Sprint

**REDACTED VERSION**

**Norina Moy**
Director
Government Affairs

Sprint Nextel
Suite 700
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December 29, 2009

**Via Electronic Submission**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St., SW, Room TW-A325
Washington, DC 20554

**Re: Ex Parte Communication**
**WC Docket No. 09-197**

Dear Ms. Dortch:

At the request of the Wireline Competition Bureau, Sprint Nextel Corp. provides supplemental information regarding the Eligible Telecommunications Carrier (ETC) verified filing submitted by NPCR, Inc. and Nextel Partners of Upstate New York, Inc. on October 1, 2009. Because this supplemental response contains proprietary information, Sprint Nextel requests that this response be accorded confidential treatment pursuant to 47 C.F.R. §§ 0.457(d) and 0.459.[*] A redacted version of this response is being filed electronically in the above-referenced docket for public review.

If you require additional information, please contact me at 703-433-4503.

Sincerely,

*/s/ Norina T. Moy*
Norina T. Moy

c: Nicholas Degani (unredacted version)
USAC (hcorders@usac.org) (unredacted version)

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[*] NPCR's October 1, 2009 verified filing included a request for confidential treatment which described the proprietary nature of the information provided. The supplemental response attached hereto contains confidential information of a similar nature, and NPCR therefore incorporates by reference its October 1 request for confidential treatment and requests that it be extended to this supplemental response.

**Outage in Pennsylvania on August 16, 2008**

Sprint Nextel's records show that on August 16, 2008, there was a single cell site outage that was caused by a copper cut. Vandals stole the copper associated with a T1 circuit provided by the local exchange carrier (LEC) at this cell site. Once our network monitoring group became aware of the outage, the Sprint Access Service Assurance group escalated the issue with the LEC to restore this T1. The LEC had to locate replacement copper from its warehouse or regional distribution center, and then ship it to the affected site in Pennsylvania. It took the LEC [REDACTED] days to obtain and install the replacement copper.

Sprint Nextel's wireless network is engineered to provide overlapping contiguous coverage throughout its market areas, which allows cell sites to fully or partially compensate if a neighboring site is inoperative. Thus, it is likely that service at the affected cell site was at least partially available pending repair of the vandalized T1 circuit.

In an attempt to thwart vandalism, Sprint Nextel installs fences, gates, locks, and sometimes security cameras at its cell sites. Our ability to control vandalism of LEC facilities is limited.

**Coverage Maps**

The Commission has asked for additional information regarding parts of Alabama, Georgia, New York, Pennsylvania and Virginia in which NPCR, Inc. is designated as an ETC but does not currently have coverage.

When NPCR originally requested ETC designation in these states in 2003, its business plan called for expansion into areas in which it did not then have coverage with the assistance of on-going high-cost USF support. Between 2005-2007, NPCR did in fact substantially expand its coverage, investing over $[REDACTED] million in service improvement projects (capital expenditures to expand capacity, harden the network, and improve quality, coverage, and signal strength) in its designated areas in Alabama, Georgia, New York, Pennsylvania and Virginia.[1]

During 2008 (the most recent annual reporting period for which actual expenditures are available, as reflected in NPCR's October 1, 2009 service improvement plan progress report), NPCR used its federal high-cost USF support [REDACTED] was a consequence of both worsening economic conditions and the Commission's adoption of the *Sprint Nextel/Clearwire Order.*[2] Pursuant to this *Order,* federal high-cost USF support to NPCR and to its CDMA affiliate, Sprint, is being phased out over a 5-year period. This phase-out has a two-fold effect. First, certain capital expansion projects which formerly may have been justified with the additional support provided by high-cost USF subsidies have had to be eliminated and/or delayed because they no longer are financially viable. Certain cell sites with low potential revenue streams (common in the rural areas where NPCR is designated) might generate minimum required internal rates of return if customer revenues are supplemented with high-cost USF support. If such USF support is reduced or no longer available, investment of scarce capital resources in these marginal sites cannot be justified.

Second, the phase-out of NPCR/Sprint's high-cost USF support has an on-going impact on capital projects previously implemented. Certain ETC expansion projects implemented since 2004 (when NPCR was designated a CETC in the states at issue here) were deployed on the assumption that federal high-cost USF support would continue to be available. As this support is reduced and eventually eliminated, Sprint/NPCR must re-direct its non-USF cash to maintain these existing sites. One of the opportunity costs of such re-direction is a reduction in funds available for expansion in unserved areas.

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[1] In addition to capital expenditures, ETCs incur substantial operating expenses to provide service from cell sites in their designated areas. NPCR's operating expenses for cell sites in its designated areas in these 5 states (over $[REDACTED] million in 2008 alone) far exceed its USF receipts every year.

[2] *Sprint Nextel Corporation and Clearwire Corporation, Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations*, 23 FCC Rcd 17570, 17611-17612 (2008).

Use of high-cost USF support to operate and maintain existing facilities in designated areas is entirely consistent with the Act and with the Commission's Rules. Section 254(e) of the Act states that carriers that receive federal universal service support "shall use that support only for the *provision, maintenance*, and upgrading of facilities and services for which the support is intended" (47 U.S.C. §254(e), emphasis added). Sections 54.313 and 54.314 of the Commission's Rules similarly require that ETCs certify that they have used all federal high-cost universal service support "...only for the *provision, maintenance*, and upgrading of facilities and services for which the support is intended" (47 C.F.R. §§ 54.313 and 54.314, emphasis added). There is no build-out schedule requirement; indeed, an ETC may offer USF-supported services within its designated areas but outside its existing network coverage through resale of services from another carrier's facilities.[3]

NPCR has made the requisite certifications, and has and will continue to expend all federal high-cost USF funds received as required by the Act and the Commission's Rules. Because the capital and operating expenses associated with sites built in NPCR's designated areas since NPCR was designated as an ETC far exceed expected high-cost USF support, there can be no dispute that the high-cost USF support received has been accounted for and allocated to eligible sites.

[3] *See* Section 54.202(a)(1)(B)(5) of the Commission's Rules