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	)	
	)	

REPLY COMMENTS OF SPRINT NEXTEL CORPORATION

EXECUTIVE SUMMARY

The commenters agreed in their opening comments with the Federal Communications Commission ("Commission") and the Federal-State Joint Board on Universal Service ("Joint Board") that it is time for substantial changes to the high cost support programs in the federal Universal Service Fund ("USF"). The comments also underscore the many problems with the proposals for change offered by the FCC and the Joint Board. Sprint-Nextel Corporation ("Sprint Nextel") therefore submitted a comprehensive universal service reform high cost support four-step plan ("CURE" or "HCS Plan") that can be implemented promptly to reduce high cost support funding to sustainable levels, while achieving both the goal of universal service and the goal of promoting competition.

Commenters agree that the current levels of subsidy are too high, and that the Commission is correct that these subsidy levels put at risk other important goals of the Act and also disserve the critical goals of universal service. The interim competitive eligible telecommunications carrier ("CETC") cap is a short-term measure that does not solve this problem. Substantial reform of the high cost support programs is needed.

The reform plans proposed by the FCC and the Joint Board fail in part because they are not comprehensive and are not competitively neutral. They address the growth of CETC funding, but essentially leave intact the larger legacy support for incumbents. In particular, elimination of the identical support rule, and implementation of reverse auction procedures only for wireless CETCs do nothing at all to address legacy incumbent local exchange carrier ("ILEC") subsidies and fail the test of competitive neutrality. These plans also by their very nature are not comprehensive, as they fail to provide meaningful reform for the largest parts of the high cost support subsidy programs. In contrast, the Sprint Nextel HCS Plan is competitively neutral and takes advantage of pro-competitive mechanisms that reflect no bias towards any particular carrier or technology.

Commenters also point out other critical shortcomings with the FCC's and Joint Board's proposals. Elimination of the identical support rule, for example, would impose the same outdated cost-of-service calculations on wireless carriers that were historically used to regulate wireline carriers. That is a step in the wrong direction, and imposes costly and time-consuming accounting rules and procedures on wireless carriers for no sufficient reason. It also creates exactly the wrong incentives for carriers, encouraging them to inflate their costs, and leads to an unsound regime in which each provider obtains a subsidy based on its own cost structure, no matter how efficient or inefficient it is as compared to other carriers'.

Many commenters also agree that the reverse auction proposal, however valid in theory, is currently unworkable and not viable as an immediate solution. Indeed, there is no agreement among commenters about how to implement a reverse auction, and there is no prospect that auctions will provide timely relief to the problems facing the high cost support programs.

Commenters also object to creating three new funds before addressing the problems created by the inability to control the growth of the existing high cost support funds. Substantial questions were raised about whether the proposed Broadband Fund would be an efficient way to promote broadband deployment, and the proposed Mobility and Provider of Last Resort Funds threaten to increase the growth of subsidy rather than limit subsidy to accomplish the Telecommunication Act's core statutory purpose.

The HCS Plan offered by Sprint Nextel avoids the many problems associated with the proposals offered in the notices of proposed rulemaking ("NPRMs"). It can be implemented promptly, and without extensive changes to Commission rules. It makes use of pro-competitive mechanisms to lower the level of subsidy in the high cost support programs, while at the same time preserving subsidy where it is most needed for small rural carriers. It is competitively neutral, and its basic thrust is de-regulatory and consistent with other important Commission policy goals. It will also reduce carrier USF contributions and provide a potentially significant consumer benefit through reduced federal universal service surcharges on consumer bills. Sprint Nextel therefore urges the Commission to give its plan careful consideration.

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Sprint Nextel Corporation ("Sprint Nextel") respectfully submits its reply comments in response to the NPRMs in the above-captioned dockets released on January 29, 2008.[1]

In their opening comments, commenters responded to three sets of high cost support reform proposals offered by the Commission and/or the Joint Board. These comments generally confirm Sprint Nextel's view that none of the proposals in the NPRMs offers a workable, near term solution to the overly burdened current system of universal service high cost support and that a more comprehensive solution is needed that can be implemented promptly.

