Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link Up	)	WC Docket No. 03-109

REPLY COMMENTS OF SPRINT NEXTEL CORPORATION

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May 10, 2011

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Sprint Nextel Corporation ("Sprint") hereby respectfully submits its reply to comments filed on April 21, 2011 in the above-captioned Notice of Proposed Rulemaking ("NPRM") relating to immediate reforms to eliminate waste, fraud and abuse (Section IV of the NPRM), clarifying consumer eligibility rules (the one-per-household proposal) (Section V), and improving program administration (Section VII.D).

I. INTRODUCTION AND SUMMARY

The record in this NPRM includes many suggestions that will improve the effectiveness and efficiency of the Low Income program. Sprint urges the Commission to:

- Make the Lifeline discount available to any eligible adult, or, at a minimum, refine the "one per household" policy to "one per nuclear family" based on IRS filing status. The Commission also should clarify that any new "one per household" rule adopted would have prospective effect only;

- Develop specifications for a national, centrally administered database to be used for initial and on-going Lifeline customer eligibility verification, so that the costs of establishing and maintaining a database can be determined. If the Commission does adopt a database solution, it should require that the costs of such a database be recovered through the general USF surcharge;

- Terminate Lifeline support to cancelled accounts;

- Eliminate support for toll limitation service and eliminate or reduce Link Up support; and
- Replace tiered Lifeline discounts with a flat monthly amount which applies regardless of the service provider or technology used.

The record also includes discussion of several proposals which would harm low-income Americans and otherwise decrease the effectiveness of the Low Income program. The Commission should decline to adopt the following proposals:

- To hold service providers liable for Lifeline discounts erroneously disbursed as the result of actions beyond the carrier's knowledge or control;
- To impose a minimum monthly service charge for Lifeline service;
- To require pro-rata reporting of Lifeline enrollments and disconnects;
- To abandon the ETC designation process.

II. REFORMS TO ELIMINATE WASTE, FRAUD AND ABUSE

Interested parties have commented on numerous proposals to reduce waste, fraud and abuse in the Low Income program. As discussed below, Sprint opposes proposals to hold service providers responsible for recovering Lifeline discounts erroneously disbursed as the result of actions beyond the carrier's knowledge and control; to impose a minimum monthly charge for Lifeline service; or to require pro-rata reporting of Lifeline enrollments and disconnects. Sprint supports the termination of benefits on cancelled Lifeline accounts, the elimination of support for toll limitation services (TLS), and the elimination or at least reduction of support for Link Up.

A. Liability for Erroneous Disbursements

Section 54.405 of the Commission's Rules requires that "all eligible telecommunications carriers shall…[m]ake available Lifeline service, as defined in §54.401, to qualifying low-income consumers…." While ETCs might reasonably be held liable for erroneous Lifeline disbursements that are the result of their own negligence or intent to defraud, it is unreasonable, given the obligation to provide service, to hold Lifeline service providers liable for discounts erroneously disbursed because of factors beyond the carrier's knowledge or control.[1] For example, the Commission has expressed deep concern about consumers who receive multiple Lifeline discounts, and is actively considering mechanisms to address and prevent the multiple discount issue. Carriers that accept in good faith a consumer's representation that he is not or will not be receiving a Lifeline discount from another service provider should not be denied reimbursement from the fund for discounts applied to the consumer's account, nor should carriers be the target of recovery efforts, in instances in which a consumer did, in fact, receive Lifeline discounts from multiple carriers.

There appears to be a misunderstanding among some parties about ETCs' ability to prevent duplicate Lifeline discounts. For example, NASUCA suggests (p. 10) that ETCs somehow need "...additional incentives to take appropriate steps to avert duplicate claims in the first place," while the Ohio PUC (p. 6) would make the non-selected ETC responsible for reimbursing duplicate Lifeline disbursements because such ETC "would be presumed to have improperly enrolled the subscriber." NASUCA's and the Ohio PUC's analysis of the situation here is inaccurate. As the Commission itself has acknowledged,[2] ETCs currently have no way of ascertaining whether a consumer is already

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[1] *See, e.g.,* Sprint, p. 4; Leap/Cricket, p. 10; GCI, p. 26; Consumer Cellular, p. 11; CenturyLink, p. 8; Budget Prepay *et al.*, p. 11; Alaska Telephone Association, p. 3; TracFone, p. 10.

