

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

In the Matter of	)	
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
2011 Eligible Services List	)	

**COMMENTS  
OF  
SPRINT NEXTEL CORPORATION**

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**COMMENTS OF SPRINT NEXTEL CORPORATION**

Sprint Nextel Corporation (“Sprint”), pursuant to the Public Notice released June 9, 2010 (DA 10-1045), hereby respectfully submits its comments in the above-captioned proceedings.<sup>1</sup> The Commission has proposed changes to the E-rate program which are intended, among other things, to support 24/7 online learning, streamline the application process, and revise the list of supported services. The Commission has also sought comment on the E-rate Eligible Services List (“ESL”) for funding year 2011. Sprint generally supports the FCC’s proposals and recommends that Internet access service underlying certain GPS applications be eligible for E-rate support.

**I. Introduction and Summary**

Sprint believes that E-rate support for wireless services outside of school would be a particularly effective means of enhancing the benefits of the E-rate program. The

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<sup>1</sup> *Schools and Libraries Universal Service Support Mechanism, Report and Order and Further Notice of Proposed Rulemaking* released December 2, 2009 (FCC 09-105) (“*ESL FNPRM*”) and the *Notice of Proposed Rulemaking (“NRPM”)* released on May 20, 2010 (FCC 10-83).

changes in student and teacher use of electronic media and advances in technology make E-rate support for such wireless services an important part of expanded learning opportunities. Tying support to “eligible locations” is an outdated concept that does not recognize the benefits and realities of new technologies.

Sprint also supports the proposal to make dark fiber provided by certain non-carrier entities eligible for E-rate support. Sprint remains concerned, however, that the competitive playing field remains level. Until the Commission resolves the outstanding issue of whether dark fiber is a telecommunications service subject to USF contribution obligations, Sprint suggests certain restrictions should be maintained to ensure that no service provider has an inherent cost advantage resulting from regulation.

Sprint also supports the proposals to codify the “fair and open” competitive bidding requirement, and to streamline certain administrative processes relating to the Form 470 and sending E-rate reimbursement checks directly to the applicant rather than requiring flow-through via the service provider. Finally, Sprint recommends that the Commission find that wireless Internet access service underlying certain GPS-based applications used on school buses and elsewhere, is eligible for E-rate support.

## **II. Wireless Services Used for Educational Purposes Outside of School Should Be Eligible for Full E-Rate Support**

The Commission has proposed “to provide full E-rate support for wireless Internet access service used with portable learning devices that are used off premises” (NPRM, para. 45). Sprint vigorously supports this proposal. As the Commission has noted, “[a]dvances in technology have enabled students to continue to learn well after the school bell rings and from virtually anywhere” (*id.*, para. 46), and this proposal will help

K-12 teachers, students, and staff to take full advantage of the enormous benefits of mobile technologies in performing their legitimate school and library work.

Sprint also recommends two refinements to the wireless service eligibility rule. First, the “eligible location” requirement should be lifted, to the extent that it still applies, for wireless telecommunications services as well as for wireless Internet access services. Second, certain equipment related to wireless Internet access service, such as EVDO connection cards, should be eligible for E-rate support as a transmitter component under the Internal Connections category.

The notion of “eligible location” (for both telecommunications and Internet access services) has meaning only in a wireline world, and is increasingly divorced from the way Americans work, study and live. The school and library communities, like American society in general, are turning more and more to mobile technologies to engage in school and library-related work at all hours, and from many locations other than the classroom or the library. Use of mobile learning devices has been shown to significantly improve and enhance student performance, attendance, and engagement in the classroom.<sup>2</sup> Thus, it is entirely within the E-rate program charter to provide full support for wireless service used off-campus for educational purposes.