Since opening comments were filed, the Commission has acted to impose an interim cap on high cost support to CETCs.[2] The interim cap seeks to control growth in high cost funding but, as the Commission itself acknowledges, does nothing to address the underlying problems with the high cost support programs. Moreover, the cap effectively applies only to one industry

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[1] *In re High-Cost Universal Service Support*, Docket No. WC 05-337, FCC 08-4 (rel. Jan. 29, 2008) ("*Identical Support NPRM*"); *In re High-Cost Universal Service Support*, Docket No. WC 05-337, FCC 08-5 (rel. Jan. 29, 2008) ("*Reverse Auctions NPRM*"), and *In re High-Cost Universal Service Support,* Docket No. WC 05-337, FCC 08-22 (rel. Jan. 29, 2008) ("*Joint Board Recommendation NPRM*").

[2] *In re High-Cost Universal Service Support*, Docket No. WC 05-337, FCC 08-122 (rel. May 1, 2008) ("*Interim Cap Order*").

segment -- wireless CETCs -- and so by its very nature is not competitively or technologically neutral, and is an unacceptable basis for longer-term reform.

In order to respond to the pressing need for more comprehensive reform, on May 12, 2008 Sprint Nextel filed a comprehensive universal service reform four-step high cost support plan to revise high cost support programs ("CURE" or "HCS Plan") to reduce current levels of support, to better achieve universal service goals, and to promote competition.[3]

I. INTRODUCTION

Sprint Nextel agrees with the Commission, the Joint Board and many commenters that it is time for substantial changes to the high cost support programs. This imperative is not satisfied by interim, partial and inequitable adjustments to high cost support programs that undermine the ability of these programs to accomplish their intended purposes. Nor, as the comments make clear, will substantial reform result from proposals that would take years to implement and would likely increase the size and complexity of the high cost support programs. Creating new funds, new obligations and new "rights" in response to the current acknowledged problems with the high cost support programs goes in precisely the wrong direction at this time. Reform needs to rationalize the current support system in all its aspects before entertaining other proposals that could easily add to the cost of the already overburdened universal service high cost support funds. The HCS Plan represents Sprint Nextel's effort to move comprehensive reform immediately along a constructive path toward achievable, meaningful results.

Sprint Nextel's comments outlined the following guiding principles for high cost reform:

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 overall implementation of the Act;

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[3] A copy of the summary of the HCS Plan submitted by Sprint Nextel in a May 12, 2008 *ex parte* filing is attached hereto.

2. Reduce high cost support from current unsustainable levels over a reasonable time period and limit the future growth of high cost support 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 high cost support 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 high cost support dollars they currently receive;

7. Achieve parity between ILECs and CETCs in managing high cost support 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.

The opening comments confirm Sprint Nextel's initial assessment that the approaches proposed in the three NPRMs do not satisfy the above criteria. Commenters express dissatisfaction that the proposals are directed largely at reducing CETC support, while subjecting the much larger system of payments for ILECs to only superficial review.[4] Sprint Nextel agrees with those commenters who believe reform should focus on lowering and eliminating

[4] *See, e.g.*, Public Service Commission of the State of Missouri ("MoPSC") Comments at 1-2, 4 (recognizing that the proposals focus solely on reducing CETC support and "fail[] to propose any significant reform measures for high-cost support currently provided to incumbent LECs," and that "USF reform should involve all aspects of high cost support, including support currently provided to both incumbent local exchange carriers (ILECs) and competitive ETCs"); New York Public Service Commission ("NY PSC") Comments at 2 ("To award high cost support only to wireline based companies distorts the market and poses a barrier to technological innovation."); Time Warner Comments at 3 (discussing the "flawed assumption" that subsidies should be limited "exclusively to ILECs," and stating that "competitors should continue to be eligible to receive subsidies where an incumbent is eligible to receive support"). *See also* T-Mobile Comments at 2-3; Alltel Comments at 6, 22-23.

unnecessary support and retargeting all aspects of high cost funding in a technologically-neutral and equitable manner. Moreover, it is apparent from the multitude of issues raised in the comments over the purposes, design and operation of a broadband fund, a mobility fund, a CETC cost study proposal as a replacement for the identical support rule, and a reverse auctions program, that these ideas, whatever their merits, will take an extended period of time to develop, and can neither promise relief from the current state of affairs nor supersede the interim CETC cap this year.[5]

By contrast the HCS Plan effectively promotes both the universal service and pro-competitive goals of the Telecommunications Act of 1996 ("Act"). The HCS Plan is straightforward in concept, practical in operation, and it operates within existing regulatory and administrative frameworks. Additionally, the HCS Plan advances the larger goals of the Telecommunications Act by transitioning away from high cost subsidy in favor of other more pro-competitive forms of cost recovery, and by adhering to the principles of competitive and technological neutrality.

