of competitive neutrality and would harm rural consumers.

It is important for the Commission not to underestimate or overlook the benefits that competitive ETCs, particularly wireless ETCs, bring to customers in rural areas. First, they bring all of the benefits of competition that served as the incentive for passage of the 1996 Telecommunications Act. The benefits of competition – choice, innovation, etc. – are as applicable and important to customers in rural areas as customers anywhere. But because of rural customers’ unique situations, competitive ETCs can produce even more benefits: Although universal service dollars are not intended to support services other than basic local service, there are significant positive *externalities* enjoyed by rural customers when the supported services are provided by wireless competitive ETCs. In many rural areas customers have limited calling scopes, and incur considerable toll charges to call other areas. In fact, the current rate structure for toll calls often makes it more expensive for rural customers to call a nearby town than to call across the country. But in the case of many wireless ETCs, customers do not incur any additional charges for calling beyond their limited calling scopes—a minute is simply a minute. So wireless competitive ETCs bring all the long-recognized benefits of competition

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<sup>13/</sup> RD, ¶¶ 69-71, 72-76.

to rural customers, but they also bring added benefits that actually help to offset the market distortions caused by our existing access and toll rate structures. For these reasons, Sprint respectfully reiterates that the Joint Board's goal of limiting competitive entry actually *harms* rural customers, by taking away from them the positive externalities that are currently available.

**1. Rural Per-Line Support Should be Capped Upon Competitive Entry**

The easiest and most straightforward way to limit fund growth in light of competitive entry would be to adopt the Joint Board's recommendation to impose an annually adjusted cap upon the high-cost support received by rural ILECs when a competitive ETC is present. <sup>14/</sup> Sprint supports this sensible recommendation and urges the Commission to adopt it. Such a policy would prevent the fund from growing due to the anomaly of setting per-line support based on dividing a declining number of rural ILEC access lines over an unchanged amount of embedded cost-based support. As the Joint Board makes clear, this policy would "prevent an upward spiral in support" due to rural ILEC line loss. <sup>15/</sup> While the Joint Board recognizes that such a policy is indispensable if a primary line restriction is adopted, the Commission must also recognize that this policy would impose beneficial limits on fund growth *whether or not a primary line restriction is adopted.*

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<sup>14/</sup> RD, ¶¶ 77-80.

<sup>15/</sup> RD, ¶ 78.

Indeed, the Commission should go farther and impose more restrictive limitations on fund growth. For example, the Commission should seriously consider whether to “cap total high-cost support in an area upon competitive ETC entry and allocate the support among ETCs based on market share, in lieu of limiting support to a single connection.” 16/ While the Joint Board rejected this option (with virtually no analysis), Sprint believes it is worth further consideration, since it would more effectively “contain fund growth due to competitive ETC entry, but would be more competitively neutral and less administratively burdensome than a primary-connection limitation.” 17/

On the other hand, the Commission should decline to pursue the option of capping competitive ETCs’ support while allowing ILECs’ support to continue increasing without limitation. 18/ As discussed in more detail below, such a policy would blatantly violate the competitive neutrality principle, by guaranteeing that ILECs would receive substantially greater funding per connection (or per primary line) than competitive ETCs. The Commission has long understood that a policy that provides substantially greater funding to ILECs than to competitive entrants would have the effect of precluding entry, in violation of Section 253. 19/ Thus, such

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16/ RD, ¶ 71.

17/ Id.

18/ RD, ¶¶ 75, 77.

19/ *Western Wireless Corp. Petition for Preemption of Statutes and Rules Regarding the Kansas State Universal Service Fund Pursuant to Section 253 of the Communications Act of 1934*, 15 FCC Rcd 16227 (2000) (“*Kansas USF Declaratory Ruling*”); *Federal-State Joint Board*

a policy would violate the Act and would harm the intended beneficiaries of the universal service rules: consumers in rural and high-cost areas. 20/

**2. The Commission Should Explore Other Means to Control Fund Growth and Target Support**

The most effective way to address the growth of the fund is to address the issue *directly* – not by limiting consumer access to competitive alternatives. Rather than imposing primary line restrictions, the Commission should consider three overlapping reforms to the fund structure: a system based on forward-looking costs; a mechanism for reducing support to carriers with unduly low local exchange rates as those rates are allowed to move closer toward costs; and a system of “vouchers” for distributing support to consumers.

First, the Commission should consider developing a system of high-cost support based on forward-looking economic costs. 21/ Such a system could both improve the Commission’s ability to control fund growth, and help ensure that support is targeted more effectively to support “what it would cost today to build and operate an efficient network (or to expand an existing network)” and that gives potential competitors efficient price signals in deciding whether to invest . . . .” 22/

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*on Universal Service; Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota*, 16 FCC Rcd 18133, ¶ 12 (2001).

20/ *Alenco Communications v. FCC*, 201 F.3d 608, 621 (5th Cir. 2000).

21/ *Rural Universal Service Referral Order*, ¶¶ 8-9.

22/ *Review of the Commission’s Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Services by Incumbent Local Exchange Carriers*, Notice of Proposed Rulemaking, 18 FCC Rcd 18945, ¶ 30 (2003) (“*TELRIC NPRM*”).