Making wireless Internet access and wireless telecommunications services eligible for full E-rate support, regardless of physical location, also simplifies applicants’

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<sup>2</sup> See, e.g., comments filed by Sprint on National Broadband Plan Public Notice #15, Broadband Needs in Education (GN Docket No. 09-47), filed November 20, 2009, describing Sprint’s provision of mobile broadband learning solutions to Inkster Public Schools in Michigan; Project K-Nect in North Carolina; and the benefits of installing e-books and related educational material on smartphones such as the Sprint HTC Hero

*Footnote continued on next page*

eligible use compliance activities and is thus fully consistent with the goal of streamlining the E-rate program. Today, applicants must exclude ineligible usage (*e.g.*, wireless Internet access when used off school grounds) when requesting E-rate reimbursement. The cost allocation process is burdensome to perform and difficult to audit, and it is unclear to Sprint whether any savings to the E-rate program generated by the cost allocation process exceed the costs of performing such allocations. Elimination of the eligible location requirement is thus desirable from an efficiency perspective.

The Commission has also asked what safeguards should or could be imposed to ensure compliance with the Children's Internet Protection Act and to protect against non-educational use of wireless service off-campus (NPRM, para. 49). Such safeguards currently exist and can be readily added to mobile Internet access service accounts. For example, Sprint's Data Link service is a network-based solution that can be used to limit access to authorized sites and applications by restricting wireless data traffic to a pre-defined and network-to-network route with the school district. School district administrators can readily implement and enforce filtering and monitoring policies, since all traffic can be directed through the same district filters and firewalls as any device on the district LAN.

There are also device-based solutions, such as SOTI's MobiControl or NetMotion's mobile VPN software, which can lock down a device's settings after the routing has been set up for compliance, and help prevent unauthorized usage through user authorization and password protection. School administrators can enforce security and

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Android model. *See also*, NPRM at para. 47 (citing improved results in schools in Maine and Virginia).

“educational use only” policies on mobile devices using remediation steps ranging from simple warnings, to limiting application access or websites, to disconnecting or quarantining the device.

Controls such as Data Link, and adoption of conditions to guard against imposition of extraneous costs on the E-rate program,<sup>3</sup> are important to prevent waste, fraud and abuse, and to ensure that E-rate funds and services are used only to meet their statutory purposes. While Sprint recognizes the value of making broadband generally available, the E-rate program cannot be the primary vehicle to meet this goal. Therefore, the Commission should not authorize use of off-grounds E-rate services by other residents of a student’s household (NPRM, para. 49).

Students and teachers using smartphones off-grounds do not need additional hardware to obtain Internet access service. However, if the E-rate user is using a laptop off-grounds, he or she may need a connection card or similar device to access the Internet. Sprint recommends that such hardware be classified as a transmitter component and be eligible for E-rate support under the Internal Connections (priority 2) category. Although it is difficult to forecast the dollar impact of making connection cards E-rate eligible under priority 2 funding, current market trends indicate that the impact on the E-rate fund may be quite minimal. For example, Sprint offers a U301 USB 3G/4G mobile broadband card free after rebate with a new line of service or with eligible upgrades with

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<sup>3</sup> The Commission has asked whether to expand current restrictions on schools participating in the E-rate program, including the prohibition on requesting funding for more services than are necessary for educational purposes, and prohibition on the sale, resale, or transfer of discounted E-rate services or network capacity (NPRM, para. 50).

a 2-year service contract; other service providers also offer free or very low cost connection cards and modems.<sup>4</sup>

### **III. The “Fair and Open Bidding” Requirement Should Be Codified**

As part of its efforts to ensure a fair and open competitive bidding process, the Commission has proposed to codify the requirement that E-rate applicants “must conduct a fair and open bidding process when seeking bids for services eligible for E-rate support” (NPRM, para. 27). The Commission also has proposed to provide “illustrative guidance on the types of conduct that would satisfy or violate the rule” (para. 29). Sprint supports the codification of the competitive bidding requirement, and agrees that all of the examples cited in paragraph 29 do indeed constitute prohibited behaviors.

Sprint suggests that the following also be included in the Commission’s illustrative list of behaviors that are inconsistent with a fair and open bidding requirement:

Service providers and applicants may not circumvent the “free service advisory” by channeling any discount or rebate through a third party. A service provider may not provide incentives to third parties providing non-E-rate eligible products or services, that are tied to an applicant’s selection of the service provider to provide an E-rate eligible product or service. For example, telecommunications carrier A may not pay personal computer retailer B to lower its price to applicant C, when the discount on the computer is linked to C’s purchase of E-rate telecommunications services from A.

