

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

**REPLY COMMENTS OF
SPRINT CORP. AND BELL SOUTH CORP.**

Sprint Corporation and BellSouth Corporation hereby respectfully submit their reply to comments filed in the above-captioned proceeding, regarding their joint Petition for Reconsideration filed on October 13, 2004. In the Joint Petition, Sprint and BellSouth requested reconsideration of two aspects of the Commission's *Fifth Report and Order*¹:

(1) that disbursed E-rate funds not be subject to automatic recovery if the beneficiary has not paid its non-discounted share of charges for eligible E-rate services within 90 days after delivery of service; and (2) that certain certifications relating to competitive bidding not be included on the Service Provider Annual Certification Form, FCC Form 473.

Commenting parties² all vigorously endorsed the Petition. Because the changes requested by Sprint and BellSouth are reasonable and in the public interest, as evidenced by the unanimous support of both applicants and service providers participating in this

¹ *Schools and Libraries Universal Service Support Mechanism, Fifth Report and Order and Order* released August 13, 2004 (FCC 04-190).

² See comments of Verizon (filed on December 6, 2004); comments of State E-Rate Coordinators' Alliance (SECA, representing approximately 40 states), AT&T, MCI, National Telecommunications Cooperative Association (NTCA), and Hispanic Information and Telecommunications Network, Inc. (HITN), all filed on February 16, 2005.

proceeding, the Commission should grant the instant petition for reconsideration on an expedited basis.

Sprint and BellSouth demonstrated (Joint Petition, pp. 2-6) that the requirement that applicants be required to return any disbursed E-rate funds if they did not pay their non-discounted share within 90 days of delivery of service was adopted without adequate notice; is arbitrary and capricious; fails to reflect common billing and payment practices in the E-rate segment; and has excessively harsh consequences without necessarily preventing waste, fraud and abuse. Commenting parties echo these statements,³ emphasizing that notice and comment requirements must be adhered to in order to ensure that affected parties have the opportunity to evaluate thoroughly the reasonableness and workability of a proposal, particularly a proposal that has such a significant impact on their ability to do business. SECA further notes (p. 2) that, based on its members' extensive experience with the E-rate program, complete failure by an applicant to pay its non-discounted portion is quite rare. Under such circumstances, COMADing disbursed E-rate funds where the 90-day rule has been violated is gross overkill. Rather than punitively disciplining the many applicants who are "slow" payers (defined here, purely for the sake of argument, as those who do not remit payment within 90 days of delivery of service), the public interest would be far better served by consideration and adoption of a more targeted (and likely more effective) mechanism to address those relatively few cases of outright refusal to pay and/or illegal rebates by a service provider of the applicant's non-discounted portion of the bill.

³ See Verizon, p. 3; SECA, p. 2; AT&T, p. 2; MCI, p. 1; NTCA, p. 2; HITN, p. 3.

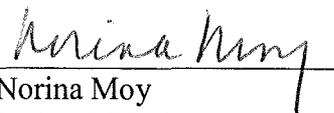
The Commission's adoption of a 90-day window for applicant payments is ironic, given USAC's own track record in processing E-rate invoices (SECA, p. 3; HITN, p. 2). Surely, the fact that the program administrator often takes far more than 3 months to ascertain the accuracy of E-rate invoices and the eligibility of the services reflected on those invoices, should give the Commission pause in mandating a 90-day billing and collection window for service providers and their E-rate customers.

Two parties (Verizon, pp. 4-5; and NTCA, p. 2) also support Sprint's and BellSouth's request that competitive bidding certifications not be included on the Form 473. Because the individual who certifies to the invoicing information currently included on the Form 473 generally does not have direct knowledge of or control over the preparation and submission of responses to a RFP, it makes no sense to combine both certifications (to the extent that both certifications are even necessary) on a single form.

For the reasons cited above, Sprint and BellSouth urge the Commission to grant their joint petition for reconsideration expeditiously. USAC has recently begun requesting information from service providers on the timing of payments received from their E-rate customers, presumably related to enforcement of the 90-day rule. Given the fatal flaws associated with adoption of the 90-day rule, and the unanimous opposition to this rule expressed by commenting parties, the Commission should grant the instant petition immediately to avoid counter-productive enforcement actions relating to possible violations of the 90-day rule. In the alternative, the Commission should direct USAC to put on hold any activity relating to enforcement of the 90-day rule, pending release of a Commission decision on the Sprint/BellSouth Petition.

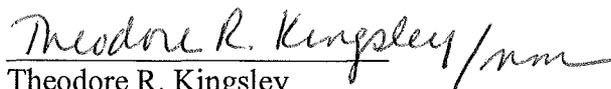
Respectfully submitted,

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March 3, 2005

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **REPLY COMMENTS OF SPRINT CORP. AND BELL SOUTH CORP.** was sent by electronic mail or by United States first-class mail, postage prepaid, on this the 3rd day of March, 2005 to the parties listed on the attached page.


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March 3, 2005

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