Of course, the use of forward-looking economic costs would *not* necessarily require use of the Commission's existing cost models, nor would it require use of a one-size-fits-all "TELRIC" methodology. Sprint looks forward to working with the Joint Board and other parties on developing innovative solutions to these complex matters in the proceeding that the Joint Board will soon initiate in response to the *Rural Universal Service Referral Order*.

Second, the Commission should create an incentive mechanism that reduces high-cost support to carriers with extremely low local rates as those carriers are allowed to recover a more reasonable portion of the costs of service from their own customers through local exchange rates. Given that the core goal of the universal service program is "ensuring that consumers in rural, insular, and high-cost areas have access to telecommunications and information services at rates that are affordable and reasonably comparable to rates charged for similar services in urban areas," <sup>23/</sup> then it is incumbent on the Commission to examine the rates that consumers are actually paying. Many rural ILECs – including some of Sprint's rural local operating companies – charge retail rates that are not only below cost, but are far lower than rates for comparable services in urban and suburban areas. <sup>24/</sup> Some rural carriers may be content to charge such low rates, while

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<sup>23/</sup> *Rural Universal Service Referral Order*, ¶ 1.

<sup>24/</sup> A recent FCC report showed that the nationwide average residential rate charged by ILECs in 95 selected urban and suburban areas is \$14.57 per month, not including subscriber line charges, charges for vertical services, or other sources of revenue (e.g., access charges, long distance, etc.). See Reference Book of Rates, Price Indices, and Expenditures for Telephone Service (released July 1, 2004).. By contrast, Sprint ILECs are required to charge R1 rates in

others – including the Sprint rural carriers – are compelled to do so by state regulation.

While the Commission lacks direct authority over retail local exchange rates, it could – and should – create an incentive mechanism that reduces the distribution of scarce universal service funds to carriers as those carriers are allowed to recover a more reasonable portion of the costs of service from their own customers. Ideally, this mechanism would provide the necessary incentive to state commissions to take a more realistic approach to retail rates and the proper role of subsidies than some have taken to date. The Commission would promote equity by ensuring that customers pay a reasonable portion of the costs of local service prior to receiving federal universal service subsidies (with the exception of those financially unable to do so). Such a policy would promote economic efficiency and would not have a significant negative impact on universal service. It also would facilitate efficient competitive entry and would effectively limit the growth of the fund. 25/

Finally, in the context of these comprehensive reforms, the Commission should consider restructuring the high-cost system to rely on consumer “vouchers,” which would retarget universal service support to focus on its purpose:

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the range of \$6.00 to \$8.00 per month for basic residential service in rural parts of Texas, North Carolina, Tennessee and other states. This pattern repeats itself across rural America.

25/ See Sprint Joint Board Comments, CC Docket No. 96-45 (May 5, 2003), at 15-19.

“to benefit the customer, not the carrier.” <sup>26/</sup> Unlike the Joint Board’s recommendation to layer a primary line restriction on top of the current system of support based on rural rate-of-return ILECs’ embedded costs, a voucher system could be developed in the context of a reformed funding system to support a single connection to the public switched network in a consumer-oriented manner.

Sprint urges the Commission to proceed with the reforms discussed above, each of which would more effectively and more directly control fund growth than the primary line restrictions recommended by the Joint Board.

**3. Policies Intended to Disfavor Competitive Entrants Must Be Rejected**

The Joint Board frankly states that the primary line restrictions it recommends are also intended to “send more appropriate entry signals” – *i.e.*, to reduce the extent to which universal service funding encourages entry by prospective competitive ETCs – and to “avoid or mitigate reductions in the amount of high-cost support flowing” to rural ILECs. <sup>27/</sup> Sprint respectfully submits that these latter two objectives are improper because they violate competitive neutrality and contravene the Act.

The Commission cannot lawfully pursue a policy that is specifically intended to reduce the support flowing to prospective competitors, while minimizing reductions in the revenue streams flowing to incumbent carriers. The

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<sup>26/</sup> *Alenco Communications v. FCC*, 201 F.3d 608, 621 (5th Cir. 2000).

<sup>27/</sup> *RD*, ¶¶ 69-71, 72-76.

Communications Act does not authorize the Commission to arbitrarily direct funds away from one disfavored category of companies and toward another, favored group, where both groups equally satisfy the statutory prerequisites for funding. <sup>28/</sup> As Chairman Powell has explained, “government is at its worst when it attempts to pick competitive winners or losers,” and instead, “our competition policy is to be guided by the view that we will let the market pick winners and losers and hopefully not government policy.” <sup>29/</sup>

**B. All of the Proposed Options Regarding Primary Line Implementation Violate the Principle of Competitive Neutrality**

Competitive neutrality is a fundamental principle that has guided the universal service program since the enactment of the 1996 Act. The Commission has never proposed, and the Joint Board has never before recommended, compromising that principle in any way. To the contrary, a competitively neutral ETC designation process is compelled by the 1996 Act’s overall purposes as a “pro-competitive, deregulatory national policy framework designed to . . . open[ ] all

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<sup>28/</sup> See *supra* notes 10-11 and accompanying text.