Specifically, the HCS Plan: (1) equitably reduces over a reasonable four-step transition period the cost of high cost support by approximately $3.1 billion, lowering carrier USF contributions and providing potential savings for consumers in universal service surcharge reductions; (2) allows (but does not require) ILECs to recover additional local loop-related non-traffic sensitive costs under modified FCC rules by raising the federal subscriber line charge ("SLC") cap in increments during the first three steps of the HCS Plan for the first time since the last series of SLC cap increases was completed in 2003; (3) lowers high cost support payments to

[5] The Commission pointed out in the *Interim Cap Order* at ¶ 1 n.2 that it is required by statute to respond within one year after receiving a recommendation from the Joint Board. 47 U.S.C. § 254(a)(2). The Joint Board's Recommended Decision was released on November 20, 2007.

CETCs in parity with ILEC high cost support reductions by operation of the identical support rule; (4) applies the same standard to CETCs as that now applied to ILECs for eligibility to receive universal service high cost local switching support; (5) consolidates study areas of larger ILEC holding companies for purposes of calculating support under the applicable high cost support formulas in recognition of the operating efficiencies these companies achieve; and (6) in the final step of the HCS Plan, applies pro-competitive standards that cap or end high cost support in study areas where the presence of multiple service providers is sufficient to ensure affordable, high quality service to the public.

II. COMPREHENSIVE REFORM IS NEEDED PROMPTLY TO REDUCE THE OVERALL SIZE OF HIGH COST SUPPORT

As the FCC and Joint Board recognize, there is an immediate need to control the overall amount of high cost support. Commenters agree that high cost subsidy has simply become too large and threatens to undermine the other competitive goals of the Telecommunications Act. There is general agreement in the comments with the Joint Board's conclusion that "further growth in universal service funding presents substantial risks," and that "unrestrained growth in the universal service fund, regardless of the source, could be, and would likely be, catastrophic for universal service."[6] The interim CETC cap is a short-term measure to keep the fund from growing further. Yet it is in no way comprehensive; nor does it control and rationalize high cost support over the longer term.

Commenters agree there is an imminent need to limit or reduce the overall size of high cost support as part of comprehensive reform. A review of the comments reveals that parties representing all different points along the telecommunications spectrum -- including wireline and wireless providers, state commissions, rural and urban carriers, and other associations and

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[6] *Interim Cap Order* at ¶¶ 24-25.

organizations -- all support the implementation of immediate reform measures to limit or reduce the unprecedented levels of universal service.[7]

Commenters also agree with Sprint Nextel that the proposals in the NPRMs are as a whole insufficient, impractical, and unsatisfactory, and will fail to accomplish expeditiously the much-needed reform they purport to achieve. These parties agree with Sprint Nextel that the NPRMs merely layer new complexities on top of an already overly-burdened system and fall far short of realizing the necessary reduction in the cost of high cost support programs.

As Comcast explains, many of the proposals discussed in the NPRMs "would not produce a sustainable, pro-competitive plan for reform that increases consumer benefits."[8] The Public Service Commission of Missouri agrees, stating that the recommended proposals "do[] not comprehensively reform the high-cost universal service support program."[9] Cellular South, too, echoes this sentiment, stating that the effect of the proposals in the NPRMs would be to eliminate competition in high-cost areas, designating instead a single entity to receive support.[10] And, compounding this problem, the proposals would leave intact legacy support for wireline carriers, further insulating these incumbents from competition. Unfortunately, many of the proposed reforms would replace an overburdened system with new structures that do not alleviate these problems and instead create other concerns and potential inefficiencies that would frustrate meeting universal service goals to provide reasonable support to rural high cost areas.

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[7] *See, e.g.*, Comcast Comments at 1-3 (explaining that the FCC must adopt "comprehensive reform to reduce the size of the fund over time," and that the current USF "is not sustainable" and "must be completely overhauled"); New Jersey Board of Public Utilities ("NJ BPU") Comments at 7 (USF "must be reduced"); NY PSC Comments at 1-2 (USF levels have "spiraled out of control" and "must be reduced").

[8] Comcast Comments at 2.

[9] MoPSC Comments at 1.

[10] Cellular South Comments at 2, 13.

