

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
)  
Eligible Services List for Universal Service ) CC Docket No. 02-6  
Mechanism for Schools and Libraries )

**PETITION FOR CLARIFICATION  
OF  
SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation hereby respectfully requests clarification regarding a new eligibility requirement adopted by the Commission in the 2006 Eligible Services List (ESL) for the E-rate program.<sup>1</sup> The new ESL states (p. 24) that:

A wireless Internet Access service designed for portable devices may be funded, provided that the applicant has in place an auditable system to allocate between eligible and ineligible uses.

Sprint Nextel does not dispute that where equipment and services can be used for both eligible and ineligible purposes, steps must be taken to ensure that E-rate funds are used only for eligible purposes. In this instance, however, it is unclear (1) whether use of a wireless Internet Access service from a portable device, for legitimate, covered educational purposes, from a location other than school or library grounds, constitutes an eligible or an ineligible use; and (2) what constitutes an acceptable “auditable system.” To help ensure that this service is used in accordance with E-rate rules, and to prevent future COMAD demands and funding denials, Sprint Nextel requests that the Commission clarify whether geographic location is relevant to use of this service, and

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<sup>1</sup> The E-rate Eligible Services List for Fund Year 2006 was released on November 22, 2005, FCC 05-197.

what type(s) of audit system may be implemented by applicants to ensure compliance with the new ESL requirement.

The Commission has previously stated that use of wireless telecommunications services off the school or library grounds may be eligible if such use is “integral, immediate and proximate to the education of students or the provision of library services to library patrons....”<sup>2</sup> It seems clear that a principal who accesses the Internet using a portable device to check her school e-mail is using such service for a legitimate educational purpose, whether she happens to be in the school cafeteria, or in a restaurant down the street. The concept of “ineligible location” as regards a portable device makes little sense since school and library staff are most likely to need and want to use a portable device while they are off-site. Indeed, given the increasing number of schools that rely upon shared resources (*e.g.*, speech therapy or other special needs teachers who divide their time among two or more schools), use of portable devices for legitimate educational purposes from an “off site” location can only be expected to increase. Moreover, it is impossible as a practical matter to audit exactly where a portable device was used. Therefore, Sprint Nextel recommends that the Commission clarify that the new ESL audit requirement applies to eligible users and eligible uses, but not to “eligible locations.”

There are many tools which can be used to help ensure that wireless Internet Access service for portable devices for which E-rate funding is requested is used only for legitimate educational purposes. For example:

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<sup>2</sup> *Schools and Libraries Universal Service Support Mechanism*, 18 FCC Rcd 9202, 9209 (para. 19) (2003), citing as examples the use of wireless telecommunications services by school bus drivers while delivering children to and from school, by teacher or school staff while on a field trip or sporting event, or library staff in a mobile library unit van.

**Applicant certification:** Applicants maintain a list of qualified users or categories of users (*e.g.*, “any teacher taking a class on a field trip”) who are allowed to use the portable devices, and provide a signed and dated certification that the portable devices were made available only to individuals on this list. Applicants may also choose to supplement the “qualified users list” with a “check out” procedure which requires that authorized users sign in and out when they are given and return the portable device.

**“Safe harbor” study:** An applicant could track actual usage of Internet access from portable devices for a specified period of time (say, one month). Each authorized user would be required to record work-related (eligible) and personal (ineligible) activity, by session count (number of times the device is used to access the Internet for work vs. personal use). The results of all authorized users covered by a given FRN would be aggregated, and the average percentage of eligible use would be used to cost allocate the rate associated with this service. Periodic updates of this eligible use percentage would be required.

**Two lines on a portable device:** Where available, applicants would have the option of having two lines on their portable devices,<sup>3</sup> one of which would be dedicated for applicant use, the other for personal use by the individual to whom the device is given. The second, personal line would be billed to and paid by the individual, who would be required to certify that any personal Internet access use of the portable device was made only using the second line. E-rate funding would be available only for the first line.

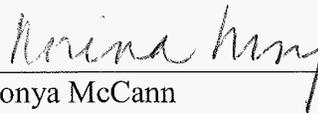
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<sup>3</sup> The two-line option is not available on all portable devices.

Sprint Nextel urges the Commission to provide timely guidance as to whether tools such as the ones described above<sup>4</sup> would constitute an acceptable auditable system. In developing any guidelines, the Commission should avoid requiring implementation of tracking and audit systems that are so onerous as to discourage school and library staff from using this service for legitimate, E-rate eligible purposes.

Respectfully submitted,

SPRINT NEXTEL CORPORATION



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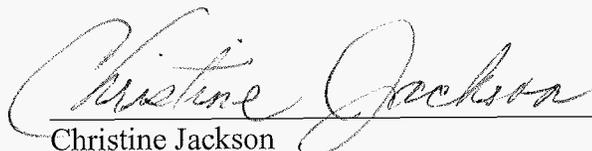
December 23, 2005

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<sup>4</sup> This short list of tracking and audit tools is by no means exhaustive, and should not be considered mandatory. The Commission may wish to solicit comments from other interested parties about other approaches which would satisfy its auditable system requirement.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **PETITION FOR CLARIFICATION OF SPRINT NEXTEL CORPORATION** was filed by electronic mail and copies sent by electronic mail on this the 23<sup>RD</sup> day of December 2005, to the parties listed below.

  
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December 23, 2005

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