<sup>29/</sup> Chairman Michael K. Powell Keynote Address at SUPERCOMM 2001, Atlanta, GA, June 6, 2001 (available at <http://www.fcc.gov/Speeches/Powell/2001/spmcp104.html>.) Accord, Commissioner Kevin J. Martin Remarks to the National Summit on Broadband Deployment II: Accelerating the Transition, Crystal City, VA, April 29, 2003 (available at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-234090A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-234090A1.doc)) (“the government should not pick winners and losers among rival technologies or industries”).

telecommunications markets to competition.” 30/ The federal courts have confirmed that a competitive universal service system is compelled by the Act. 31/

Sprint believes the Joint Board’s desire to mitigate the impact of policy changes on rural ILECs is not unreasonable, as long as that goal can be achieved in a manner consistent with competitive neutrality. However, the Joint Board’s concern about the impact on ILECs contrasts with its striking lack of concern about the impact on competitive ETCs. The Commission must take a more balanced approach – and to ensure competitive neutrality, must reject the Joint Board’s recommendation to impose a primary line restriction. Each of the forms of primary line restrictions discussed by the Joint Board would disproportionately harm competitive ETCs. This is because each of these options would ensure, at least initially, that the ILECs remain revenue neutral, regardless of whether they garner any “primary line” designations from customers who subscribe to both wireline service and service offered by a wireless ETC. By contrast, wireless CETCs would certainly receive substantially reduced amounts of support unless each and every one of their customers designates their wireless phones as their “primary line.”

As the Joint Board recognizes, the “lump sum payment proposal” violates competitive neutrality because it would make lump-sum payments

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30/ *Telecommunications Act of 1996, Conference Report to Accompany S.652*, Rept. 104-458, 104th Cong., 2d Sess. (Jan. 31, 1996), at 1 (“*1996 Act Conference Report*”).

31/ *See, e.g., Alenco Communications v. FCC*, 201 F.3d 608, 615 (5th Cir. 2000).

available to ILECs but not to CETCs. 32/ This option would contravene the Commission's consistent policy of portability, and thereby blatantly violate the competitive neutrality principle and the Act. 33/ Providing support to ILECs that is not equally available to competitive ETCs would skew competition and effectively pose a barrier to entry. 34/

Similarly, the "hold harmless" proposal would hold ILECs harmless, but would be very harmful to CETCs. 35/ It violates competitive neutrality because it would provide greater amounts of non-portable support per-line (or per-primary-line) to ILECs than to CETCs, like the previous option. Worse, under this option the ILECs would qualify for ever-increasing amounts of per-line support, but competitive ETCs' support would be frozen to the per-line amount that was available when they were designated. Given that both the "lump sum payment" and the "hold harmless" options compromise portability and competitive neutrality in an attempt to mitigate the impact of the policy changes upon rural ILECs, if the

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32/ RD, ¶ 74.

33/ "[P]ortability is not only consistent with [the statutory requirement of] predictability, but also is *dictated* by the principles of competitive neutrality and . . . 47 U.S.C. § 254(e)." *Alenco Communications, Inc. v. FCC*, 201 F.3d at 622 (emphasis added). See also *id.* at 616 ("[T]he [universal service] program must treat all market participants equally – for example, subsidies must be portable – so that the market, and not local or federal government regulators, determines who shall compete for and deliver services to customers. Again, *this [portability] principle is made necessary not only by the economic realities of competitive markets but also by statute.*") (emphasis added); *id.* at 622 ("What petitioners seek is not merely predictable funding mechanisms, but predictable market outcomes. Indeed, what they wish is protection from competition, the very antithesis of the Act.").

34/ *Kansas USF Declaratory Ruling*, 15 FCC Rcd at 16231, ¶ 8 (2000).

35/ RD, ¶ 75.

Commission adopts either of them, it should phase out such measures – *i.e.*, should either discontinue the disbursement of additional support revenues to ILECs that are not available on an equal basis to CETCs, or else make identical additional revenues available to CETCs – after a relatively short period of time (*e.g.*, one year). <sup>36/</sup> This would have limit the anti-competitive impact of such policies to as short a period of time as possible.

The “restatement proposal” <sup>37/</sup> would also have anti-competitive impacts, because, at least initially, ILECs would be guaranteed the same universal service support revenue as under the status quo regardless of how many of their lines were deemed “primary,” while CETCs would lose revenue if any of their lines were not deemed “primary.” Of course, under this option, the ILEC’s support could go down in the future if the CETC persuades customers that purchase service from multiple vendors either to drop their ILEC service and purchase only wireless service, or to redesignate their wireless service as “primary.” However, upon the initial implementation of the plan, the ILEC would not lose one dollar of support, no matter how many customers deem their ILEC lines as “primary,” while the wireless CETC would lose substantial amounts of support unless it can persuade *every single customer* to designate the wireless line as “primary.” This would be anything but a level playing field, contrary to the pro-competitive intent of the Act. The Commission should decline to adopt a primary line restriction.

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<sup>36/</sup> RD, ¶ 47 n.205.

<sup>37/</sup> RD, ¶ 73.