III. REFORMS SHOULD BE BALANCED AND COMPETITIVELY NEUTRAL AND SHOULD RELY ON MARKET-BASED MECHANISMS

One of the primary policies underlying the Commission's initiatives under the Communications Act is competitive neutrality.[11] Most commenters recognize -- at least, in theory -- that reform of the high cost support programs must not come at the expense of any particular class of providers. Rather, the FCC must ultimately implement a solution that is balanced among ILECs and CETCs alike.

Nevertheless, in their comments many providers suggest or support reform measures that benefit their own narrow interests at the expense of their competitors. Thus ILECs predictably support the elimination of the identical support rule[12] and a trial of reverse auction procedures for wireless CETCs that will not have any effect on their own subsidy flows.[13] But such competitively imbalanced reform conflicts with the neutrality required by the Act.

More neutral commenters acknowledge that sensible reform requires an even-handed approach missing in many of the comments. For example, the Public Service Commission of Missouri proposes reducing universal service support while allowing carriers to recover their costs directly from their customers.[14] The California Public Utilities Commission ("CA PUC") similarly suggests that the "superior long term solution is to move toward more market-based approaches that are not biased toward a particular carrier or technology."[15] "[R]egulatory parity for competing technologies" must be part of any reform measures, as the New York Public

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[11] *See, e.g., In re Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd. 8776, 8801, ¶ 47 (1997).
[12] *See, e.g.*, Embarq Comments at 10; Qwest Comments at 6; Century Tel Comments at 21; Windstream Comments at 21-22.
[13] *See* Embarq Comments at 15; Windstream Comments at 24; The United States Telecom Association Comments at 21-22.
[14] MoPSC Comments at 4.
[15] CA PUC Comments Regarding Use of Reverse Auctions at 4.

Service Commission recognizes, and "any reforms should be technology and platform neutral."[16] Comcast as well properly stresses that high cost fund reform should occur in a way that is "competitively and technologically neutral, encourage[s] both incumbent providers as well as new entrants to compete to serve higher cost areas, thereby helping to bring competition to customers in these areas, and also help[s] place downward pressure on the size of the fund in order to minimize the burden on the ratepaying public."[17] As these and other commenters recognize, effective reform must provide all competitors with an equal opportunity to compete for high cost support needed to serve end users in high cost areas.[18]

Unfortunately, the proposals included in the NPRMs, as well as the Commission's interim cap on CETC support, do not satisfy this goal of competitive neutrality. These proposals are not balanced and impartial, and certainly are not comprehensive, because they affect one group of high cost funding recipients, yet leave subsidies untouched for ILECs, which are by far the major beneficiaries.

Several parties also agree with Sprint Nextel that market-based mechanisms should take the place of subsidies wherever possible, thereby reducing or ending funding.[19] Market-based

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[16] NY PSC Comments at 1-2.
[17] Comcast Comments at 3-4.
[18] NY PSC Comments at 2.
[19] *See, e.g.*, Time Warner Comments at 4-6. AT&T proposes that "all of the price cap legacy wireline support be transitioned [on a state-by-state basis] to the Broadband Incentive Fund . . . when the relevant state commission grants a price cap ILEC complete retail pricing deregulation." AT&T Comments at 22. Time Warner argues, "federal subsidies should not provide *ongoing* support for the provision of any services that have been price deregulated." Time Warner Comments at 14 (emphasis in original). The National Cable & Telecommunications Association ("NCTA") suggests that the following three events should, upon request of a competitive provider, "trigger a review of the amount of support that is distributed to a particular geographic area, including the possibility of eliminating support for all providers in the market:" (a) "an ILEC seeks rate deregulation at the state level," or a state commission finds "that an ILEC's rate no longer needs to be regulated"; (b) "a LEC (or LEC

mechanisms are inherently neutral and unbiased, as they do not favor any particular technology or carrier over any other. These mechanisms thus provide a long-term solution that is balanced and fair, and that complies with the Act's goal of competitive neutrality.[20] Market-based solutions also promote competition -- an important goal of the Act.[21] This competition benefits all consumers, including those in high cost areas, by encouraging innovation and exerting downward pressure on prices, which ultimately works to reduce the need for, and the overall size of, the USF high cost support programs.[22]

IV. COMMENTS EXPOSE PROBLEMS WITH EACH OF THE COMMISSION AND JOINT BOARD PROPOSALS

While there is consensus that reform is necessary to reduce the size of the USF, there is far from a unified view as to how this reform should be accomplished. The comments do, however, expose the problems with the proposals advanced in the NPRMs.

