

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

<b>In the Matter of</b>	)	
	)	
<b>Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities</b>	)	<b>CG Docket No. 03-123</b>
	)	
	)	
	)	
	)	
	)	
	)	
	)	

---

**PETITION FOR LIMITED RECONSIDERATION**

Sprint Nextel Corporation ("Sprint"), on behalf of the Telecommunications Relay Service ("TRS") operations of its subsidiary, Sprint Communications Company L.P., hereby respectfully requests that the Consumer & Governmental Affairs Bureau ("Bureau" or "CGB") reconsider its *Order*, FCC 06-1345 released June 29, 2006 (*2006/2007 TRS Fund Order*) in the above-referenced proceeding pursuant to delegated authority insofar as it decided to set a compensation rate for interstate traditional TRS service of \$1.291 for the 2006-2007 Fund year. As set forth below, the Bureau's decision here is without justification.

There can be no question that the framework for establishing the compensation rates to be paid to Relay providers is broken and in serious need of repair. Indeed, on July 20, 2006, the Commission issued a *Further Notice of Proposed Rulemaking*, FCC 06-106 in this docket to examine the entire process for setting compensation rates because of the widespread dissatisfaction within the industry with such process and the resulting rates. *Id.* at ¶7.

Sprint believes that such dissatisfaction is based on the fact that there is no visibility and certainly no predictability to the process. For example, in its decision setting the compensation rates for the 2003-2004 Fund year, the Commission decided for the first time and without any

advanced notice to subject VRS service – but no other TRS – to rate of return regulation. *See Order*, 18 FCC Rcd 12823 (CGB, June 30, 2003), *recon. denied*, 19 FCC Rcd 12475 (2004). Rate of return regulation was applied to other TRS services the following year. *Order*, 19 FCC Rcd 12224 (CGB June 30, 2004). This year, again without any advance notice, NECA, the Fund Administrator, presumably after discussions with the Bureau, proposed eliminating all marketing and advertising expenses submitted by TRS providers, even though such costs had previously been included in the determining the rates of compensation for each TRS service. Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, filed May 1, 2006 by NECA at 8. The Bureau decided to restore these costs since, as most of the commenting parties noted and the Bureau found, the definition of Outreach costs expenses and the definition of Marketing/Advertising costs in NECA's Data Collection Form and Instructions are so similar as to have created confusion among providers as how to assign costs to these expense categories. *2006/2007 TRS Fund Order* at 22.

Although like most of the providers Sprint assigned costs to both the outreach and market/advertising cost categories as best it could, it did not assign the salaries and benefits of the Sprint employees engaged in the outreach or marketing/advertising activities to either category. It did not do so because there were no instructions given to Relay providers as to how they were to assign these expenses and because Sprint's TRS employees also are engaged in activities to educate/promote Sprint intrastate TRS offerings as well as in contract management. In past years, with NECA's and the Bureau's approval, Sprint has resolved this dilemma by placing all of the salaries and benefits of its employees within the TRS group under the "Contract

Management” category listed in Section C of the instructions.<sup>1</sup> Since the salaries and benefits of a Sprint’s TRS employees measured on per-minute costs is the same regardless of whether they work on an intrastate TRS matter or an interstate TRS matter, placing all of their costs under one umbrella permits the proper assignment of costs to the interstate and intrastate jurisdictions based on the ratio of interstate to intrastate minutes.

This year, however, NECA, with Bureau approval and without advance warning, decided to disallow a substantial amount of Sprint’s indirect expenses because, according to NECA Sprint’s “indirect expenses were, on a relative basis, significantly higher than those of the other providers.” *2006/2007 TRS Fund Order 2006/2007* at ¶19. Apparently NECA came this conclusion by comparing each provider’s indirect costs for each service “to the sum of the provider’s CA and relay operator expenses.” *Id.* Although the Bureau concluded that NECA’s approach was “reasonable,” the fact is that this comparison makes sense only if all of the Relay providers assigned costs to Section C in an identical manner. Plainly, the comparison would be skewed if, unlike Sprint, other Relay providers did not assign any salaries and benefits expenses of their TRS staffs to the “Contract Management” category in Section C and instead placed all of these expenses in the outreach and marketing/advertising categories of Section D.<sup>2</sup>

Similarly, the comparison would be inapt if, unlike Sprint, these other providers do not have an Engineering team devoted to their provision of TRS offerings and, instead, outsource such functions. A provider that outsourced the engineering function may have decided to assign

---

<sup>1</sup> Section C includes all of Sprint’s administrative costs, *i.e.*, its indirect costs, of providing TRS service. “Contract Management” expenses are those incurred in “managing activities required by the provider contracts.” Plainly this circular definition is unhelpful to providers in their assignment of costs.