[2] *See* January 21, 2011 letter from Sharon Gillett, Chief, Wireline Competition Bureau, FCC, to Richard Belden, COO, USAC, p. 2 (quoted in Sprint's comments, p. 5, footnote 7).

receiving a Lifeline discount from another service provider, since ETCs can not and do not share customer lists and there is no national Lifeline database. It was only by comparing the subscriber lists of two or more Lifeline service providers (conducted on a limited basis by USAC and a few state commissions) that duplicate discounts were identified as a matter of concern; indeed, the scope of this issue is still not known. It is not reasonable to penalize carriers for errors or fraud that occurred due to factors beyond their knowledge or control.

B. Minimum monthly charge

In their comments, a few parties recommended that the Commission require ETCs to charge some minimum monthly fee to their Lifeline customers.[3] Such recommendation should be rejected. There is no evidence to suggest that requiring a minimum charge will do anything to prevent waste, fraud or abuse, or will promote Lifeline program goals in any way. As Sprint explained (p. 18), a minimum charge might actually decrease Lifeline subscription rates:[4] if the charge is too high, certain eligible consumers may not be able to afford the service even with the discount; if the charge is nominal, consumers may overlook the charge or find it excessively inconvenient to pay a small balance due (which could cause them to be dropped from the program for nonpayment, or result in termination of their prepaid service). Moreover, a token payment is unlikely to deter any end user intent on committing fraud.

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[3] *See, e.g.,* Cricket/Leap Wireless, p. 2 ("[p]repaid wireless carriers that offer packages of free or nominally priced minutes are seeking to exploit the availability of Lifeline funding;" further, that the Lifeline program should not be used to "subsidize prepaid services that do not enable participants to maintain continuous access to the PSTN"); Smith Bagley, p. 16; GCI, p. 15; Consumer Cellular, p. 15; CenturyLink, p. 9.
[4] *See also,* NASUCA, p. 15; AARP, p. 5; New Hampshire Coalition Against Domestic and Sexual Violence, p. 1; TracFone, p. 19; CTIA, p. 23.

The availability of free (after application of the Lifeline discount) and ever-richer Lifeline service offerings is a desirable outcome resulting from vigorous competition, not a pernicious alternative that must be prevented or discouraged. As TracFone correctly stated (p. 20), the existence of alternative competing Lifeline options allows low-income consumers to choose between "traditional Lifeline plans which provide unlimited local calling (and nothing else) at a discounted monthly rate" and "alternative plans which provide mobility, nationwide calling, and other features with no out-of-pocket expenditures" – whichever option best meets their calling needs.

The profile of an average Assurance Wireless customer certainly does not reflect a consumer who exploitatively or frivolously seeks out Lifeline service "simply because it is free."[5] Internal company research performed in the fourth quarter of 2010 found that 71% of Assurance Wireless subscribers had only wireless telephone service; that the Assurance Wireless service was the first wireless phone for 53% of the customer base; that the average household income was $13,000 per year; that the average age was 48 years old; and that 60% were female. In other words, a typical Assurance Wireless Lifeline customer is a low income, middle-aged female, juggling personal and very likely family telephone needs on 250 free voice minutes per month.[6] For such an individual, an Assurance Wireless service plan is, literally, a Lifeline.

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[5] *See* CenturyLink, p. 9.

[6] Assurance Wireless customers do have the option of purchasing additional minutes and services -- for $5 per month, they can get an additional 250 minutes on top of their basic 250 minutes (for a total of 500 minutes); for $20 per month, they can get an additional 750 minutes (for a total of 1000 minutes) plus 1000 text messages. Assurance Wireless customers also can use a Top-Up card (available for purchase from thousands of stores across the country), a credit card, a debit card, or a PayPal account, to buy incremental minutes (at $.10 each), texts ($.10 each, or as low as $5 for 200 messages), or