A. Identical Support Rule, CETC Costing Approaches, and Restrictions on CETC Support Eligibility

Several parties join Sprint Nextel in identifying flaws in the Commission's proposal to eliminate the identical support rule.[23] Most importantly, elimination of that rule does nothing to address the effectiveness of and need for current support flows to ILECs, and thus makes no

affiliate)" introduces a "multichannel video service"; or (c) multiple CETCs are providing services "in a particular geographic area." NCTA Comments at 8-10.

[20] *See, e.g.*, CA PUC Comments on Use of Reverse Auctions at 4.

[21] *See, e.g.*, Cellular South Comments at 2.

[22] *See, e.g.*, Comcast Comments at 4.

[23] In addition to Sprint Nextel, parties that oppose the Identical Support NRPM include *inter alia* Alltel (*see* Alltel Comments at 22-40); Cellular South (*see* Cellular South Comments at 7-9); Comcast (*see* Comcast Comments at 4-6); Centennial Communications Corp. ("Centennial") (*see* Centennial Comments at 9-10); Time Warner (*see* Time Warner Comments at 15); and Rural Cellular Association and the Alliance of the Rural CMRS Carriers (RCA and ARCC) (*see* RCA and ARCC Comments at 2-5).

progress toward comprehensive reform of the high cost programs. For that reason, it is not surprising that ILECs uniformly support elimination of the rule.[24]

The comments, moreover, provide convincing rationales for keeping the identical support rule in effect, as opposed to determining support for CETCs based on their own costs. The existing rule provides a competitively neutral way of supplying support to both ILECs and CETCs alike, without bias towards any particular carrier or any particular technology.[25] Elimination of the rule would benefit ILECs at the expense of wireless providers, which some commenters believe will have the foreseeable result of diminishing the availability of wireless service in rural areas.[26] One commenter suggests that the proposal would lead to the propping up of inefficient providers.[27]

The comments further make a strong case that there is no practical way to calculate high cost support for CETCs other than by the identical support rule. The solution proposed in the *Identical Support NPRM* -- to base a wireless CETC's support on its particular costs -- would apply the same kind of cost-of-service calculations historically used for ILECs to an unregulated industry segment. Sprint Nextel's opening comments explained why a cost study approach to determining CETC high cost support would be entirely unsatisfactory as a replacement for the identical support rule. Force-fitting wireless CETCs into a legacy regulatory accounting regime designed for traditional wireline common carriers would be disruptive and expensive, with the potential to severely compromise wireless carrier efforts to provide ETC services. Adapting the

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[24] Parties that endorse the proposals in the *Identical Support NPRM* include *inter alia* Embarq (*see* Embarq Comments at 10); Qwest (*see* Qwest Comments at 6); Verizon and Verizon Wireless (*see* Verizon and Verizon Wireless Comments at 4, 35); and Century Tel (*see* Century Tel Comments at 21-24).
[25] Cellular South Comments at 7.
[26] Alltel Comments at 22.
[27] *See* Cellular South Comments at 9.

current wireline rules to wireless operations also would needlessly introduce much guesswork and imprecision into the subsidy process, requiring numerous uncertain allocations and projections that are unlikely to prove accurate.

Other commenters oppose subjecting wireless CETCs to onerous and impractical costing requirements for reasons similar to those provided by Sprint Nextel.[28] *First*, there is no evidence that a cost-of-service approach would reduce the size of high cost support funds or establish a more efficient mechanism for distributing high cost support.[29] *Second*, cost-of-service regulation distorts incentives for providers, encouraging them to inflate their costs -- rather than reduce them -- in order to procure larger subsidies.[30] *Third*, cost modeling is time-and resource-intensive and has many limitations that render it a less than optimal choice for immediate and practical reform.[31] Additionally, a cost model approach is fraught with uncertainties and inevitably lends itself to assumptions and adjustments to reach a largely predetermined result. As such, any attempt to produce a CETC cost model would turn into a lengthy, contentious process and lead to litigation.