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<sup>4</sup> See, e.g.,

<[http://shop.sprint.com/NASApp/onlinestore/en/Action/DisplayPhones?phoneSKU=FW301DOWMX&id12\\_mobilebroadband\\_u301banner](http://shop.sprint.com/NASApp/onlinestore/en/Action/DisplayPhones?phoneSKU=FW301DOWMX&id12_mobilebroadband_u301banner)> (accessed June 25, 2010). Other Internet service providers also offer free wireless cards and modems; see, e.g., <<http://cheapandfreeisp.com/wireless.htm>> (accessed June 29, 2010).

#### **IV. Dark Fiber Provided by Certain Entities Should Be Eligible for E-Rate Support**

The Commission has asked for comment on whether E-rate applicants should receive support for dark fiber leased “from any source” (NPRM, paras. 52-53). Under this proposal, the third party from which the dark fiber is obtained apparently is not required to be a telecommunications carrier, even if the fiber is to be used in the provision of telecommunications services.

Fiber facilities will become increasingly important to the provision of broadband services over time, and Sprint supports the idea of allowing applicants to select the most cost-effective broadband solution. Given the regulatory obligations that accompany the provision of telecommunications services, and the fact that dark fiber providers are not subject to these obligations, Sprint wants to ensure that the competitive playing field remains level. Accordingly, until the FCC resolves the regulatory status of dark fiber, it should not adopt the proposal to allow the lease of fiber “from any source” as this proposal is overly broad.

Today, priority one telecommunications services may be provided only by telecommunications carriers (although service providers for Internet access need not be telecommunications carriers). Allowing applicants to receive E-rate support for dark fiber obtained from non-telecommunications carriers, which will be used for the provision of telecommunications services, would be inconsistent with this service provider requirement. Because the Commission has not yet resolved the regulatory status of dark fiber (including whether it is a telecommunications service whose associated revenues must be included in USF contribution calculations), it would be inappropriate to allow unrestricted sourcing for dark fiber.

Pending resolution of the regulatory classification of dark fiber by the Commission, Sprint cautiously supports the grant of E-rate funding for dark fiber used for telecommunications services only if the dark fiber is leased from a municipality or other community or anchor institution (NPRM, para. 52), but not when leased from commercial entities that are not telecommunications carriers. This more limited approach will give applicants additional flexibility to obtain critical broadband infrastructure on a potentially more cost-effective basis, while avoiding grant of an unwarranted competitive advantage to non-telecommunications carrier commercial providers of dark fiber.

Sprint further suggests that any applicant that receives E-rate funding for dark fiber, and then lights that fiber, must make the lit fiber available on just, reasonable and nondiscriminatory rates, terms and conditions, for backhaul or other purposes, to all service providers providing E-rate services to the applicant.

#### **V. Certain Administrative Processes Should Be Streamlined**

One of the goals of the NPRM is to identify ways in which the E-rate process can be improved and streamlined. Sprint recommends two revisions to current E-rate administrative processes: simplification of the Form 470 for priority 1 services (NPRM, para. 21), and simplification of the reimbursement process by sending certain E-rate discount reimbursement checks directly to the applicant, rather than flowing payments through the service provider.

The Commission has asked whether the Form 470 should be eliminated for priority one services (NPRM, para. 21). Sprint does not support complete elimination of the Form 470, because such form provides public information to all parties of an applicant's service requirements, request for proposal, and contact information. Such

public posting helps to ensure a fair and open competitive procurement process.

Nonetheless, Sprint appreciates concerns expressed by applicants that the Form 470 process is complex and that inadvertent errors have led to funding denials (NPRM, para. 22).

