



Sprint agrees that allowing anchor institutions such as schools the option of sharing access to their E-rate services and facilities could constitute a valuable community service, particularly to individuals who lack such access in their own homes.<sup>1</sup> To the extent that E-rate services and facilities are in fact underutilized, shared use of such services and facilities by the general public can promote the public interest. However, we would note that some E-rate contracts currently provide telecommunications and Internet Access services on a tiered rate schedule – service up to a given capacity is assessed a specified rate, and usage above that level is assessed incremental or overage charges – and it is possible that use of this pricing option or even absolute caps on bandwidth usage could become more prevalent in the future.<sup>2</sup> If “secondary usage” (use of E-rate services by the general public during non-school operating hours) caused total usage at a school to exceed the allowable maximum, overage charges could apply.

To prevent the E-rate program from being burdened by extending access to supported services to the larger community, any school that incurs incremental/overage charges from its E-rate service provider as a consequence of allowing secondary usage should be allowed to flow through such incremental charges to the community (with no mark-up, to avoid violating the prohibition on reselling E-rate services for money or any other thing of value),<sup>3</sup> and to then remit those payments to the service provider outside the E-rate process. Recovery of overage charges from secondary users is consistent with

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<sup>1</sup> Any rule change that is adopted should make clear that schools may, but are not required to, share access to their underutilized E-rate services and facilities.

<sup>2</sup> See, e.g., Tom Lowry, *Time Warner Cable Expands Internet Usage Pricing*, March 31, 2009, *Business Week* (noting that tiered pricing is one means of addressing strain on the network and to aid overall network management)  
[http://www.businessweek.com/technology/content/mar2009/tc20090331\\_726397.htm](http://www.businessweek.com/technology/content/mar2009/tc20090331_726397.htm)

the Commission’s decision in the instant Order to permit a school to “charge reasonable fees to cover overhead costs for using school services and facilities – such as electricity, security, and heating – necessary to maintain the building during such periods of use” as well as “related costs such as curriculum development and presentation costs” (Order and NPRM, ¶13, footnotes omitted). Alternatively, any school subject to tiered pricing or capped usage may choose not to make its E-rate services and facilities available for secondary purposes.

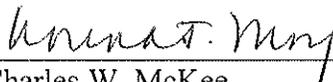
In addition to allowing schools to make their underutilized E-rate services available to the general public, Sprint recommends that the Commission also broaden its definition of “eligible locations” to allow students, teachers, school administrators and other E-rate eligible users to use E-rate services from locations other than the school campus and, in certain instances, school buses – a proposal consistent with the Recommendation 11.23 of the National Broadband Plan. In a world of wireless communication and mobile broadband, the concept of “eligible location” is becoming increasingly irrelevant. To the extent that an eligible entity is using an E-rate service for eligible purposes, he or she should be allowed to use that service from any location under the same terms as if he were sitting in a classroom. This revision to the eligible services list would satisfy the intent of the E-rate program and obviate the need for the school to perform cumbersome cost allocations.

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<sup>3</sup> 47 U.S.C. § 254(h)(3); *see also* 47 C.F.R. §§ 54.504(b)(2)(v) and 54.504(c)(1)(vii).

Respectfully submitted,

**SPRINT NEXTEL CORPORATION**

  
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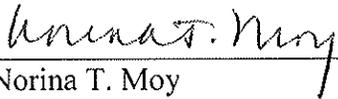
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April 5, 2010

## 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 5th day of April, 2010 to the parties listed below.

  
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