Finally, the tentative conclusions and proposals in the *Identical Support NPRM* to make CETCs ineligible to receive Interstate Access Support ("IAS"), Interstate Common Line Support ("ICLS") and Local Switching Support ("LSS") drew opposition in the comments. Elimination of this support without comparable reductions in ILEC funding "would protect incumbent wireline providers from wireless competition and undermine the goal of the high-cost program,"

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[28] *See, e.g.*, Centennial Comments at 7-10 (endorsing per line support); Comcast Comments at 5-6 (describing the fundamental flaws in the cost-of-service proposal); CA PUC Comments Regarding Use of Reverse Auctions at 4 (discussing the limitations of a cost model approach).
[29] Comcast Comments at 5-6.
[30] *Id*.
[31] *See* CA PUC Comments Regarding Use of Reverse Auctions at 4.

and would ultimately create “a lopsided support regime.”[32] By eliminating this CETC funding while preserving analogous funding for ILECs, these proposals are in direct violation of the Act’s requirement of competitive neutrality.[33]

These measures would once again single out CETCs and slash high cost funding for these providers alone, even more severely and immediately than under the CETC costing approach.[34] Eliminating IAS, ICLS and LSS for CETCs might appeal to the ILECs with whom CETCs compete, but comprehensive reform ought to address the effectiveness of all programs and all classes of participants.[35]

B. Reverse Auctions

The Comments make clear that reverse auctions are not a practical solution to the pressing problem of creating sustainable high cost support programs. Many commenters reject the reverse auction proposal in its entirety, noting that it does nothing to address ILEC distributions.[36] Even when commenters support reverse auctions in theory, they differ widely on

[32] T-Mobile Comments at 2-3, 5.

[33] *Id.* at 2-3; *see also* Alltel Comments at 35-36, and General Communication Inc. Comments at 42-56.

[34] As T-Mobile explains, the impact on some CETCs and regions would be dramatic. “The Commission’s proposal to bar CETCs from almost 60 percent of the high-cost funds available to incumbents…IAS;…ICLS; and… LSS funds -- would effectively deny high-cost support to any Puerto Rico CETCs, which now qualify only for ICLS funding.” T-Mobile Comments at 2.

[35] The HCS Plan eliminates IAS and substantially reduces ICLS. Instead of the NPRM approach, which deprives only CETCs of this support, the HCS Plan transitions away IAS and ICLS for ILECs and CETCs alike, as SLC caps are raised.

[36] Other parties that outright rejected a reverse auction structure include *inter alia* Cellular South (*see* Cellular South Comments at 4-7); Time Warner (*see* Time Warner Comments at 15-16); CoBank (*see* CoBank Comments at 3-4); John Staurulakis Inc. (“JSI”) (*see* JSI Comments at 4); National Telecommunications Cooperative Association (“NTCA”) (*see* NTCA Comments at 30-46); Organization for the Promotion and Advancement of Small Telecommunications Companies (“OPASTCO”) (*see* OPASTCO Comments at 16-21); and RCA and ARCC (*see* RCA and ARCC Comments at 66-78).

the features of a system that could be put into practice.[37] For example, some parties support a reverse auction structure, but only if there is a winner-take-all structure, while others support an auction proposal only where multiple winners are permitted.[38] Still others call for reverse auctions to include ILECs.[39]

Many commenters observe that the reverse auction system is plagued with practical problems that would have to be addressed before it could be implemented. As Time Warner explains, "there are significant institutional and regulatory processes that must be resolved before conducting a reverse auction."[40] To implement such a system, "the FCC will have to determine the appropriate area to subject to an auction, and there may be instances where competitors might only be able to serve a subset of the designated area, making bidding infeasible."[41] Even for those supporting reverse auctions, it is evident that it will take years to implement.[42]

For all of these reasons, Sprint Nextel agrees with the many parties that see reverse auctions as an impractical approach to resolving current problems with the high cost support programs. There are simply too many unanswered questions -- questions about complex details such as eligibility, single versus multiple winners, computation and distribution of subsidies, appropriate geographic coverage, auction design and reserve prices, frequency of auctions, and obligations of auction winners -- to think that a reverse auction system will provide the necessary

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[37] *See, e.g.*, Embarq Comments at 19 (supports reverse auctions only for wireless carriers); Qwest Comments at 7-8 (only in unserved areas where there is no provider, and only when one winner is selected); Verizon and Verizon Wireless Comments at 18-21 (for ongoing wireless and other CETC support); Alltel Comments at 40-41 (only if there are multiple ETC winners); Florida PUC Comments at 4-5 (only if there is a winner-takes-all structure).

[38] *Compare* Alltel Comments at 40-41 (reverse auctions OK but only if there are multiple ETC winners) *with* Florida PUC Comments at 4-5 (reverse auctions only if there is a single winner).

