Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	WC Docket No. 05-337
High-Cost Universal Service Support	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on Universal Service	)	
	)	

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation (Sprint Nextel) respectfully submits its opening comments in response to the notices of proposed rulemaking in the above-captioned dockets (NPRMs) released on January 29, 2008.[1] In these NPRMs, the Federal Communications Commission (FCC or Commission) seeks comment on three sets of High Cost Support (HCS) reform proposals: (1) the Recommended Decision (RD) of the Federal-State Joint Board on Universal Service (Joint Board) to cap and eventually replace the federal Universal Service Fund's (USF) HCS programs with three new programs – a broadband fund, a mobility fund, and a provider of last resort (POLR) fund – and to add broadband and mobility to the list of supported services (*see Joint Board Recommendation NPRM*); (2) a proposal to eliminate the identical support rule and instead determine subsidies based on each carrier's particular costs (*see Identical Support NPRM*); and (3) a proposal to use reverse auctions to allocate HCS (*see Reverse Auctions NPRM*). After much deliberation, Sprint Nextel submits that none of these

[1] *In re High-Cost Universal Service Support*, Docket No. WC 05-337, FCC 08-04 (2008) ("*Identical Support NPRM*"); *In re High-Cost Universal Service Support*, Docket No. WC 05-337, FCC 08-5 (2008) ("*Reverse Auctions NPRM*"), and *In re High-Cost Universal Service Support*, Docket No. WC 05-337, FCC 08-22 (2008) ("*Joint Board Recommendation NPRM*").

approaches, singularly or in combination, adequately addresses the many problems identified in the HCS program. A new, more comprehensive proposal is needed. Sprint Nextel anticipates that it will be able to provide the Commission with a comprehensive, equitable, plan that refocuses universal service high-cost support to be more consistent with the Telecommunications Act of 1996.

I. INTRODUCTION AND EXECUTIVE SUMMARY

Sprint Nextel is one of the largest contributors to the USF. Though it receives HCS for its competitive eligible telecommunications carrier (CETC) operations, Sprint Nextel's USF contributions far exceed its HCS receipts. As both a large contributor to the HCS and a carrier with many customers who benefit from the HCS program, Sprint Nextel can offer a broad perspective on the proposals in the NPRMs and on how HCS reform can effectively proceed.

Based on its experience, Sprint Nextel agrees with the Commission and the Joint Board that the HCS program needs expeditious reform. The program's subsidy levels are not sustainable, are so large as to threaten other equally important Commission policy initiatives, and do not efficiently promote the goals of universal service set out in section 254 of the Act. As each of the Commission's Notices acknowledges, it is time for a substantial change in the HCS program.

That change should be guided by the requirements of section 254 as well as the broader context of the Communications Act. Any reform to the program must develop a framework through which the Commission channels competitive market forces in a technologically and competitively neutral manner to advance the critical goals of universal service. These changes should not impose new regulatory approaches that have the potential to result in inefficient and oversized funding programs, protracted regulatory disputes, uncertainty, and litigation.

Sprint Nextel believes an effective HCS program should meet the following criteria:

1. Promote the critical goal of universal service set out in section 254 of the Act in a manner consistent with the Act and the Commission's pro-competitive framework for the over-all implementation of the Act;
2. Reduce HCS from current unsustainable levels over a reasonable time period and limit the future growth of HCS programs;
3. Promote competitive mechanisms to the greatest extent possible in advancing the goals of universal service;
4. Promote efficient deployment of telecommunications services in high-cost areas by assuring competitive neutrality in the HCS programs;
5. Reduce administrative complexity and cost;
6. Provide for a smooth transition away from excessive subsidies by creating alternative means for carriers to recover most of the HCS dollars they currently receive;
7. Achieve parity between incumbent local exchange carriers (ILECs) and CETCs in managing HCS reductions;
8. Be pragmatic and capable of effective implementation over the short-term;
9. Avoid the need for comprehensive revision of Commission rules; and
10. Adopt a regulatory framework that is most likely to be the foundation of a consensus among many stakeholders.