**C. It Would Be Extremely Difficult and Burdensome to Administer A Primary Line Restriction**

The Joint Board recognizes that its recommendation to limit support to primary lines poses “administrative challenges” and urges the Commission to further develop the record on how to implement it. <sup>38/</sup> Unlike the Joint Board, Sprint believes that the costs and burdens entailed in implementing a primary line restriction would exceed the benefits of such a policy.

The most critical difficulty presented is how it would be determined which carrier provides the “primary” connection when consumers purchase service from multiple ETCs. If consumers were asked to decide which of their carriers is “primary,” they would have no rational way of making that decision unless there were consequences for the consumers – *i.e.*, rates for non-primary lines were permitted to increase. In the case of ILECs, this would require complex coordination with state rate regulation, since states would have to permit increases in basic rates for ILECs’ non-primary lines.

In the absence of a consumer decision, there would have to be some decision rule to determine which line is “primary.” For example, in cases where consumers receive service from more than one ETC, it might make sense to designate the “primary” line as the one over which more minutes are used. It would plainly violate competitive neutrality to assume that the ILEC line is always “primary.”

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<sup>38/</sup> RD, ¶ 81.

To further complicate matters, it would be quite burdensome for carriers to keep track of which of their customers purchase a "primary" connection service and which do not. Given the likely conflicts over these issues among carriers, a third-party administrator (possibly USAC) might be needed to track down determinations of consumers' "primary" connections. The administrator would also need to keep track of consumers' changes of primary designation, either because they drop or add services from various carriers, and/or because they simply change their minds about which carrier's service to designate as primary. Creating a complex structure and rules to govern this process would be costly and burdensome. For example, rules would have to be developed to determine how often could a primary line designation be changed, how "slamming" (unauthorized changes of such designation) would be prevented, and other administrative details.

To ensure that only one line per "consumer" receives support, the Commission would have to develop, and carriers would have to enforce, complex rules about who counts as a consumer. In that regard, Sprint concurs with OPASTCO's comments before the Joint Board:

For instance, the Joint Board asks how primary lines should be defined. If it is a household, how would residences with unrelated individuals be treated (for example, college roommates or families who take in boarders)? If it is an individual, what would stop a family from placing each of the lines it subscribes to under a different family member's name, so that they are all classified as "primary"? If only primary residences are supported, there is the administrative complexity of carriers having to share information given the likelihood that a subscriber's primary and second residences are in different service areas. \* \* \* [I]t is not the role of carriers to pry into the private living arrangements of their customers. \* \* \*

[T]he Joint Board is correct in suggesting that the problems of limiting support to primary lines may be magnified in a multi-carrier environment. \* \* \* Clearly, the exceedingly complex mechanisms that would be needed to implement and enforce a rule that limited support to primary lines would fail any reasonable cost/benefit analysis. 39/

Moreover, the problems posed in the context of business customers are even more complex. The Joint Board Recommended Decision identifies many of these problems, but neither it nor the record in this proceeding provides any guidance on how to solve them.

Most fundamentally, it is consumers' economic decisions in the marketplace that should drive the success and failure of competing carriers – not arbitrary regulatory decisions, and certainly not arbitrary choices made by consumers in filling out a confusing form designating which of one's multiple telecommunications suppliers provides the "primary line." The primary line restriction recommended by the Joint Board is impractical and unsupportable, and would disserve the public interest. The Commission should decline to adopt it.

### **III. ANY NEW ETC DESIGNATION GUIDELINES MUST BE NON-DISCRIMINATORY AND COMPETITIVELY NEUTRAL**

#### **A. It Is Not Clear That New Designation Guidelines Are Needed**

The Commission should proceed carefully in considering whether to adopt additional permissive guidelines regarding ETC designation standards, and in deciding which guidelines to adopt. The Joint Board offers three reasons for its recommendation that the Commission adopt permissive federal guidelines

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39/ OPASTCO Comments, CC Docket No. 96-45, at 35-36 (filed May 5, 2003).

regarding ETC designation standards: (1) to make the ETC designation process sufficiently “rigorous” to “ensure that only fully qualified applicants receive designation as ETCs and that ETC designees are prepared to serve all customers within the designated service area”; (2) to assist states and “allow for a more predictable application process among the states”; and (3) to “improve the long-term sustainability of the fund” by restricting the carriers that can receive support. 40/ But it is not clear that any of these rationales withstand analysis.

First, the existing ETC designation process being conducted by the states pursuant to Section 214(e)(1), and by the FCC pursuant to Section 214(e)(6) is amply rigorous. The state commissions have access to the pertinent factual information, and are conducting appropriately rigorous proceedings to reach ETC designation decisions. The Recommended Decision itself cites with approval a number of state commission decisions regarding ETC designation. For its part, the FCC recently adopted a new standard governing its designation of ETCs. 41/, and has begun to utilize that standard to consider. While the Joint Board criticizes as

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40/ RD, ¶ 9.

