

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Coalition for Equity in Switching Support	)	
Petition for Clarification	)	

**COMMENTS OF SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation (“Sprint”), pursuant to the Order and Notice of Proposed Rulemaking (“NPRM”) released on October 9, 2009 (FCC 09-89), hereby respectfully submits its comments in the above-captioned proceeding on whether the Commission should revise its rules to allow incumbent local exchange carriers that lose access lines to increase their universal service Local Switching Support (“LSS”). As discussed briefly below, no such rule change is warranted. There is no basis for granting a certain class of carriers higher universal service support as a reward for losing access lines. To do so would jeopardize the financial viability of the federal universal service fund, and violate the principle of competitive neutrality.

Under Sections 54.301 and 36.125(j) of the Commission’s Rules,<sup>1</sup> if an incumbent LEC’s access lines exceed a certain threshold, the amount of LSS it receives is decreased. As the Commission properly found in the Order portion of the instant Order and NPRM, the opposite does not hold true: the rules do not allow an incumbent LEC whose access

---

<sup>1</sup> 47 C.F.R. §§ 54.301 and 36.125(j).

lines have decreased to receive a higher amount of LSS.<sup>2</sup> The Commission has, however, requested comment on whether its rules should be changed to allow an incumbent LEC with declining access line counts to use a higher digital equipment minutes of use (“DEM”) weighting factor and thus receive a higher level of universal service LSS.

This proposed rule change should be rejected for both financial and competitive equity reasons. Sprint sympathizes with carriers that experience “some hardship” (NPRM, para. 14) as the result of line losses. However, it is poor public policy to use the USF as a “make whole” mechanism for service providers that have experienced a decrease in demand for their services. The federal USF – which is funded by carriers that are customers and/or competitors of the incumbent LECs that would benefit from the proposed rule change – can not and should not be used to provide revenue replacement for incumbent LECs that suffer access line losses.

The USF is already staggering under the weight of current obligations, and cannot take on additional revenue replacement obligations (particularly if the Commission makes broadband a “supported service” eligible to receive support from the universal service funds).<sup>3</sup> The interstate USF contribution factor<sup>3</sup> has risen dramatically over the past few years, and reportedly may reach a record-high 14.2% in the first quarter of

---

<sup>2</sup> The Commission denied the Coalition for Equity in Switching Support’s request for clarification that the rules to allow incumbent LECs to receive more LSS when their access line counts decreased. *See Order*, para. 7.

<sup>3</sup> The Commission is actively considering whether broadband should be a supported service. *See, e.g., High-Cost Universal Service Support*, WC Docket No. 05-337 *et al.*, *Order on Remand and Report and Order and Further Notice of Proposed Rulemaking* released November 5, 2008 (FCC 08-262); *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Notice of Inquiry* released April 8, 2009 (FCC 09-31), paras. 39-41.

2010.<sup>4</sup> Expanding the fund as suggested in the instant NPRM would place additional strain on the USF and threaten its sustainability – a violation of the statutory imperative that USF mechanisms be “specific, predictable and sufficient” (*see* Section 254(b)(5) of the Act).

The proposed LSS rule change also should be rejected because it violates another of the Commission’s USF guiding principles – that universal service support mechanisms and rules be competitively neutral.<sup>5</sup> This revenue replacement benefit would be available to only a certain class of carrier – incumbent LECs. That the Commission would even consider increasing support to incumbent LECs is directly contrary to its decisions over the last 18 months to reduce sharply the amount of USF available to wireless eligible telecommunications carriers (ETCs). In May 2008, the Commission decided to implement an “emergency” cap on USF support to competitive (primarily wireless) ETCs in order to “preserve the sustainability and sufficiency of universal service.”<sup>6</sup> This “interim” cap remains in place today with little prospect of being lifted in the near future. In November 2008, the Commission further required Sprint and Verizon Wireless, in the context of business transaction proceedings not related to the USF dockets, to phase-out

---

<sup>4</sup> *See* Stifel Nicolaus, *Industry Assessments Expected to Jump, Up Pressure for USF/Intercarrier Reform* (Nov. 3, 2009).

<sup>5</sup> The Commission expressly adopted competitive neutrality as a guiding principle under 47 U.S.C. § 254(b)(7), stating that “universal service support mechanisms and rules [should] neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.” *Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776, 8801 (para. 47) (1997).

<sup>6</sup> *High-Cost Universal Service Support*, WC Docket No. 05-337; *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order*, 23 FCC Rcd 8834, 8837 (para. 6) (2008).

their respective high-cost competitive ETC support, again citing concern about the growth in the high-cost fund.<sup>7</sup>

Although the Commission has stated that it “believe[s] that public policy supports” the proposed rule change (NPRM, para. 13), it does not identify what that public policy is, or how it can be reconciled with the USF guiding principles of sustainability and competitive neutrality discussed above. Given the lack of justification for adopting the proposed rule change, and the compelling reasons to reject such proposal, the Commission should firmly reject any rule change that would allow incumbent LECs that lose access lines to increase their universal service LSS.

Respectfully submitted,

**SPRINT NEXTEL CORPORATION**

*/s/ Charles W. McKee*

---

Charles W. McKee  
Vice President, Government Affairs  
Federal and State Regulatory

Norina T. Moy  
Director, Government Affairs

2001 Edmund Halley Drive  
Reston, VA 20191  
(703) 433-4503

November 24, 2009

---

<sup>7</sup> *Sprint Nextel Corporation and Clearwire Corporation, Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations*, 23 FCC Rcd 17570, 17611-17612 (2008); *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements*, 23 FCC Rcd 17444, 17531-17532 (2008).

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Sprint Nextel Corp. was filed electronically or via US Mail on this 24th day of November, 2009 to the parties listed below.

*/s/ Norina T. Moy*

---

Norina T. Moy

Antoinette Stevens  
Telecommunications Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
Antoinette.Stevens@fcc.gov

Best Copy and Printing, Inc.  
Portals II  
445 12<sup>th</sup> St., SW, Room CY-B402  
Washington, DC 20554  
[fcc@bcpiweb.com](mailto:fcc@bcpiweb.com)