Footnote continued on next page

C. Pro-Rata Lifeline Reporting

The Commission has suggested that ETCs should report their Lifeline line counts to reflect partial months of service (that is, when a customer is enrolled for less than a full month) and that the Lifeline discount reimbursement amount should be accordingly pro-rated to reflect any partial month of service. As several parties explained, such a proposal should be rejected because it imposes an administrative burden and is unlikely to have an impact on the overall size of the Low Income fund since partial month enrollments and terminations may be expected to offset each other on average.[7]

Moreover, a pro-rata approach would penalize prepaid wireless Lifeline service providers who place the full allotment of minutes[8] into a customer's account on the first day of the customer's billing cycle, regardless of what day of the month the billing cycle begins. Because these minutes are available for use as soon as they are added to the account (the customer could use all of his minutes on Day 1 of his billing cycle if he so chooses), pro-rating the Lifeline reimbursement amount based on the date on which the Form 497 is filed or on the first day of the month would short-pay the service provider. For example, assume that a customer who subscribes to the basic Assurance Wireless plan (250 voice minutes, no charge after application of the Lifeline discount) initiates service on May 15. He would receive 250 minutes on May 15, and Virgin Mobile, the service provider, would legitimately include this customer on its Lifeline report for May. However, if the Commission were to

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international calling to over 200 countries. Thus, even if an Assurance Wireless customer uses up her entire allotment of free minutes prior to the end of her billing cycle, she can readily purchase additional minutes (or text messages) to maintain connected to the PSTN.

[7] *See, e.g.,* GCI, p. 28; Consumer Cellular, p. 11; AT&T, p. 25; Verizon, p. 11; CTIA, p. 22.

[8] The analysis below would not, of course, apply to unlimited calling plans offered by some prepaid wireless carriers.

change its rules such that the full Lifeline discount is reimbursed only on lines in service as of May 1, Virgin Mobile would be reimbursed for only half the discount even though it provided an entire month's benefit (the 250 minutes) on May 15. This result is not fair or competitively neutral, and the pro-rata proposal should accordingly be rejected.

D. Termination of Lifeline Benefits for Extraneous Services

It would seem self-evident that Lifeline benefits should not be paid on cancelled accounts. Therefore, Sprint supports a 60-day non-usage policy (carrier would contact customers whose account show no usage for 60 consecutive days to ascertain whether the customer has terminated Lifeline service).[9] Customers who have in fact terminated their Lifeline service, who fail to respond to carrier inquiries, or who do not show other signs of account activity after a reasonable period of time should be removed from the Lifeline program.

Sprint also agrees that Lifeline benefits should not be paid for services for which no significant benefit is derived, or where the purported benefit is outweighed by the associated costs. Given the popularity of calling plans that do not distinguish between local and toll calls, Sprint agrees that toll limitation service should no longer be eligible for USF support, and that support for Link Up should be eliminated or, at most, provided only where the service establishment charge is "customary" and assessed on all customers.[10]

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[9] *See* Sprint, pp. 10-11, for indicia of active Lifeline accounts.

[10] *See, e.g.*, Sprint, p. 9; CenturyLink, p. 8; AT&T, pp. 30-31; NASUCA, pp. 11, 13; TracFone, p. 43.

III. THE "ONE PER HOUSEHOLD" PROPOSAL

In the NPRM, the Commission has proposed to codify a "one Lifeline discount per billing residential address" policy. This proposal should not be adopted. As several commenting parties have pointed out, a rule limiting one Lifeline discount per residential address fails to recognize that (1) there may be multiple "households" at a single physical address; and (2) that in an increasingly mobile world, the "one per household" rule may be out-of-date and insufficient to meet consumers' current telecommunications needs.[11] For administrative efficiency and simplicity, and to reflect the shift to mobile communications, the Commission should allow provision of a Lifeline discount to any eligible adult (*e.g.*, any adult who participates in an associated government public assistance program or meets the income threshold). If the Commission does decide to limit the Lifeline discount to one per "household," it should at least define "household" in terms of a nuclear family unit corresponding to IRS filing status.[12] This refinement would allow Lifeline discounts to qualified residents of group housing, multi-generational families who have the same street address, etc. Sprint does not oppose suggestions that a facility (homeless shelter, nursing home, group house, etc.) manager be allowed to certify that facility residents are independent "households" for Lifeline verification purposes. Sprint's Virgin Mobile subsidiary has had some success getting facility managers to assign individual bed or room numbers to their residents to help clarify that each resident has a different "address."

