

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )  
 )  
High-Cost Universal Service Support )  
 ) CC Docket No. 96-45  
Petition for Revocation of Sprint/Nextel’s )  
Designation as an Eligible )  
Telecommunications Provider in the State )  
of Virginia. )

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**REPLY COMMENTS OF  
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER  
ADVOCATES  
SUPPORTING THE RURAL ILECS’ PETITION**

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**I. INTRODUCTION**

The National Association of State Utility Consumer Advocates (“NASUCA”)<sup>1</sup> offers these reply comments responding to comments on the Petition to revoke the 47 U.S.C. § 214(e)(6) designation of Sprint Nextel Corporation (“Sprint”)<sup>2</sup> as an eligible telecommunications carrier (“ETC”) in the State of Virginia. As an ETC, Sprint receives money from the federal universal service fund (“USF”) -- funds that are paid into the

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<sup>1</sup> NASUCA is a voluntary, national association of consumer advocates in more than 40 states and the District of Columbia, organized in 1979. NASUCA’s members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. *See, e.g.*, Ohio Rev. Code Chapter 4911; 71 Pa. Cons. Stat. Ann. § 309-4(a); Md. Pub. Util. Code Ann. § 2-205(b); Minn. Stat. Ann. Subdiv. 6; D.C. Code Ann. § 34-804(d). Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General’s office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

<sup>2</sup> As discussed below, Sprint makes an irrelevant fuss over its supposed misidentification in the Petition.

USF by customers across the United States. NASUCA filed initial comments supporting the Petition, on behalf of the interest of consumers nationwide whose interest lies in **not** supporting carriers that should not receive federal universal service funds.

Two other comments were filed supporting the Petition, one by a group of rural carriers -- wireless and wireline<sup>3</sup> -- and the other by three associations representing rural wireline carriers like those that filed the Petition.<sup>4</sup> These comments raise their own valid points concerning the merit of the Petition; NASUCA will not dwell on those here.

And then there is the “Opposition of NPCR, Inc.,” filed on behalf of the entity that was designated an ETC in Virginia. That entity (NPCR, Inc.) is, of course, currently a subsidiary of Sprint.<sup>5</sup> Therefore, consistent with NASUCA’s initial comments, the opposition will be referred to as that of Sprint. The Opposition huffs and puffs about how NCPR and Sprint were referred to interchangeably in the Petition.<sup>6</sup> This really requires no response other than that it does not stand as a reason to deny the Petition, and the Opposition does not show why it should be.

The Opposition concludes with an argument that the Petition is an inappropriate means to challenge Sprint’s ETC designation in Virginia.<sup>7</sup> This is addressed in the next section of these Reply Comments.

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<sup>3</sup> Rural Carriers Comments at 2.

<sup>4</sup> Independent Telephone and Telecommunications Alliance, Organization for the Protection and Advancement of Small Telephone Companies, Western Telecommunications Alliance (collectively referred to here as “ILEC Groups”).

<sup>5</sup> See Opposition at 3. Indeed, the Opposition is signed by counsel for “Sprint Nextel Corp., on behalf of NPCR, Inc.” Id. at 16.

<sup>6</sup> Id. at 2-6.

<sup>7</sup> Id. at 12-15.

The meat of the Opposition is Sprint’s argument that NCPR is in full compliance with all applicable ETC requirements and commitments.<sup>8</sup> Unfortunately for Sprint, its defense here is as misdirected as the other two points. These reply comments point out the holes in the arguments.

## **II. THE PETITION FORGES A PATH TOWARD ENSURING COMPLIANCE WITH THE ACT.**

Sprint says that “the Commission should continue to rely upon the mechanisms currently in place to determine whether an ETC is or is not in compliance with the relevant rules.”<sup>9</sup> Sprint details the extent of those mechanisms.<sup>10</sup> But this misses the point: Petitioners’ arguments do not focus on violations of the “relevant rules.” The Petition asserts -- and NASUCA supports -- that Sprint’s ETC designation in Virginia should be revoked because Sprint has not lived up to the commitments it made to secure the designation. Whether that failure violated any specific rule is not the key here.<sup>11</sup> The issue is Sprint’s failure to meet the commitment that was the cornerstone of the Commission’s determination that the ETC designation is in the public interest.

Indeed, Sprint’s entire argument is that the Petition is “not the appropriate avenue for evaluating possible violations.”<sup>12</sup> That is scarcely a compelling legal standard.

Likewise, Sprint’s argument that Petitioners lack standing to challenge the designation

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<sup>8</sup> Id. at 6-12.

<sup>9</sup> Id. at 13.

<sup>10</sup> Id. at 13-14.

<sup>11</sup> But see Petition at 11-12.

<sup>12</sup> Opposition at 12-13.

itself lacks legal basis. It would be a waste of resources for the Commission to conclude that another proceeding was required.<sup>13</sup>

### **III. SPRINT’S OPPOSITION DOES NOT SHOW THAT IT HAS MET ITS COMMITMENTS.**

Sprint’s Opposition addresses what it asserts is its compliance with the Commission’s ETC rules.<sup>14</sup> Sprint asserts that it “has fulfilled all of its legal obligations, as well as to the voluntary commitments it assumed at the time of designation.”<sup>15</sup> As NASUCA noted above, this is the key issue.

Yet it appears that the only commitment that Sprint acknowledges is one to construct 16 new cell sites within the area for which it had requested ETC designation.<sup>16</sup> This is the only commitment mentioned in this portion of the Opposition.<sup>17</sup>

Yet Sprint also made a commitment to extend service to unserved areas within its territory.<sup>18</sup> Sprint’s failure on this commitment was the focus of the Petition. Sprint does not assert that any of its infrastructure investment brought service to any previously unserved area. Indeed, Sprint acknowledges that its business plan “typically means that

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<sup>13</sup> If the Commission so decides, it should put Sprint on notice that its further receipt of USF funds is subject to refund.

<sup>14</sup> Id. at 11-12.

<sup>15</sup> Id. at 7.

<sup>16</sup> Id.

<sup>17</sup> Id. at 7-11.

<sup>18</sup> See Petition at 5-7.

NPCR must first improve and expand service within population centers and transportation corridors connecting these centers.”<sup>19</sup>

At best, Sprint’s Opposition is a semi-concealed complaint that it was reasonable, consistent with its “prudent and efficient decisions about the location of all new facilities,”<sup>20</sup> not to meet the commitment to expand service to previously-unserved areas. Treating a commitment so lightly is not in the public interest.

### **III. CONCLUSION**

Notably, Sprint does not argue that the Commission lacks the authority to revoke Sprint’s ETC designation in Virginia. The Petition made that authority clear.<sup>21</sup>

Thus the arguments here boil down to whether this is the proper proceeding to address the ETC designation that allows Sprint to receive USF funds paid by the nation’s consumers, and whether Sprint has lived up to the commitments that allowed the Commission to grant Sprint the ETC designation. On the first issue, Sprint has not shown that there is a better mechanism to address failures on commitments. More importantly, as to the key issue here, Sprint’s opposition -- through its obfuscation -- does not overcome the prima facie case made by the Petition. Sprint’s ETC designation in Virginia should be revoked, because consumers should not be required to provide USF fund to a carrier that does not live up to its commitments.

The bottom line is that Sprint’s ETC status cannot meet a public interest standard if its receipt of public funds does not result in new or improved service to customers in

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<sup>19</sup> Opposition at 10.

<sup>20</sup> Id.

<sup>21</sup> Petition at 14.

rural Virginia. Since Sprint has failed to show that result, its ETC status should be revoked.

Respectfully submitted,

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August 23, 2007