41/ *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, 19 FCC Rcd 1563 (2003) (“*Virginia Cellular Order*”); see also *Federal-State Joint Board on Universal Service, Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, 19 FCC Rcd 6422 (2003); *Federal-State Joint Board on Universal Service, Guam Cellular and Paging, Inc., d/b/a SaipanCell, Petition for Designation as an Eligible Telecommunications Carrier on the Islands of Saipan, Tinian, and Rota in the Commonwealth of the Northern Mariana Islands*, CC Docket No. 96-45, DA 04-2268 (Wireline Comp. Bur., released July 23, 2004). Sprint believes certain aspects of the standard adopted in the *Virginia Cellular Order* are flawed, and has sought reconsideration of those aspects of the order, as discussed below.

“inadequate” those state commissions that “have cited generalized benefits of competition when evaluating ETC applications,” 42/ there is no evidence that this supposed problem is widespread, if it exists at all. In Sprint’s experience, the states are exercising an appropriate degree of care and rigor in evaluating ETC applications.

Second, while Sprint would welcome a more “predictable” or consistent application process among states, this may not be achievable, given the degree of latitude that the Commission and the Joint Board believe the Act grants to the states to conduct these application proceedings. 43/ In that regard, Sprint agrees strongly with the Joint Board that, at most, any new guidelines regarding ETC designation should be optional, not mandatory. 44/ The Commission should make it clear that any criteria discussed in its order constitute a range or menu of possible options, and that there is no expectation, let alone requirement, that a state commission utilize all, or even most, of them. These guidelines should provide neither a required maximum nor a required minimum. Accordingly, the Commission should reject the suggestion that it adopt “a core set of minimum qualifications,” which seems to be contradicted by language elsewhere in the

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42/ RD, ¶ 12.

43/ See, e.g., RD, ¶¶ 10, 15 (citing *Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393, 418 (5th Cir. 1999)).

44/ RD, ¶ 10.

Recommended Decision emphasizing that any guidelines would be permissive and not mandatory. 45/

Third, as noted above, Sprint shares the Joint Board's concern about the sustainability of the universal service fund. But the problem should be addressed directly, by reforming the funding rules, rather than through means that at best will have only a minimal impact on fund growth, and at worst may violate the statutory imperative to facilitate competitive entry.

**B. Section 214(e) Compels a Different Analysis in Non-Rural Areas**

Sprint has filed ETC applications for its wireless operations in *non-rural* ILEC areas in a number of states and before the FCC. There is absolutely no doubt that the public interest favors designating Sprint as an ETC, as Sprint has shown. Nonetheless, it is important that the correct analytical framework be applied to these applications, as prescribed by the Act. The Joint Board recognizes that "states and the Commission should apply a higher level of scrutiny when evaluating ETC applications in areas served by rural carriers," but contradicts itself by recommending that the Commission adopt new, permissive "guidelines to apply in areas served by both rural carriers and non-rural carriers." 46/ The proposed new guidelines discussed in the Recommended Decision are intended as an "appropriate way to analyze the public interest when evaluating an ETC application

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45/ RD, ¶¶ 9, 13; *cf. id.*, ¶ 10 (emphasizing that, "[b]ecause these guidelines would be permissive, we reject the parties' arguments suggesting that such guidelines would restrict the lawful rights of states to make ETC designations"), ¶ 15 (same).

46/ RD, ¶ 14 n.26.

for a rural area.” 47/ But the statute does not require a special “public interest” finding for areas served by *non-rural* ILECs separate and apart from the general finding that the applicant has satisfied the established ETC criteria.

In the pending rulemaking proceeding, the Commission should carefully distinguish between the analysis that is appropriate for areas served by *rural* ILECs and that appropriate for areas served by *non-rural* ILECs. In that regard, the Commission must correct the mistake it made in the *Virginia Cellular Order*, in which it mistakenly required a special “public interest” not only in *rural* ILEC areas, as the statute requires, but in *non-rural* ILEC areas as well. 48/

In the context of this rulemaking proceeding, the Commission should confirm the standard adopted by the Bureau several years ago: that once an ETC applicant in a *non-rural* ILEC area has demonstrated that it has satisfied the statutory requirements of all ETCs, such a carrier’s receipt of ETC status “is consistent *per se* with the public interest.” 49/ In other words, Congress has already made the decision that, if a carrier has met the prescribed ETC criteria, then designation of that carrier as an ETC is in the “public interest, convenience, and

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47/ RD, ¶ 12.

48/ *Virginia Cellular Order*, ¶ 26.

49/ *Federal-State Joint Board on Universal Service, Celco Partnership d/b/a/ Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier*, 16 FCC Rcd 39, 45, ¶ 14 (Com. Car. Bur. 2000) (“*Verizon Wireless Delaware ETC Order*”). See Sprint Petition for Reconsideration of the Virginia Cellular Order, CC Docket No. 96-45 (filed Feb. 23, 2004).

necessity.” No additional public interest finding is needed. 50/ This approach is rooted in the statute itself, as well as the legislative history.