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[11] *See, e.g.,* Sprint, p. 11; AT&T, p. 15; New York PSC, pp. 4-5; Smith Bagley, p. 7; Leap/Cricket, p. 8; GCI, p. 3; Consumer Cellular, p. 17; Budget Prepay *et al.*, p. 9.
[12] *See* Sprint, p. 12.

Several parties also pointed out that the "one per household" policy is not currently codified, and that if the Commission does adopt and codify such a policy, it would have prospective effect only.[13] Sprint agrees. If USAC or some other party identifies situations in which more than one consumer at a given address currently is receiving or has in the past received Lifeline support, repayment of those Lifeline discounts (or denial of reimbursement claims by the service provider) would not be appropriate or warranted for any time period prior to the effective date of a new "one per household" rule.

IV. IMPROVING PROGRAM ADMINISTRATION

Parties have commented on several proposals to improve Low Income USF program administration. As discussed below, Sprint agrees that the Commission should move forward with evaluating a national database for eligibility verification and certification, and supports proposals to replace tiered discounts with a flat monthly amount and, pending implementation of a national database or other means of performing eligibility verification, the continued use of customer self-certifications. Sprint opposes the proposal to eliminate the ETC designation process.

A. A National Database

As many parties have pointed out, a national, centrally administered Lifeline customer database offers great potential to enable real-time determination of consumer eligibility, to prevent provision of multiple discounts to the same individual, and to

[13] *See, e.g.*, AT&T, p. 15; CTIA, p. 13; GCI, p. 35.

perform annual verification of on-going Lifeline customer eligibility.[14] Lifeline service providers currently have no means to prevent duplicate discounts (situations in which the same person at a given address receives a Lifeline discount from multiple service providers) – a vexing problem which has generated considerable Commission attention and concern – and have experienced significant de-enrollment of otherwise eligible Lifeline customers because those customers fail to provide proof of their on-going eligibility during the verification process. A national database could effectively address both of these situations. The Commission should therefore proceed with designing database specifications so that the costs of establishing and maintaining a database can be estimated.

Should the Commission adopt the national database approach, Sprint agrees that a vendor should be selected through a competitive bid process, and that the costs of the database should be treated as a USF administrative expense and recovered through the general USF surcharge.[15] Because the database would address several program compliance issues, database costs should be treated as a program management expense to be recovered generally, rather than through arbitrary assessments on individual carriers. Furthermore, the database is likely to reduce the incidence of waste, fraud and abuse (*e.g.*, by reducing the incidence of duplicate Lifeline discounts), and to reduce USAC's administrative costs,[16] with the cost savings associated with these efficiencies certainly

[14] *See, e.g.,* Sprint, p. 3; AT&T, p. 2; Verizon, p. 3; Emerios, p. 4; Consumer Cellular, p. 20; CenturyLink, p. 20; New York PSC, p. 12.

[15] *See, e.g.*, Sprint, p. 4; Leap/Cricket, p. 7; CenturyLink, p. 20.

[16] Today, carriers to file Form 497 Lifeline line count reports, which are processed and audited by USAC. A Lifeline customer database would obviate the need for these reports and thus should generate some administrative cost savings for USAC.

reflected in total program costs and thus the general USF surcharge. Therefore, it is only reasonable to treat database costs and benefits consistently, *i.e.*, by reflecting both in the general USF surcharge.

At least one party, Emerios, has suggested that "Phase I" of a national database could be implemented within 6 months of signing of a contract.[17] Of course, additional time will be needed to develop database specifications and to conduct a competitive bid process. In the interim period (prior to implementation of a database or other long-term solution), the Commission should continue to allow the use of consumer self-certifications as the basis for enrolling applicants in the Lifeline program. Lifeline service providers should be allowed to rely upon a consumer's representations (under penalty of perjury) that he/she is eligible to obtain Lifeline service, and that he currently is not receiving a Lifeline discount from another service provider or, if he does already have Lifeline service, agrees to contact his current service provider to cancel his Lifeline service upon acceptance into the Lifeline program of the new carrier. It makes little sense to craft elaborate rules or procedures for alternative verification and certification methods that would be in place for only a relatively short period of time prior to implementation of a database or other long-term solution. As discussed above, a carrier that relies in good faith on such consumer certifications and provides Lifeline service

