

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

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

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation (“Sprint”), pursuant to the Further Notice of Proposed Rulemaking (“FNPRM”) released on December 15, 2009 (FCC 09-112), hereby respectfully submits its comments in the above-captioned proceedings on the issues raised in the *Qwest Remand Order*.¹ While Sprint would be disappointed with any delay in meaningful reform of the existing high-cost universal service mechanism, if the Commission does conclude that some delay is warranted, Sprint suggests that such delay should extend to high-cost phase-out obligations as well.

In this FNPRM, the Commission has tentatively concluded that it will not propose or adopt fundamental reform of Universal Service Fund (“USF”) rules relating only to the non-rural high-cost support mechanism. The FCC has noted the imminent release of its National Broadband Plan (“NBP”) which is expected to address USF issues and that the current non-rural high-cost mechanism “is an appropriate interim mechanism for determining high-cost support to non-rural carriers.”² The Commission has stated that it

¹ *Qwest Communications International, Inc. v. FCC*, 398 F.3d 1222 (10th Cir. 2005).

² FNPRM, paras. 1 and 3. It is expected that the National Broadband Plan will contain recommendations about changes to universal service policies, and that the Commission

is “reluctant at this time to propose adopting any changes to the non-rural support mechanism that would increase significantly the amount of support non-rural carriers would receive,” and that any interim increase in non-rural support would further increase the already record high contribution factor and make the transition to broadband support “more difficult” (FNPRM, para. 13).

Sprint certainly agrees that the Commission should avoid implementing any rule changes which would increase high-cost USF to non-rural incumbent LECs for legacy voice services; indeed, the Commission’s resources are best spent focusing on ways to *decrease* such high-cost support and encourage the transition to broadband deployment.³ The current high-cost USF mechanism is perilously close to being unsustainable, is not competitively neutral, and involves carrier-to-carrier wealth transfers that impede rather than promote broadband deployment.

Nonetheless, Sprint recognizes that the Commission is likely to consider universal service issues in relation to its NBP, including a retargeting of support from legacy voice services to broadband services, and that major reforms in the instant remand proceeding could potentially be at cross-purposes with some of the goals to be set forth in the NBP. While Sprint continues to believe that comprehensive USF reform is desperately needed and long overdue, if the Commission maintains the status quo for non-rural incumbent

will “undertake comprehensive universal service reform when it implements those recommendations.”

³ For example, the Commission currently is considering a petition for rulemaking filed by the National Cable and Telecommunications Association (NCTA) to reduce universal service high-cost support to carriers in areas where there is extensive unsubsidized facilities-based voice competition (*see* Public Notice DA 09-2558 released December 8, 2009). Sprint urges grant of the request for rulemaking and adoption of NCTA’s proposal as expanded upon by Sprint (*see* Sprint’s comments filed January 7, 2010).

LECs, as it proposes in this FNPRM, competitive equity requires that the Commission also stay plans to implement changes to universal service support to specific carriers required pursuant to orders issued in unrelated corporate transaction proceedings.

Sprint, for example, was required to phase-out its high-cost universal service CETC (competitive eligible telecommunications carrier) support as a condition of Commission approval of the transfer of control of certain licenses from Sprint Nextel Corp. to Clearwire Corp.⁴ This phase-out requirement – like the order imposing a cap on high-cost USF support to competitive (but not incumbent wireline) ETCs⁵ -- was based at least in part on the presumption that comprehensive high-cost universal reform would be forthcoming within a reasonable (indeed, imminent) timeframe, so that the competitive inequities inherent in such requirements would be relatively short-lived. Unfortunately, such comprehensive reform has yet to be adopted, and any further delay such as has been proposed in the instant FNPRM will not only aggravate existing competitive inequities but also extend such inequities indefinitely.

⁴ *Sprint Nextel Corp. and Clearwire Corp., Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations*, 23 FCC Rcd 17570, 17611-12 (2008). Verizon Wireless is subject to a similar high-cost USF phase-out requirement as a condition of its acquisition of Alltel (see *Application 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 (2008)). However, no such USF phase-out condition was included in the order approving the AT&T/Centennial merger – a fact which aggravates competitive imbalances even further (see *Applications of AT&T Inc. and Centennial Communications Corp. for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements, Memorandum Opinion and Order* released November 5, 2009 (FCC 09-97)).

⁵ *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, 23 FCC Rcd 8834 (2008).

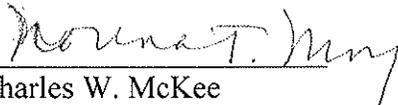
Both the Commission and the Court have emphasized that in developing and implementing its universal service policies, the Commission must balance the multiple principles enumerated in Section 254(b).⁶ One such principle identified and adopted by the Commission has been that universal service support must be made available on a competitively and technologically neutral basis: that “universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.”⁷ Moving forward with the 2008 USF phase-out obligations while comprehensive USF reform is on hold clearly disadvantages certain providers over others. Therefore, consistent with the principle of competitive neutrality, the Commission should suspend implementation of the 2008 USF phase-out obligations until such time as it implements comprehensive high-cost USF reform.

⁶ FNPRM, para. 33. As the Court has stated, “[t]he FCC must articulate a definition of ‘sufficient’ that appropriately considers the range of principles identified” in Section 254(b) (*Qwest Remand Order*, 398 F.3rd at 1234); the FCC must sometimes “exercise its discretion to balance the principles [of section 254(b)] against one another when they conflict” (*Qwest Corp. v. FCC*, 258 F.3d 1191, 1200 (10th Cir. 2001)).

⁷ *Federal-State Joint Board on Universal Service First Report and Order*, 12 FCC Rcd 8776, 8801 (para. 47) (1997).

Respectfully submitted,

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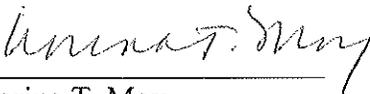
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January 28, 2010

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 28th day of January, 2010 to the parties listed below.



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