Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration Of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms	)	CC Docket No. 98-171
	)	
Changes to the Board of Directors of the National Exchange Carrier Associations, Inc.	)	CC Docket No. 97-21

REPLY COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), on behalf of its operating subsidiaries, hereby submits its reply comments pursuant to the Commission's Public Notice, released March 16, 2005 (DA 05-692) in which the Commission invited comment on three Applications for Review[1] and a Petition for Reconsideration[2] of the Wireline Competition Bureau's (WCB's) order in the above-captioned dockets (*Form 499-A Order)*. In that order, the WCB adopted a strict twelve-month deadline for the submission of any revisions to the FCC Form 499-A that would reduce the contributor's Universal Service Fund obligation,

[1] Applications filed by Business Discount Plan, Inc (BDP), Qwest Communications International Inc., and SBC Communications Inc.
[2] Petition filed by Sprint Corporation.

while retaining an unlimited timeframe for the filing of revisions which would increase the contributor's obligation.

All commenting parties agree that the *Form 499-A Order* is procedurally and substantively defective.[3] As Verizon succinctly states, the order is procedurally defective because "the bureau exceeded its authority in setting the new rule, and did not provide parties notice of the proposed rule change, or an opportunity [to] comment before it was adopted."[4] The Commission delegated authority to the WCB for administrative purposes only -- to "waive, reduce, modify or eliminate reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the universal service support mechanisms." 47 C.F.R. § 54.711(c). In its *Form 499-A Order* (¶ 9, footnote omitted), the WCB itself describes this delegated authority as authority to make "changes to the administrative aspects of the reporting requirements...and not to the substance of the underlying programs." The changes adopted by the WCB go well beyond administrative changes. Rather, the WCB's changes are substantive policy decisions which establish a twelve-month deadline for filing certain corrections, and thereby which revise the standards under which revisions to the FCC Form 499-A are accepted. Such non-administrative changes exceed the authority delegated to it by the Commission. To make such substantive changes to the reporting requirements, notice of the proposed rule and comments are required by the Administrative Procedure Act (APA), 5 U.S.C. § 553.

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[3] Comments were filed by Alliance Group Services, Inc, Business Discount Plan, Inc., Cingular Wireless LLC, Eureka Broadband Corporation and Verizon.
[4] Verizon at 2.

Sprint agrees with BDP (at 4-5) that if the public had been permitted to comment on the rule change, the reasonableness of the existing rule, which permits revisions beyond twelve months, would have been documented. Comments also would have discussed the unfairness of a rule which restricts, in a one-sided fashion, correction of errors and which results in carriers overpaying into the USF. Had it provided notice and sought comment, the WCB would have had a complete record on which to base a decision concerning a limit to the filing of certain revisions.[5]

The inequity of the twelve-month limitation is described by various commenting parties that have identified errors in their FCC Form 499-A reports well after twelve months.[6] The unfairness of rejecting corrections for errors -- inadvertent accounting errors, other financial errors and errors in the treatment of products and services -- that overstate the carrier's USF obligation is painfully obvious. As many parties point out, contributors simply cannot identify all errors which may decrease their USF obligation within twelve months of the original filing. Errors have been found long after that time period for perfectly valid reasons, and contributors should be permitted to file revisions reflecting such errors if they are fully documented and financially supported. Indeed, as many parties contend, it is clearly arbitrary and capricious to adopt such a one-sided rule,[7] and the disparate treatment of contributors to the USF is simply bad policy. [8]

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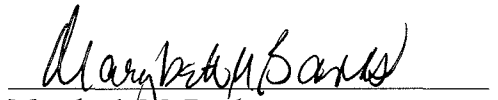
[5] Sprint also agrees with BDP that the Public Notice does not cure the APA requirement for notice and comment because the Public Notice requests comment on the Applications for Review and the Petition for Reconsideration, not the rule itself. BDP at 8-9.
[6] Comments of Alliance at 1-2 and Attachments; Comments of BDP at 4; and Comments of Eureka at 1-2 and Exhibit A.
[7] Comments of BDP at 5-7 and Cingular Wireless at 5.
[8] Eureka at 3.

Sprint stated in its Petition for Reconsideration that it agrees with the objective of ensuring the stability and sufficiency of the USF. However, it is Sprint's belief that the best way to achieve this goal is to adopt a simpler and more straightforward contribution methodology – preferably one based on numbers and connections. In the alternative, or in the interim, Sprint suggested mirroring the framework used by the Internal Revenue Service for corporate tax returns which has a three-year period for filing revisions.[9]

Finally, Verizon (at 2) supports Qwest's request for a stay of the twelve-month limitation pending Commission action on its Application for Review. Sprint also supports Qwest's Petition.[10]

In light of the procedural and substantive deficiencies of the Form 499-A Order and the patent inequity of the rule it effectuates, the Order should be withdrawn or vacated.

Respectfully submitted,
SPRINT CORPORATION



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[9] Sprint also proposed that there be an exception to that three-year limit for filing revisions resulting from an order or declaratory ruling by the Commission relating to the proper categorization of particular services. Cingular Wireless also recommended adoption of the IRS three-year period (at 5). In its Application for Review, Qwest referred to the Internal Revenue Code in discussing the unfairness of the WCB's rule. Qwest at 6. BDP finds the comparison to tax returns appropriate, given that "USF is tantamount to a federal tax liability." BDP at 8.

[10] Petition of Qwest Communications International Inc. for Stay Pending Action on Application for Review, CC Docket Nos. 96-45, 98-171, 97-21 (filed January 10, 2005).

CERTIFICATE OF SERVICE

I hereby certify that, on this 13th day of April, 2005, copies of Sprint's Reply Comments in WC Docket Nos. 96-45, 98-171 and 97-21 were sent by e-mail or First Class Mail, postage prepaid, to the parties listed below.

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