At this juncture, considering these criteria, Sprint Nextel offers its initial assessment of the three proposals advanced by the FCC and/or the Joint Board. As we show below, the approaches proposed in these NPRMs generally do not satisfy the above criteria, and risk jeopardizing the goals of universal service. After reviewing the concerns expressed by the commenters in the opening round of these proceedings, Sprint Nextel anticipates offering a proposal that can be implemented in the near term that better meets these criteria and that addresses to the greatest extent possible the pressing need for comprehensive HCS reform.

II. THE JOINT BOARD'S THREE-FUND PROPOSAL WILL NOT CONTROL THE SIZE OF THE USF OR RATIONALLY ADVANCE ITS PURPOSES

The Joint Board correctly acknowledges the need for "fundamental revisions" to the existing programs.[2] However, the Joint Board's proposal to replace existing HCS with three new funds would preserve existing subsidies, create new subsidies where they have not been shown to be needed, and would distort competitive markets that are already developing in previously underserved areas.[3]

A. The Provider Of Last Resort Fund.

The Joint Board stated that it was unable to reach "agreement on specific changes to the legacy support mechanisms that today provide support for incumbent local exchange carriers."[4] As a result, the proposed POLR fund would operate as a vehicle to continue existing ILEC support mechanisms without reductions, rather than as a basis for implementing the necessary reform of the existing HCS program.

ILECs receive over $3 billion in HCS annually. However, the Joint Board recommendation does not include a comprehensive review to determine whether these subsidies are well spent or are in fact necessary to promote universal service. Nor does it question whether these large subsidies impede competition. Efforts to control HCS

---

[2] *In re High-Cost Universal Service Support Federal-State Joint Board on Universal Service*, 22 F.C.C.R. 20, 477, ¶ 1 (2007) (attached as Appendix A to *Joint Board Recommendation NPRM*)) ("Joint Board RD").

[3] The Joint Board recommends caps on HCS of $4.5 billion and on each HCS program at its 2007 level. Joint Board RD ¶¶ 22, 32. However, the RD does not describe how these caps would operate or how HCS would be apportioned equitably among recipients under the caps.

[4] Joint Board RD ¶ 19.

growth and rationalize its use that fail to address the largest part of the current subsidy program are inadequate.

Meaningful reform should rely on the presence of multiple choices for consumers to reduce subsidies. In an efficient market, service providers would recover their costs of providing service directly from their own customers to the greatest extent possible in a manner consistent with providing the subsidies necessary to promote universal service under the Act. Sprint Nextel understands that ILECs face certain regulatory constraints in this regard, including caps on subscriber line charges. To the extent ILECs are able to price their services at cost, they can diminish their reliance upon universal service support, while market mechanisms will identify areas where support remains necessary. Reform of the HCS program should rely on market forces wherever possible.

At the same time as the Joint Board would eliminate CETC support, the Joint Board's recommendation for a POLR fund presumes that existing ILEC high cost subsidies are warranted, and could actually increase support to ILECs. For example, the Joint Board raises the following issues that could result in increases in ILEC support: the potential to increase HCS paid to non-rural carriers to place them on par with rural carriers; the possible elimination of the "parent trap" rule that freezes the support an acquiring carrier may receive; the expansion of the HCS programs to include support for high transport costs; and, removal of the overall cap on High Cost Loop Support imposed by the Commission in response to the recommendation of the Rural Task Force.[5] These proposals move the system in the wrong direction. By potentially locking in and growing

[5] Joint Board RD ¶¶ 20, 21, 22, 23.

existing subsidies for ILECs, the Joint Board's recommendations will not accomplish meaningful reform.