[17] *See* Emerios, p. 15. According to Emerios (p. 7), Phase I would entail "(1) the creation and management of a real-time benefit pre-qualification database that determines household and right party information; (2) the development of a secure, independent and centralized hub that is connected real-time to the pre-qualification database and enables the ETCs to interface with it; and, (3) the creation of a customer preference management system that enables program beneficiaries to easily select the carrier of their choice. [Phase I] … would identify duplicate benefits claims and enable a third-party administrator to resolve them via a simple, carrier-neutral process which the Commission would establish."

should not be liable for repayment of any Lifeline discounts distributed in error as the result of any consumer mis-representations or mis-understanding.

B. Tiered Lifeline Discounts

Sprint supports the proposal to replace the existing tiered Lifeline discounts with a flat monthly discount applicable in all areas and to all Lifeline service providers.[18] This approach will streamline the administration of the Lifeline program for both USAC and service providers (resulting in cost savings), and will make it easier for eligible consumers to understand precisely what discount is available. If set at an appropriate level such as the current $10 per month maximum, a flat monthly discount should not increase the size of the Low Income fund.

If the Commission does adopt a flat-rated Lifeline discount, the discount should be the same for all Lifeline service plans, regardless of technology (*i.e.*, wireline or wireless) or service provider. As TracFone noted (p. 37), providing different levels of support based on the technology used is "the antithesis of competitive neutrality."

C. ETC Designations

AT&T has proposed that the ETC designation process be eliminated, and that instead, any carrier be allowed to provide Lifeline services.[19] The Commission should reject this proposal. First of all, such approach is inconsistent with the Act. Under Section 254(e) of the Act, universal service high-cost and low-come support is provided "only" to an eligible telecommunications carrier designated under Section 214(e). Section 214(e) echoes the requirement that a common carrier be designated as an eligible

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[18] *See, e.g.*, AT&T, p. 4; CTIA, p. 19.
[19] *See* AT&T, p. 7.

telecommunications carrier in order to receive such USF support, and sets forth certain requirements associated with ETC designation -- the carrier must offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's service, the carrier must advertise availability and charges of the supported services, and the regulatory body must find that the designation is in the public interest. The Commission cannot ignore these statutory imperatives that limit provision of high-cost and low-income universal service support to designated ETCs.

Second, regulatory bodies have used the ETC designation process to secure additional measures to protect public safety and to help prevent waste, fraud and abuse in the USF programs. For example, the FCC requires an ETC applicant to demonstrate, among other things, (1) a commitment and ability to provide services, including providing service to all customers within its proposed service area; (2) how it will remain functional in emergency situations; (3) that it will satisfy consumer protection and service quality standards; and (4) that it offers local usage comparable to that offered by the incumbent LEC.[20] The FCC has also secured carrier-specific commitments in the ETC designation process. For example, Virgin Mobile agreed among other things to provide only E911-compliant handsets to its Lifeline customers,[21] and to implement a non-usage policy and to work with state commissions and the FCC to combat duplicative Lifeline

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[20] *Federal-State Joint Board on Universal Service*, 20 FCC Rcd 6371 (2005); see also, *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, 19 FCC Rcd 1563 (2004).
[21] *Virgin Mobile USA, L.P. Petition for Designation as an ETC in New York, Pennsylvania, Virginia, North Carolina and Tennessee*, 24 FCC Rcd 3381, 3390-91 (para. 23) (2009).

support and other forms of waste, fraud and abuse.[22] None of these additional safeguards would have been secured had the ETC designation process not been in place.

Respectfully submitted,

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May 10, 2011

[22] *Virgin Mobile USA, L.P. Petition for Designation as an ETC in Alabama, Connecticut, District of Columbia, Delaware, and New Hampshire, Order* released December 29, 2010 (DA 10-2433), para. 11.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of Sprint Nextel Corporation was filed electronically or via US Mail on this 10th day of May, 2011 to the parties listed below.

/s/ Norina T. Moy

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