In Sprint's experience, one of the most common errors has been applicants' inadvertent failure to check both the "telecommunications services" and "Internet access" boxes when they are seeking bundled voice/data service packages. To avoid this oversight, Sprint recommends that the Form 470 be simplified to allow applicants to select "priority 1" (with no distinction between telecommunications services and Internet access services) and/or "priority 2" service. The applicant would still be responsible for selecting a qualified service provider – if the applicant is obtaining any E-rate telecommunications services (whether on a stand-alone or bundled basis), the service provider must be a telecommunications common carrier.<sup>5</sup>

Another streamlining measure which the Commission should adopt involves the E-rate discount reimbursement process. Currently, applicants who choose the BEAR (Billed Entity Applicant Reimbursement) process pay the service provider in full for the E-rate services received, and are subsequently reimbursed for their E-rate discount in the form of a separate check. This check is sent to the service provider, which is required to flow through the check to the applicant within 20 days. There is no reason to have the service provider act as a middleman; it would be far more efficient for USAC to send the BEAR reimbursement check directly to the applicant. This direct reimbursement process

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<sup>5</sup> Failure to select a qualified Priority 1 service provider would still be subject to a funding denial or a COMAD demand.

ensures that the applicant receives the support to which it is entitled (there would be no opportunity for a service provider to withhold or delay payment either by accident or design), puts the check in the hands of the applicant more quickly (because there is no middleman), and frees the service provider from the cost and burden of processing the BEAR check. In light of these benefits, Sprint recommends that the Commission authorize direct reimbursement to applicants that use the BEAR process, instead of requiring that the reimbursement check flow through the service provider.

## **VI. 2011 Eligible Services List**

The Commission has sought comments on the E-rate Eligible Services List for funding year 2011. Sprint recommends that the wireless Internet access service underlying certain applications used on school buses and elsewhere to transmit emergency information, track students and locate buses using GPS technology, be eligible for E-rate support for the upcoming funding year.<sup>6</sup>

Schools and libraries are increasingly deploying wireless technology, including at “locations” beyond the school or library campus, to help create a safe and productive learning environment. For example, school districts are using GPS technology to:

- Help ensure student safety - A student may swipe his or her identification card (which would have an electronic identifier such as a bar code or RFID chip) as he enters and exits a school bus, thus registering information on where and when a child gets on and off the bus.
- Monitor student attendance – Some schools are installing systems, similar to those on school buses, on school grounds as part of the school LAN, to monitor student attendance. The student may swipe his identification card when he enters and exits the school building or even a classroom to record his whereabouts. Because the No Child Left Behind law sets target student attendance rates for elementary

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<sup>6</sup> Sprint agrees that the cost of the GPS applications should not be eligible for E-rate support (ESL FNPRM, para. 39).

and middle schools, maintaining accurate student attendance records is critical to demonstrating that a school is making “adequate yearly progress.”

- Track school bus location and perform fleet management - Bus tracking enables the school to identify the precise location of each bus, facilitating re-routes necessitated by inclement weather or other emergencies; expediting deployment of replacement vehicles in the event of a break-down; and providing route history for bus management purposes (fuel, route and maintenance information).

Applications such as these help foster an environment in which students can learn, and contribute to the smooth running of the school. Because these applications are “proximate to the education of students,”<sup>7</sup> the Internet access service underlying these applications should be eligible for E-rate support.

Use of wireless technology on school buses and other off-campus locations is increasing, and, as discussed above, the Commission is appropriately considering providing full E-rate support for wireless Internet access services used off premises.<sup>8</sup> Wireless data transmissions from the school bus can be transmitted over the same wireless network used to handle wireless voice communications from the bus. To the extent that a bus is being used for “educational purposes” (student transport to and from school, for field trips, for school-sponsored sporting events, etc.), wireless data transmission services used to provide the GPS-based applications described above should be E-rate eligible.

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<sup>7</sup> See Section 54.500(b) of the Commission’s Rules.

<sup>8</sup> See pp. 2-6 *supra*.

Respectfully submitted,

**SPRINT NEXTEL CORPORATION**

*/s/ Charles W. McKee*

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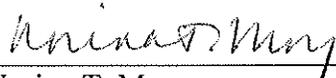
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July 9, 2010

## 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 9th day of July, 2010 to the parties listed below.

  
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