B. The Mobility Fund.

The Mobility fund "would be tasked primarily with disseminating wireless voice services to unserved areas," with a secondary focus on providing "continuing operating subsidies to carriers serving areas where service is essential but where usage is so slight that a plausible economic case cannot be made to support construction and ongoing operations, even with a substantial construction subsidy."[6] Because it is not clear how much of the United States remains "unserved" or "underserved," and because the operational details of the program have not been described, it is not possible to evaluate whether creating a new Mobility fund makes sense.

Specifically, the Joint Board recommends eliminating existing CETC support ($1.5 billion[7]) and shifting about two-thirds of that amount ($1.0 billion) into a new fund. It does so without offering any supporting evidence that such a shift would advance the goal of affordable, reliable wireless service throughout the United States. Additionally, administering a new Mobility fund at the state level adds cost and complexity with no apparent benefit.

C. The Broadband Fund.

Sprint Nextel does not support at the present time the creation of a new fund specifically designed to support broadband deployment. As discussed, there are more

---

[6] Joint Board RD ¶¶ 11, 16.

[7] *Universal Service Administrative Company Second Quarter 2008 Final Projections annualized*, *at* http://www.usac.org/about/governance/fcc-filings/2008/Q2/2Q2008%20Quarterly%20Demand%20Filing.pdf.

fundamental issues that need to be resolved with respect to the current funding mechanisms before a determination can be made as to whether the creation of a new fund designed specifically to promote broadband deployment is appropriate.

III. THE PROPOSAL TO ELIMINATE THE IDENTICAL SUPPORT RULE IS UNREASONABLE AND UNWORKABLE

The Commission has tentatively concluded that it should eliminate the identical support rule and require CETCs to "file cost data showing their own per-line costs of providing service in a supported service area."[8] But that proposal is not competitively neutral, is economically irrational, and requires a showing of "cost" that is so burdensome as to effectively eliminate federal high-cost support for CETCs.

The Commission's concern that wireless and wireline carriers are not competing sufficiently[9] – that customers inefficiently are buying both wireline and wireless service – should not be addressed by subsidizing wireless and wireline services at different levels, as that achieves exactly the wrong result: encouraging more use of what may be the less efficient wireline technology. Instead, any reform proposal should ensure that the customers are encouraged to use the most efficient technology, and should harness competition to reduce subsidies across the board.

A. The Proposal to Eliminate the Identical Support Rule is Based on Flawed Assumptions and Misconceptions.

The proposal to eliminate the identical support rule is based on concerns that the problems associated with the high-cost fund relate foremost to increased support provided to wireless carriers. Those concerns are unwarranted. Wireless carriers are

[8] *Identical Support NPRM* ¶ 13.
[9] *Identical Support NPRM* ¶¶ 9-10.

entitled to USF support. Section 214(e)(2) of the Telecommunications Act of 1996 provides that a State commission shall designate a common carrier as an ETC as long as the carrier meets the statutory requirements and the state commission finds the designation is in the public interest. Pursuant to this statutory mandate, state commissions (and, where the state has lacked jurisdiction, the FCC) frequently have found that wireless carriers have met the statutory requirements and that their designation as ETCs would serve the public interest.

The FCC nevertheless states that the increase in support to CETCs has "plac[ed] extraordinary pressure on the federal universal service fund."[10] Yet, CETCs accounted for only approximately one-third of total high-cost distributions in 2007; the remaining two-thirds went to subsidize ILEC operations.[11] Without addressing ILEC subsidies, elimination of the equal support rule avoids an examination of the continuing need for the largest portion of the fund.

The viability of the USF is affected not only by distributions, but also by the size and stability of the contribution base. But it is wireless carriers that have, to a great extent, offset the erosion in the wireline contribution base and prevented even larger increases in the USF contribution factor. Revenues from wireless service providers included in the USF contribution base have increased dramatically, from approximately $10 billion in 2001 to $26 billion in 2006.[12] USF contributions from wireless carriers

[10] *Identical Support NPRM* ¶ 4.

[11] Federal-State Joint Board *Universal Service Monitoring Report 2007*, CC Docket No. 98-202, released December 2007, Table 3.2.

