



WILTSHIRE
& GRANNIS LLP

September 13, 2012

Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: *WCB Docket No.06-122, GN Docket No. 09-51*

Dear Ms. Dortch:

On September 11, 2012, Charles McKee and Breck Blalock of Sprint Nextel Corporation (“Sprint”), along with the undersigned of this firm, met with General Counsel Sean Lev, along with Diane Griffin Holland and Marcus Maher of the Office of General Counsel, and Trent Harkrader, Carol Mattey and Vickie Robinson of the Wireline Competition Bureau, to discuss the Commission’s ongoing USF contribution rulemaking and the Petitions for Review of the *TelePacific Order*.¹

During that meeting, Sprint reiterated that, as Sprint, Verizon and TelePacific have previously shown, existing law does not require service-by-service or similarly detailed resale certificates.² Sprint explained that it will take the industry significant time to comply with any changed certification requirement, and the Commission should therefore ensure carriers have sufficient time to comply with any new requirements.

Because the Commission has sought and received comment on proposed changes to its certification requirements, Sprint argued that the Commission should make any change to those requirements in its ongoing USF contribution rulemaking.³ Sprint noted that using the rulemaking will permit the Commission to address the significant paperwork burden that would result from any changed certification requirement by performing the necessary Paperwork Reduction Act (PRA) analysis.⁴

¹ *Universal Service Contribution Methodology; Request for Review of the Decision of the Universal Service Administrator and Emergency Petition for Stay by U.S. TelePacific Corp. d/b/a TelePacific Communications, Order, WC Docket No. 06-122, 25 FCC Rcd 4652 (2010) (“TelePacific Order”).*

² Verizon Notice of Ex Parte, WC Docket No. 06-122 (filed August 30, 2012); U.S. TelePacific Corp. d/b/a TelePacific Communications Notice of Ex Parte, WC Docket No. 06-122 (filed September 4, 2012).

³ *Universal Service Contribution Methodology, A National Broadband Plan for Our Future, Further Notice of Proposed Rulemaking, 27 FCC Rcd. 5357 (2012) (“USF Contribution FNPRM”).*

⁴ Under the PRA, agencies must provide a 60-day notice and comment period, estimate the burden of proposed information collections, justify the need for the collection, and certify that the collection is necessary for the proper performance of agency functions. 44 U.S.C. § 3506(c). The Director of OMB must then independently assess and

Sprint explained that that any Commission decision addressing certification requirements should make clear that it is a change of existing law that is “reasonably clear” and thus has prospective effect.⁵ Sprint further observed that it would be manifestly unjust for the Commission to upset settled and reasonable expectations grounded in the model certification language included in the Form 499-A instructions by adopting a retroactive change in its certification requirements.⁶

Sprint also expressed its view that the Commission should resolve the questions presented in the TelePacific Petitions for Review in a manner that is competitively neutral. It would dramatically distort the market for information services and violate the statutory directive that USF contributions be equitable and nondiscriminatory⁷ if some providers were required to contribute to USF on the basis of the telecommunications services they purchase and integrate into information services while providers that self-provision were not required to contribute on the same inputs.

Finally, Sprint urges the Commission to promptly adopt a new contribution methodology. Adopting interim measures will likely delay much needed reforms and impose substantial burdens on the industry. Swiftly adopting comprehensive reforms, by contrast, will avoid potential inequities among providers and allow the industry to focus resources on compliance with comprehensive, long-term reforms.

Pursuant to Section 1.1206 of the Commission’s rules, this letter is being electronically filed with your office. Please let us know if you have any questions regarding this filing.

Respectfully submitted,



Brita D. Strandberg
Counsel to Sprint Nextel Corporation

cc: (via e-mail) Diane Griffin Holland, Trent Harkrader, Sean Lev, Marcus Maher, Carol Matthey, Vickie Robinson

determine “whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility.” 44 U.S.C. § 3508.

⁵ *AT&T v. FCC*, 454 F.3d 329, 332 (D.C. Cir. 2006).

⁶ *Qwest v. FCC*, 509 F.3d 531, 539-540 (D.C. Cir. 2007).

⁷ 47 U.S.C. § 254(d); *see also, e.g., USF Contribution FNPRM* at ¶ 8.