[39] *See* Comcast Comments at 7 and CA PUC Comments at 4.

[40] Time Warner Comments at 15-16.

[41] *Id.* at 16.

[42] *Id.* at 13.

relief or timely benefits. These unresolved practical difficulties render any reverse auction system untenable at this time.

C. Broadband Fund

Sprint Nextel believes that comprehensive reform must focus on controlling and rationalizing current high cost support programs and that proposals to establish a new and expensive broadband fund should not be considered until funding for current programs is brought under control.[43] As Verizon and Verizon Wireless explain, a broadband fund would strain limited USF resources where public-private partnerships would more effectively serve to increase broadband availability and accessibility.[44] The Verizon and Verizon Wireless comments make a persuasive case that universal service support is a highly inefficient way to provide broadband support to underserved and unserved areas, and would cost consumers and the economy more than the value of the subsidies the providers would receive.[45] Verizon and Verizon Wireless also questioned whether the FCC has the authority to add broadband to the list of services eligible for universal service funding.[46] Sprint Nextel agrees that the Commission should not consider adding a new fund for broadband service to the USF unless and until the existing high cost support is reduced to a sustainable level and placed on a firm foundation.

[43] Among the comments against creating a new and separate broadband fund are *inter alia* Verizon and Verizon Wireless Comments at 26-31, 33-34; NJ BPU Comments at 3; SouthernLINC Comments at 30-31.

[44] Verizon and Verizon Wireless Comments at 27-29. Verizon and Verizon Wireless consider the Connect Kentucky program, a public-private partnership program, a "huge success" and explain that broadband availability grew in Kentucky between 2004 and 2007 from 60 percent to more than 95 percent. *Id.* at 28. They further state that according to an informal survey, "about 25 states have public-private partnership programs that seek to replicate the successful techniques of Connect Kentucky." *Id.* at 29.

[45] *Id.* at 33.

[46] *Id*. at 31-33.

D. Mobility Fund

While the Commission and Joint Board correctly recognize the importance of mobility and wireless services to consumers, Sprint Nextel believes it is premature to propose creating ANY new funds unless and until the existing system is reformed. As NCTA explains, any restructuring of USF should only take place once the Commission has sufficiently controlled the excessive growth of the fund.[47] Though recognizing the need to support wireless providers "certainly is a step in the right direction," simply redirecting funding to new mechanisms will not provide sustainable reform.[48] The Commission must instead develop support for wireless carriers in a way that controls costs and avoids "excessive fund growth."[49] Thus, only once the existing system is sustainable should the Commission consider creating new funds.

E. Provider of Last Resort Fund

Commenters agree with Sprint Nextel that the other parts of the *Joint Board Recommendation NPRM* will not lead to comprehensive reform of high cost funding. Among the Joint Board's recommendations, there are two proposals that potentially affect ILEC high cost support under current programs. The first proposal could limit ILEC support by capping individual programs and the overall cost of high cost funding. However, the Recommended Decision provides no detail on how these caps would work in practice and whether ILEC support might actually be reduced under them. Indeed, as Comcast recognizes, a "fundamental flaw" in the Joint Board recommendation "is that it would not produce any meaningful reductions in the

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[47] NCTA Comments at 17-22.
[48] *Id.* at 19.
[49] Alltel Comments at 6.

size of the Fund."[50] Capping the funds provides only "a temporary solution,"[51] and is not sufficient for sustainable reform.[52]

The principal ILEC-oriented recommendation by the Joint Board is the proposal to consolidate existing high cost support programs into a provider of last resort (POLR) fund. As part of this process of forming the POLR fund, the Joint Board asks the Commission to consider a number of revisions to the way ILEC high cost support is distributed today. Unfortunately, some of the changes suggested would likely operate to *increase* the ILEC subsidy.[53] As Verizon and Verizon Wireless point out, creating this new fund will likely demand "significant resources and involve substantial costs," and when combined with the possibility of a new broadband fund, the POLR fund risks "the likelihood of duplicative support."[54] The POLR Fund would impede competition and "would move federal universal service in the wrong direction."[55] And the proposal impermissibly lacks competitive neutrality.[56]

V. SPRINT NEXTEL'S PLAN PROVIDES A COMPETITIVELY NEUTRAL, BALANCED APPROACH TO REDUCING USF IN A PROMPT AND PRACTICAL MANNER