[12] *Joint Board Universal Service Monitoring Report*, Table 1.9, CC Docket No. 98-202, released in October 2002 and December 2007. During that same time period, revenues for ILECs declined from approximately $21 billion to $16 billion.

have far outpaced high-cost support disbursed to wireless carriers.[13] Thus, rather than arbitrarily eliminating the identical support rule, any reform plan should include an equitable competitive mechanism to reduce the level of support for *all* recipients of HCS.

B. The Proposed CETC Cost Reporting System is Unreasonably Burdensome.

Moreover, the proposal to require CETCs to perform cost studies using the legacy landline ILEC model is unworkable given the differing technological and financial characteristics of providing wireless and wireline services. Requiring wireless carriers to undertake a process of separations and accounting similar to that used by ILECs under Part 32[14] would be disruptive and expensive, undermining and possibly eliminating wireless carrier efforts to provide ETC services.

Wireless carriers do not use USOA-based financial reporting systems, and their costs cannot easily be shoe-horned into a legacy wireline-based accounting system. Wireless network elements like spectrum, cell sites, base station controllers, and mobile telephone exchanges do not fit within the existing wireline-centric USOA. For example, while in certain respects spectrum is analogous to a wireline carrier's local loop, for accounting purposes the two resources have little in common. Spectrum cannot be augmented, is not depreciated, and is not dedicated full-time to one end user in the same way that a wireline local loop is. The same is true of other wireless network elements.

Moreover, even if a new system of regulatory accounting could be devised to account specifically for wireless network architecture, the cost of implementing such a

---

[13] A 10% contribution factor (the factor in 2006 ranged from 9.1 to 10.9%) assessed on $26 billion in revenues would have generated roughly $2.6 billion in federal USF contributions from wireless service providers – an amount far in excess of total high-cost support received by CETCs (approximately $980 million in 2006).

[14] *See Identical Support NPRM* ¶ 15.

system for purely regulatory purposes would be prohibitive, imposing an unreasonable burden on CETCs. Consider, for example, accounting for a single cost element such as backhaul costs. Sprint Nextel of course accounts for the hundreds of millions of dollars it spends for this cost element. However, in order to comply with the kind of cost accounting the Commission's NPRM envisions, Sprint Nextel's financial reporting systems would have to be reverse-engineered to disaggregate backhaul costs by discrete geographic areas; to allocate these costs across areas in cases in which the cell site provides coverage to multiple high-cost areas; and to allocate that percentage of the backhaul facility used to provide non-USF-supported services.

The burden on CETCs will be even greater if the Commission requires CETCs to "identify total costs for all study areas or wire centers as well as the specific costs which the competitive ETC is associating with the study or service areas or wire centers for which it is seeking support."[15] Imposing such a requirement for every geographic area in which the CETC operates would constitute an extraordinary reversal for the Commission, which currently refrains from such heavy-handed regulation of non-dominant, competitive carriers.

C. Restricting CETC Eligibility for Certain HCS Programs is Arbitrary and Unreasonable.

The Commission's tentative conclusion to deny CETCs Interstate Access Support (IAS) and Interstate Common Line Support (ICLS), and its proposal to make CETCs ineligible to receive Local Switching Support (LSS),[16] also lack sound rationale, and

---

[15] *Identical Support NPRM* ¶ 16. The Commission questions whether this kind of cost showing is needed to prevent CETCs from inflating the costs allocated to high-cost areas.
[16] *Identical Support NPRM* ¶¶ 23-24.

would unfairly harm CETCs while leaving ILEC support untouched. It would have disparate adverse effects on individual CETCs and geographic areas. The NPRM states that paying IAS and ICLS to CETCs is inconsistent with the way these carriers recover costs and set rates. As for LSS, the NPRM assumes that the economies of scope and scale underlying this program are not likely to be applicable to CETC operations. However, these concerns apply to ILECs and CETCs alike. And despite the Commission's promises to undertake comprehensive review of the High Cost Support programs, these NPRMs are narrowly targeted at CETCs, and with respect to ILECs, they do little more than institutionalize current support flows. Thus, there is no plan to review current cost recovery and ratemaking practices of ILECs to determine whether IAS and ICLS are still necessary. Similarly, there is no planned review of the ILEC local switching function using modern networking and technologies to determine whether the economies of scope and scale have changed over the years.

