Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
SPRINT SPECTRUM, L.P.	)	WC Docket Nos. 03-109, 07-138
	)	
Petition for Declaratory Ruling.	)	

REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
IN OPPOSITION TO SPRINT SPECTRUM'S PETITION TO PREEMPT
THE KANSAS CORPORATION COMMISSION'S OCTOBER 2, 2006 ORDER

On August 9, 2007, the National Association of State Utility Consumer Advocates ("NASUCA") filed comments in this docket, which demonstrated that the Petition for Declaratory Order filed by Sprint Spectrum, L.P. ("Sprint") on June 8, 2007 should be denied. As set forth in the NASUCA Comments, the Kansas Corporation Commission's ("KCC's") October 2, 2006 Order in Docket No. 06-GIMT-446-GIT requiring eligible telecommunications carriers ("ETCs") to offer the Lifeline discount on all calling plans does not violate 47 C.F.R. § 54.403(b). Sprint's preemption request is not supported either by the law or the facts.

The KCC, Florida Office of Public Counsel,[1] and California Public Utilities Commission also filed comments in opposition to the Sprint petition. Significantly, the KCC presents information from the Universal Service Administrative Company ("USAC") which refutes Sprint's position that an ETC allowing Lifeline customers access to more than the lowest-cost

[1] The Florida Office of Public Counsel is a NASUCA member.

plan would be at risk of not receiving USF funds from USAC.[2] As set forth in the comments of these public parties, Sprint's reading of Section 54.403(b) is unsound and would thwart universal service.

Alltel Communications, Inc. ("Alltel") was the only carrier to file comments in support of Sprint's request for declaratory relief. NASUCA offers a brief reply to Alltel.

According to Alltel, the KCC rule that requires all ETCs to offer Lifeline eligible consumers a choice of local calling plans is not competitively or technologically neutral.[3] As the NASUCA Comments explained, the FCC adopted portions of Section 54.403(b) specifically to **allow** non-incumbent carriers, including wireless carriers, to be designated as ETCs and flow through to Lifeline consumers a discount of the same amount given by incumbents, even if their rate structure differs from that of the incumbents.[4] Alltel's position is illogical.

Alltel suggests that it is or should be federal policy to limit low-income consumers eligible for Lifeline to a single choice of local calling plan.[5] Alltel cites the FCC's Hurricane Katrina Order as evidence that the FCC has made this policy determination already.[6] Alltel is wrong. In the *Hurricane Katrina Order*, the FCC established a model wireless plan for the relief of low income households displaced by the natural disaster. The FCC offered federal universal support "for a free wireless handset and a package of *at least* 300 minutes of use…"[7] The FCC noted that such wireless Lifeline offers might include additional minutes as part of the wireless

[2] KCC Comments at 9.

[3] Alltel Comments at 3-4.

[4] NASUCA Comments at 5-7.

[5] Alltel Comments at 5-7.

[6] Id. at 6, citing *Federal-State Joint Board on Universal Service*, 20 FCC Rcd. 16883 (2005) ("*Hurricane Katrina Order*").

[7] Hurricane Katrina Order, ¶¶ 11, 19 (emphasis added).

carrier's business plan.[8] Contrary to Alltel's position, the FCC did not restrict low income consumers to a wireless plan with no more than 300 minutes of calling as a condition of Lifeline assistance under the *Hurricane Katrina Order*. And restricting wireless Lifeline customers to a 300-minute package while allowing wireline customers their typical unlimited usage packages would obviously not be competitively or technologically neutral.

The FCC should deny Sprint's petition on the merits. Alltel's legal and policy arguments are not well-grounded and do not support invalidation of the KCC's Lifeline Rule that gives Kansas consumers eligible for Lifeline the choice of how much telephone service they need and can afford, from a choice of providers.

Respectfully submitted,

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[8] Id., fn. 26, 29.