In contrast to the proposals advanced in the NPRMs, and the other new proposals submitted in response to the NPRMs, Sprint Nextel's HCS Plan provides a balanced approach to

[50] Comcast Comments at 11.
[51] Connecticut Public Utilities Commission Comments at 4.
[52] Comcast Comments at 3.
[53] *See Joint Board Recommendation NPRM*, at para. 40, "Current support mechanisms tend to provide stronger incentives for rural LECs than for non-rural LECs to provide comparable and affordable rates and services in rural and high-cost areas. While the Joint Board seeks to minimize this disparity for rural consumers, regardless of provider, we also acknowledge the complexities and potential costs of such a transition."
[54] Verizon and Verizon Wireless Comments at 22.
[55] Comcast Comments at 16-17.
[56] *Id.* at 12; NY PUC Comments at 2; NCTA at 18; Surewest Broadband Comments at 3.

reform that can be implemented in a prompt and practical manner.[57] This Plan reduces support for high cost service without jeopardizing fundamental universal service goals, and will benefit consumers through lowered federal universal service surcharges resulting from reduced carrier contributions. It relies upon pro-competitive mechanisms, such as permitting the recovery of more non-traffic sensitive local loop costs from a carrier's own customers, consolidating geographic areas for purposes of calculating High Cost Loop Support and Local Switching Support, and ultimately capping and then ending support in areas with substantial CETC penetration.

Since the Sprint Nextel HCS Plan was filed with the Commission on May 12, 2008, subsequent to the comment date herein, commenters have not yet had a chance to address its particulars. Nevertheless there is considerable support in the comments for the underlying principles of the HCS Plan. These include comments in support of maintaining competitive and technological neutrality[58]; eliminating unneeded subsidy[59]; promoting competition and withdrawing excessive regulation[60]; recognizing operating efficiencies and a carrier's ability to recover costs from its own customers in determining support[61]; and keeping universal service funding at sustainable levels.[62]

The HCS Plan is unique in its balanced and neutral approach to reform, affording all carriers and all technologies equal treatment. It effectively controls costs and ultimately draws down the USF while still ensuring sufficient support for high cost areas. It replaces subsidies

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[57] *See* Sprint Nextel High Cost Support Reform Proposal.
[58] *See supra* pp. 10-11 & nn.15-18.
[59] *See* Time Warner Comments at 2 ("it makes no sense to subsidize rates for services that have been freed from rate regulation"); Alltel Comments at 2 (discussing need to reform "inefficient subsidies flowing to incumbent local exchange carriers").
[60] *See supra* pp. 11-12 & n.19.
[61] *See* MoPSC Comments at 4.
[62] *See supra* pp. 8-9 & n.7.

with marketplace mechanisms, thus promoting competition that will exert downward pricing pressure in a neutral and unbiased manner. And, the HCS Plan is practical. It requires no new administrative procedures or machinery and can be implemented by the FCC with no major changes to its existing rules.

CONCLUSION

It is apparent from a review of the comments that the proposals in the three NPRMs are highly contentious and would require substantial time and effort to evaluate their soundness and to translate them into workable programs that can accomplish underlying policy goals. These proposals are also largely concerned with reducing the high cost support going to wireless CETCs, while virtually exempting the $3 billion in annual ILEC subsidies from review. Indeed, some of the suggestions in the *Joint Board Recommendation NPRM* actually could enlarge support flows to ILECs above today's inflated levels. Comprehensive reform surely must include an examination of the extent to which high cost funding can be reduced and still promote the goals of universal service set out in section 254 of the Act.

In contrast, the HCS Plan recently filed by Sprint Nextel shifts the emphasis of reform from selectively controlling fund growth only for CETCs to reducing the cost of high cost support in an equitable manner, while allowing carriers to recover more revenues from their own end users instead of from subsidy programs. At the same time, it preserves high cost support in areas served by small rural ILECs. The HCS Plan promotes competition, is competitively and technologically neutral, reduces high cost support in favor of pro-competitive forms of cost recovery, reduces Universal Service Fund contributions and monthly customer surcharges, and is straightforward and compatible with existing rules and administrative processes. Sprint Nextel respectfully requests the Commission to consider the HCS Plan as a responsible, sensible, and achievable path to meaningful comprehensive reform.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

/s/ Mark D. Schneider

Jenner & Block, LLC
1099 New York Avenue, N.W.
Washington, D.C. 20001
(202) 639-6005

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

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