<sup>2</sup> Such assignment may be reasonable, regardless of the fact that these providers’ staffs may devote a part of their time to other activities since, as stated, the circular definition of the “Contract Management” cost category is not really a definition at all.

its outsourcing costs to the “Telecommunications Expenses” direct expense category in Section B instead of to the “Engineering” category in Section C.

Unfortunately, NECA did not ask Sprint for an explanation of its indirect expenses in Section C. Had it done so, Sprint would have explained its cost assignments and pointed out that NECA (as well as the Bureau) have previously accepted such assignments as reasonable. The end result was that NECA, relying upon a questionable comparison, decided that Sprint’s indirect costs for traditional TRS service were higher than those of other providers and thus excluded a huge chunk of those costs.

Proof that NECA’s decision and the Bureau’s acceptance of such decision were not well taken is “in the pudding.” The per-minute IP Relay compensation rate for the 2006-2007 Fund year is now higher than the per-minute compensation rate for traditional TRS service.<sup>3</sup> Such result is irrational because the costs of providing traditional TRS service are higher than the costs of providing IP Relay. Unlike a provider of IP Relay, a provider of traditional TRS service must offer 911 emergency calling services and carrier of choice to users of its services. Providing these functions is costly. For example, a provider of traditional TRS service must update regularly its 911 database to ensure that a TRS caller seeking emergency services is “automatically and immediately transfer[ed] ...to an appropriate Public Safety Answering Point (PSAP).” 47 C.F.R. §64.604(a)(4). The 911 requirement has been waived for IP Relay providers. Moreover, the IP Relay does not incur access charges on the leg of the call that is transmitted via the Internet. In contrast, the provider of traditional TRS calls is subject to access charges on both legs.

---

<sup>3</sup> The per-minute compensation rate for IP Relay is \$1.293; the per-minute compensation rate for traditional TRS is \$1.291.

Thus, there should be a disparity in rates but not one where the rate for IP Relay is higher than the rate for traditional TRS service. Indeed, in its *Order* establishing the TRS compensation rates for the 2005-2006 Fund year, the Commission found that IP Relay costs were 11 percent less than the costs of incurred in providing traditional TRS service. *Order*, 20 FCC Rcd 12237, 12244 (2005). There is absolutely no reason – and neither NECA nor the Commission provide any – as to why such disparity would not only disappear in a year’s time but, in fact, be reversed.

Plainly, the Bureau should restore Sprint’s indirect costs that NECA unjustifiably excluded. Alternatively, fairness dictates that Sprint be allowed to re-assign the salaries and benefits of its TRS staff to a direct expense category. Sprint’s assignment of such costs to indirect expense category in its submission to NECA for the 2006-2007 Fund year was identical to Sprint’s assignment of these costs in prior year submissions. Neither NECA and nor the Commission ever informed Sprint that placing these costs in an indirect expense category was in any way problematic. To now exclude these costs based on what can only be found to be an “apples-to-oranges” comparison simply cannot be considered reasoned decision-making.

Respectfully submitted,

~~SPRINT NEXTEL CORPORATION~~

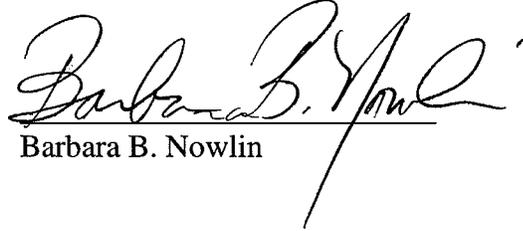


Michael B. Fingerhut  
Vonya B. McCann  
401 9<sup>th</sup> Street NW, Suite 400  
Washington, D.C. 20004  
(202) 585-1909

Its Attorneys

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Petition of Sprint Nextel Corporation were delivered by electronic mail or E-mail on this 31st day of July, 2006 to the parties listed below.

  
Barbara B. Nowlin

**VIA ECFS**

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**VIA E-MAIL**

Monica DeSai  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Jay Keithley  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Thomas Chandler  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Andrew Mulitz  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Best Copy and Printing, Inc.  
Portals II  
445 12<sup>th</sup> Street, SW, Rm CY-B402  
Washington, DC 20554  
fcc@bcpiweb.com