Finally, it is worth noting that, since the Commission opined in the *Virginia Cellular Order* that a public interest analysis might be needed even for non-rural ETC applications, a number of states have reached the opposite conclusion, and correctly found that no separate “public interest” finding is necessary for ETC applications in non-rural ILEC areas. 51/

**C. The Commission Should Proceed Cautiously In Recommending Criteria for States to Use**

All guidelines used to evaluate ETC applications must be competitively neutral. 52/ This means, first, that the criteria must be no more difficult for

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50/ Sprint has offered extensive analysis in support of this position in its Petition for Reconsideration of the Virginia Cellular Order (filed Feb. 23, 2004), and in other filings. See also Sprint Reply to Comments on Supplemental ETC Filing, CC Docket No. 96-45 (filed June 9, 2004), at 9-10 & n.26.

51/ See, e.g., *RCC Minnesota, Inc. Application for Designation as an Eligible Telecommunications Carrier, Pursuant to the Telecommunications Act of 1996*, UM 1083, at 7 (Oregon PUC, June 24, 2004) (“RCC has shown that it provides the nine supported services and has pledged to advertise them throughout the area. Because compliance with those requirements is ‘consistent *per se* with the public interest,’ RCC’s application as to the wire centers served by Qwest and Verizon should be granted.”); *Application of NPRC, Inc. d/b/a Nextel Partners for Eligible Telecommunications Carrier Designation*, PUC Docket No. 27709, SOAH Docket No. 473-03-3673, at 8 (Texas PUC, released June 30, 2004) (rejecting application on other grounds, but concluding that “the Commission finds that ETC designation of an additional carrier in non-rural ILEC service areas is *per se* in the public interest); accord, *Sprint Corp. Petition for Consent and Approval to Designate Sprint Corp. as an Eligible Telecommunications Carrier*, Case No. 03-1509-C-PC, at 6 (West Virginia PSC, June 28, 2004).

52/ See *supra* at 12-13.

competitive entrants than for ILECs to satisfy. <sup>53/</sup> Second, such criteria must be technologically neutral, which means they should not be skewed to favor wireline technology nor to disfavor wireless technology. Third, ETC criteria must be rationally related to advancing the universal service-oriented goals of the Act. This means that state commissions and the FCC must reject calls to bog down the ETC process with criteria such as tariffing, rate regulation, or equal access that – in violation of Section 332(c) of the Act – would impose upon competitive wireless carriers the existing requirements that have been applied to ILECs in order to control their remaining market power due to their former monopoly status. <sup>54/</sup>

Finally, any compliance or enforcement process, and any new reporting or auditing burdens, must apply equally to incumbent ETCs as well as competitive ETCs. The Joint Board suggests that states (and the FCC) could rescind the designation of previously designated competitive ETCs that fail to comply with newly adopted conditions or ETC requirements, but says nothing about

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<sup>53/</sup> *Federal-State Joint Board on Universal Service; Western Wireless Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, Declaratory Ruling, 15 FCC Rcd 15168 (2000).

<sup>54/</sup> Parity between the rules that apply to incumbents and those that apply to competitive entrants is not necessarily consistent with the Act, which specifically imposes much broader interconnection obligations upon ILECs than on other carriers. Compare 47 U.S.C. § 251(c) with §§ 251(a) & 251(b). The FCC has an over 25-year track record of imposing more extensive regulations upon incumbents with market power than upon competitive entrants. That said, to the extent the Commission is concerned about regulatory parity between incumbent ETCs and competitive ETCs, it should consider removing any unnecessary regulations that may apply to ILECs, rather than imposing unnecessary regulations upon competitive ETCs. Cf. *Federal-State Joint Board on Universal Service*, Recommended Decision, 17 FCC Rcd 14095 (Joint Board 2002) (“*Definition of Universal Service RD*”), Separate Statement of Commissioner Kathleen Abernathy (“*Abernathy Equal Access Statement*”), at p. 41.

reexamining ILECs' compliance with the ETC requirements. 55/ It would blatantly violate competitive neutrality to apply such a standard retroactively to competitive ETCs but not to incumbent ETCs. All ETCs, including ILECs as well as competitive carriers, are subject to the same ETC requirements pursuant to Section 214(e), and the Act must be enforced in an even-handed manner. Similarly, while it is unclear that any new, potentially burdensome certification or auditing procedure is necessary, Sprint agrees with the Joint Board's recommendation that any such new procedures should apply to all ETCs, including ILECs as well as competitive ETCs. 56/

*Commitment and Capability Test.* Sprint does not object to use of an "adequate financial resources" standard 57/ or careful consideration of a carrier's "commitment and ability to provide the supported services." 58/ That said, it is important to administer these standards in a reasonable and competitively neutral manner. For example, ILECs are not required to use all of the universal service support dollars that they receive to construct new network facilities; it is perfectly reasonable and lawful for them to use their support for the operations and maintenance of existing facilities, or to cover the annual depreciation costs of past capital investments. Similarly, it would be improper to require competitive ETCs to

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55/ RD, ¶ 45.

56/ RD, ¶¶ 46-48.

57/ RD, ¶ 22.

58/ RD, ¶ 23-27.

expend every dollar they receive on incremental capital expenditures – such a requirement would violate competitive neutrality. Accordingly, while it is not unreasonable for states or the FCC to require ETC applicants to make a showing regarding the cell sites they plan to build or upgrade, 59/ it would be unreasonable to require them to show that they will spend every dollar of support on such facilities.

