

**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)	
)	
1998 Biennial Regulatory Review -)	CC Docket No. 98-171
Streamlined Contributor Reporting)	
Requirements Associated with Administration of)	
Telecommunications Relay Service, North)	
American Numbering Plan, Local Number)	
Portability, and Universal Service Support)	
Mechanisms)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Associations, Inc.)	
<hr/>		

To: Chief, Wireline Competition Bureau

PETITION FOR RECONSIDERATION

Sprint Corporation, on behalf of its operating subsidiaries, hereby seeks reconsideration of the Bureau's order released in the above-captioned dockets on December 9, 2004 (DA 04-3669), which revised the Instructions to Form 499-A and articulated the Bureau's intention to reject as untimely any revised Form 499-A submitted more than twelve months after the original filing in question, if the revision would decrease regulatory fees or contributions to the Federal Universal Service Fund and other support mechanisms tied to that form.

The Bureau's adoption of a firm deadline for revisions to the worksheet was grounded on the beliefs that it would "help ensure the stability and sufficiency of the federal universal service fund" as well as the other related federal programs (§ 10), and

that a twelve-month deadline gives contributors adequate time to discover errors (§ 11). Although Sprint wholeheartedly agrees with the objective of ensuring the stability and sufficiency of USF – a goal which in Sprint’s view can best be achieved by ceasing to rely on a revenue-based contribution methodology – it does not believe that a twelve-month period is always sufficient for discovering errors in prior reports. Moreover, it is unfair to adopt a twelve-month cut-off period for correcting errors that work in the contributor’s favor while continuing to place contributors under an obligation of indefinite duration to file revisions that would have the effect of increasing the filing party’s contributions.

Despite the best efforts of companies to keep accurate books and file accurate reports based on that information, mistakes can and do occur, and oftentimes these mistakes cannot easily be detected until more than a year after the original filing. A common means of detecting errors is by examining comparative trends in data points, and errors in the detailed annual data required by Form 499-A may not become apparent until two or more data points have been established. Moreover, there may be instances where an error affects more than one past year’s data, with the error working to the carrier’s disadvantage in one prior year but to the government’s advantage in another prior year. It would be patently unfair to require only a one-sided correction of such errors.

Sprint submits that the public interest would be better served by mirroring the framework used by the Internal Revenue Service for corporate tax returns. The IRS adheres to a three-year limit from the original due date for allowing the filing entity to submit amended returns and for the IRS to challenge the validity of the original return. See 26 U.S.C. §§6501 and 6511. Surely the Federal Government’s interest in the

stability and efficiency of the entire federal budget is as great as the Commission's interest in the stability and sufficiency of USF and other programs. Thus, Sprint urges the Bureau to adopt a three-year cut-off, with one exception discussed below, for all revisions to Form 499-A or, at a minimum, allow at least a three-year period for filing revisions that would decrease the filing party's contributions.

Sprint further proposes that there be an exception to that three-year limit where the revised filing is occasioned not by an error in financial records of the filing party, but rather by an order or declaratory ruling by the Commission relating to the proper categorization of particular services. A case in point is AT&T's petition for declaratory ruling in WC Docket No. 03-133, in which AT&T argues that the provision of unsolicited stored information to a party making a voice call has the effect of transforming what otherwise would clearly be a telecommunications service subject to USF (and related) contributions, into an information service which is not subject to USF (and related) contributions. AT&T has used this interpretation to avoid approximately \$160 million in USF contributions since the beginning of 1999.¹ As Sprint has previously informed the Commission, it has included in its reported USF contribution base revenues from services that, like AT&T's prepaid cards, provide users with unsolicited stored information.² In the event that the Commission grants AT&T's petition, then Sprint and other carriers that previously reported revenues from such services as revenues from telecommunication

¹ AT&T Corp. Form 10-Q, filed November 5, 2004, p. 16.

² *See, e.g.*, Opposition of Sprint, filed June 26, 2003 in WC Docket No. 03-133, at p. 12.

services on Form 499-A should have an opportunity to revise their prior year filings to conform to the treatment accorded to AT&T under newly clarified law.³

To deny carriers the right to file revised Forms 499-A and seek refunds of past contributions without limitation as to time in such circumstances would have the impermissible effect of treating different carriers in a different manner with respect to the assessment of contributions on revenues from indistinguishable services. *Cf. Melody Music, Inc. v. FCC*, 345 F.2d 730 (D.C. Cir. 1965) (refusal to explain different treatment of similarly situated regulatees was error). Failure to allow such worksheet revisions would also have the pernicious effect of creating an incentive for carriers to take overly aggressive positions in determining how to classify revenues for USF Form 499-A reporting purposes. Carriers taking aggressive positions would have nothing to lose by doing so, while carriers using a more conservative view than one that is ultimately adopted by the Commission would be precluded from recovering past over-contributions once the law is clarified.

³ Promptly after AT&T's petition was filed, Sprint submitted a letter to USAC reserving the right to seek refunds of prior USF assessments in the event AT&T's petition is granted. See Sprint's May 27, 2003 letter attached as Appendix I to the Opposition cited in the previous footnote.

CONCLUSION

For the foregoing reasons, Sprint urges the Bureau to reconsider its December 9, 2004 Order and to impose a three-year limit on revised Form 499-A filings except in cases where the filing party's revisions are occasioned by subsequent FCC orders or rulings that clarify applicable law.

Respectfully submitted,

SPRINT CORPORATION


Richard Juhnke
401 9th Street, N.W., Suite 400
Washington, D.C. 20004
(202) 585-1912

January 10, 2005