

September 19, 2006

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TW B204  
Washington, DC 20554

Re: WT Docket Nos. 05-193 and 05-194

Dear Ms. Dortch:

On September 18, 2006, Luisa Lancetti, Sprint Nextel Vice President – Government Affairs-Wireless, and I spoke to Fred Campbell, the Chairman’s wireless advisor, regarding the above-captioned dockets. We urged the Commission to confirm that early termination fees (“ETFs”) are “rates charged” by wireless carriers and that state regulation of ETFs is preempted. More specifically, the Commission should conclude that any amount billed to a subscriber pursuant to a wireless contract is a “rate charged.” The Commission also should confirm that state rules barring or limiting ETFs directly affect other rates, including handset charges and monthly charges, as the records in these dockets show. We also discussed that any state law barring or limiting ETFs is ultimately premised on the theory that the ETF is unreasonably large, and that decisions concerning the reasonableness of a charge are a traditional form of rate regulation

In preempting state laws insofar as they are construed to bar or limit ETFs, the Commission would not be preempting state general consumer protection laws such as laws that prohibit misrepresentations concerning ETFs or require carriers to honor their contracts. In addition, of course, the Commission has authority under Sections 201 and 202 to prohibit practices that it determines to be unreasonable.

Such an approach is fully consistent with the Eleventh Circuit’s recent decision in *NASUCA v. FCC*, 457 F.3d 1238, and would respond to that court’s concerns.

Respectfully submitted,

/s/

Christopher J. Wright  
HARRIS, WILTSHIRE & GRANNIS LLP  
COUNSEL FOR SPRINT NEXTEL CORPORATION