Equal Access. About two years ago, the Joint Board was deadlocked on whether to require all ETCs, including wireless carriers, to offer “equal access” (*i.e.*, presubscribed access to a consumer’s selected long distance carrier). 60/ Now the Joint Board recommends that the FCC revise its precedent to allow state commissions to impose equal access requirements on wireless ETCs should they choose to do so. 61/ The Commission should reject this recommendation.

Equal access requirements for wireless carriers make no more sense on an “optional” basis than they would on a mandatory basis. To the contrary, as the Commission has correctly held in the past, Section 332(c)(8) prohibits state commissions from imposing equal access requirements on CMRS carriers. 62/

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59/ RD, ¶¶ 24-25; *Virginia Cellular Order*, ¶ 16; see also Sprint Supplement to ETC Applications, CC Docket No. 96-45 (filed May 14, 2004).

60/ See *Definition of Universal Service RD*. The Commission, declined to adopt an equal access requirement as part of the “definition of universal service.” *Federal-State Joint Board on Universal Service*, 18 FCC Rcd 15090, 15104, ¶ 33 (2003).

61/ RD, ¶ 29.

62/ *Id.*; *Petition of the State Independent Alliance and the Independent Telecommunications Group for a Declaratory Ruling that the Basic Universal Service Offering Provided by Western Wireless in Kansas is Subject to Regulation as Local Exchange Service*, 17 FCC Rcd 14802 (2002).

Neither the FCC nor the state commissions should be allowed to second-guess Congress' judgment that, given the competition among CMRS carriers, "equal access" requirements would be counter-productive in the CMRS context. 63/ Moreover, as the Commission has found in the past, imposing equal access obligations on CMRS carriers through the guise of ETC criteria would "undercut local competition and reduce consumer choice." 64/ Consumers benefit from the bundled local/long distance packages that wireless carriers introduced, and that wireline ILECs are now beginning to imitate. Imposing an equal access obligation on wireless ETCs – or even allowing states to impose such a requirement on a "permissive" basis – would discourage such beneficial, pro-consumer offerings, and would move decidedly in the wrong direction. 65/

In addition, there is no point in considering whether to impose an equal access requirement or any other obligation on competitive ETCs "if all other ETCs in that service area exercise their rights to relinquish their designations

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63/ See *Abernathy Equal Access Statement*, at p.38 ("In response to the Commission's previous effort to impose equal access on CMRS carriers, Congress spoke loudly and clearly in opposition to such a requirement. We should be faithful to that plain statement of legislative intent, rather than seeking ways around it.").

64/ *Federal-State Joint Board on Universal Service*, First Report and Order, 12 FCC Rcd 8776, 8820, ¶ 79 (1997).

65/ See *Abernathy Equal Access Statement* at 41 ("Looking at the telecommunications marketplace as a whole — which is more competitive than ever before, and which is moving away from artificial service-category distinctions based on geographic boundaries — I am frankly puzzled by the argument that we need to adopt an intrusive and backward-looking regulatory requirement for CMRS carriers.").

pursuant to section 214(e)(4).” 66/ No ILEC has ever relinquished its ETC designation, nor is any likely to do so. Accordingly, the Commission should not adopt this recommendation, which is unproductive and ineffective as a practical matter.

*Emergency Functionality.* The Commission should decline to adopt a guideline encouraging that ETC applicants be required to demonstrate their ability to remain functional in emergencies. 67/ ILECs, wireless carriers, and other categories of carriers utilize a wide variety of different network technologies. State commissions should not be placed in a position to pass judgment on how a wireless carrier has engineered its network. More fundamentally, informed consumers can do a much better job than regulators in determining the type of emergency functionality that they most want and need. For example, mobile wireless phones are much better suited than wireline phones to address needs that arise during emergencies such as auto accidents and other critical circumstances that occur when users are away from home or a workplace. On the other hand, it is widely understood that wireline phones may be more reliable in the event of a power outage – at least those that are not accessed using cordless handsets, which usually require electric power. In a competitive environment, when consumers have a choice among carriers, consumers are fully capable of deciding which type of

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66/ RD, ¶ 28.

67/ RD, ¶ 30.

emergency feature they most value when they make their universal service purchasing decisions.

Consumer Protection. Sprint does not object to consideration of consumer protection commitments as part of the ETC designation process. 68/ For example, the FCC and a number of state commissions have taken into account the fact that wireless ETC applicants have committed to comply with the CTIA Consumer Code for Wireless, a set of consumer protection standards developed specifically for the context of the competitive wireless industry. 69/ However, regulators must not impose consumer protection rules that violate technological neutrality, such as copper loop-oriented standards of reliability that are impossible to achieve in the wireless context. Nor should regulators use consumer protection standards designed to control the market power of incumbent carriers as a rationale for precluding designation of competitive carriers.

Local Usage. The Commission should decline to adopt the Joint Board's recommendation that states be encouraged to "prescrib[e] some amount of local usage as a condition of ETC status or to "compare an incumbent LEC's offering of a local calling plan to the local calling plan proposed by the ETC applicant." 70/ The Commission's existing rules require all ETCs to make available access to local

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68/ RD, ¶¶ 31-34.

69/ See, e.g., *Virginia Cellular Order*, ¶ 30.