Sprint Nextel agrees that USF support should not be provided to carriers and for services that do not "need" such support. However, this principle must be applied on an even-handed basis: Because ILECs can recover their costs from revenue streams other than subscriber line charges (SLCs), they are no more entitled to USF than are CETCs that also can recover their costs from revenue streams other than SLCs. In short, an ETC's total revenue streams – not just revenues generated by one rate element such as subscriber line charges – should be considered in assessing USF requirements.[17]

[17] *See, e.g., Petition for Review of Monthly Per Line Support Amounts From Texas High Cost Universal Service Plan Pursuant to PURA § 56.031 and PUC Subst. R. 26.403,* Motion for Approval of the Unanimous Settlement Agreement, PUC Docket No. 34723,

Footnote continued on next page

IV. THE REVERSE AUCTION PROPOSAL WILL NOT PROVIDE PROMPT AND APPROPRIATE RELIEF

Sprint Nextel does not believe that using reverse auctions is a practical solution to determine high-cost support. It believes a better long-term solution is both necessary and possible. To the extent a reverse auctions program can be implemented, it must ensure that wireline and wireless providers as well as incumbents and new entrants compete on an equal footing.

As Chairman Martin has stated, the reverse-auction proposal is, at best, a "long-term answer."[18] The Commission has made clear that before such an approach can be implemented, "[t]here are a number of detailed issues regarding auctions and auction design that must be resolved."[19] These issues include difficult questions regarding eligibility, whether there can be single or multiple winners, the manner in which a subsidy should be computed and distributed, the appropriate geographic areas for reverse auctions, auction design and reserve prices, the frequency of auctions, and, most important, a determination of the universal service obligations of the auction winners. The Commission must also grapple with the fundamental dilemma of ensuring that lowest-cost bidders provide adequate quality of service.[20] These questions will continue to generate considerable debate, and it would take substantial time to resolve them. Once these questions are resolved, the Commission's Universal Service rules would have to be dramatically and comprehensively altered. Indeed, the Commission itself has suggested

---

Exhibit A, p. 11 (Tex. P.U.C. 2008) (permitting rate increases to offset reductions in in-state HCS).

[18] *Reverse Auctions NPRM*, Separate Statement of Chairman Kevin J. Martin.

[19] *Id*. ¶ 11.

[20] *See id.*, Separate Statement of Commissioner Michael J. Copps.

that "in light of the complexities in establishing a reverse auction, . . . a pilot program to test the use of reverse auctions as a method for distributing high-cost support" may be necessary before further reform is implemented.[21]

Reform of the HCS program cannot afford to wait until these complexities are resolved. Stakeholders have waited too long already, and the cost of high cost support continues to grow dramatically. What is needed is a plan that brings comprehensive reform in the near term – one that builds fundamental reform within the current framework of rules.

V. CONCLUSION

Sprint Nextel encourages the Commission to bring needed change to the HCS system. However, the proposals offered for comment will not address the fundamental problems with the HCS program. Sprint Nextel looks forward to working with the

[21] *Id.* ¶ 50.

Commission and the various stakeholders to devise a universal service reform plan that will better achieve the goals of the Act.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

/s/ Mark D. Schneider

Leonard J. Kennedy
General Counsel
Kent Y. Nakamura
Vice President, Telecom
Management
Sprint Nextel Corporation
2001 Edmund Halley Drive
Reston, VA 20191

Jenner & Block, LLC
601 13th St., N.W.
Washington, D.C. 20005
(202) 639-6005

Dated April 17, 2008