70/ RD, ¶¶ 35-36.

usage. <sup>71/</sup> That said, to require wireless ETCs to offer a specific minimum quantity of free local usage is tantamount to imposing a form of rate regulation on CMRS carriers, which Section 332(c)(3) specifically prohibits. Moreover, a quantified local usage requirement would violate competitive and technological neutrality. Most ILECs offer unlimited local usage, or large quantities of free local usage, reflecting the technological fact that their networks incur costs that are largely non-traffic sensitive, and the historical fact that in the past most ILECs were limited to only providing “local” service and not long distance (or were required by regulators to under-price local service and over-price long distance). By contrast, most wireless carriers (including Sprint) offer packages that typically ignore the distinction between “local” and “long distance” service – and, reflecting the more traffic-sensitive nature of wireless networks, typically offer “bucket of minutes” plans in which consumers pay for a specified quantity of usage. An unlimited local usage requirement or a mandated quantity of local usage would “be inconsistent with the principle of competitive neutrality by undercutting competition and reducing consumer choice” – whether mandated or imposed on a “permissive” basis. <sup>72/</sup>

*Cost/Benefit Analysis and Consideration of Per-Line Support Amounts.*

Sprint applauds the Joint Board’s recommendation *not* to encourage states to adopt a “specific cost-benefit test for the purpose of making public interest

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<sup>71/</sup> 47 C.F.R. § 54.101(a)(2).

<sup>72/</sup> *Definition of Universal Service RD*, ¶ 45.

determinations.” 73/ While the benefits of designating competitive ETCs are real, they are not readily quantifiable, given the uncertainties of how the marketplace may evolve in the future. Similarly, the Joint Board rightly declined to adopt a specific benchmark based on per-line support (*i.e.*, a bright-line rule that designating a competitive ETC would be in the public interest if the amount of per-line support is less than X, but not if the amount exceeds X). 74/ Any such benchmark would be inherently arbitrary and would disserve the interests of consumers.

However, the Commission should reject the notion that the “level of federal high-cost per-line support to be received by ETCs” may properly be considered in ETC designation proceedings. 75/ How are state commissions (or the FCC) supposed to use such information? The amount of per-line support, by itself, provides no information about the harms or benefits of designating a competitive ETC. A relatively high amount of per-line support to a rate-of-return rural ILEC may simply mean that the ILEC has expended excessive funds in an inefficient manner; it may well have nothing to do with the factors “such as topography, population density, line density, distance between wire centers, loop lengths and levels of investment” cited by the Joint Board. 76/

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73/ RD, ¶ 42.

74/ RD, ¶ 44.

75/ RD, ¶ 43.

76/ *Id.*

Fundamentally, if funding levels are particularly high in specific study areas, the real problem is that the system of determining funding levels is broken and needs to be reformed. The designation of individual ETCs, however, is a determination to be made on a case-by-case basis and must not turn on generic problems that cannot be addressed in an individual designation proceeding. Given that the overall size of the fund (as well as the amount of funds received by any individual carrier) are determined based on macro-policy decisions, it makes no sense for the impact on fund size to be used as a decision criterion in considering whether to designate an individual carrier as an ETC.

#### **IV. THE COMMISSION SHOULD ADOPT OTHER REFINEMENTS TO ITS COMPETITIVE ETC RULES**

The Commission should adopt its proposal to allow new ETCs to begin receiving support immediately as of their ETC designation date, provided that the required certifications and line-count data are filed within 60 days of the ETC designation date. <sup>77/</sup> However, the Commission should not adopt a new rule that would disqualify ETCs from receiving Interstate Access Support ("IAS") in certain cases due to untimely filed certifications. <sup>78/</sup> To the contrary, that rule in the context of Interstate Common Line Support ("ICLS") unnecessarily forces carriers to request frequent waivers of the rule, often due to circumstances beyond a carrier's control (e.g., a state commission's inability to meet the certification deadline).

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<sup>77/</sup> NPRM, ¶ 5.

<sup>78/</sup> NPRM, ¶ 5.

Rather than imposing an inflexible rule that will increase the administrative burden on carriers and on the FCC (due to the need to process waiver requests), the Commission should liberalize the certification requirement.

Finally, Sprint agrees that mobile wireless ETCs should receive support based on where their customers actually use their service. Wireless ETCs should be permitted to use their customers' "place of primary use," rather than their billing address, as the method for determining where customers are located for support purposes. <sup>79/</sup>

## CONCLUSION

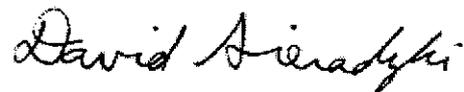
For the foregoing reasons, Sprint Corporation respectfully requests that the Commission adopt policies consistent with the views discussed above.

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<sup>79/</sup> RD, ¶¶ 102-03. See Mobile Telecommunications Sourcing Act, 4 U.S.C. §§ 116-126.

Respectfully submitted,

SPRINT CORPORATION



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August 6, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing COMMENTS OF SPRINT CORPORATION on CC Docket No. 96-45 was sent by electronic mail on this the 6th day of August, 2004 to the following parties.

  
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