

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

In the Matter of)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation (“Sprint”), pursuant to the Public Notice released on August 10, 2012 (DA 12-1325), hereby respectfully submits its comments on the Petition for Clarification filed by the State E-Rate Coordinators’ Alliance (“SECA”) in the above-captioned proceeding. In this petition, SECA has asked for clarification on whether and to what extent service providers are allowed to bundle end-user devices and equipment that are ineligible for E-rate support with E-rate eligible services without having to reduce the amount of an applicant’s E-rate funding request by the cost of the ineligible end-user devices and equipment. Sprint agrees with SECA on the need for clarification of the cost allocation rule, and offers its suggestions on how to implement a workable policy.

In the retail mobile market, it is common for service providers to offer discounted or even free end-user devices or equipment to customers who commit to a term (*e.g.*, two year) or volume (*e.g.*, number of subscribers) plan. Where such an offer is available to the general public, Sprint believes that the same offer should, subject to certain safeguards, be made available to similarly situated E-rate customers without triggering a

requirement that the E-rate customer reduce its E-rate funding request by the cost of the free or discounted equipment. This approach is warranted for two reasons.

First, to the extent that a carrier's practice of offering discounted or free end-user devices reflects competitive conditions in the retail wireless market generally,¹ the public interest requires that schools and libraries not be foreclosed from taking advantage of such offers. Allowing free/discounted equipment, without requiring a downward adjustment to the E-rate funding request, would create a potential source of support, from device manufacturers and/or service providers, to resource-strapped schools and libraries that will help them to obtain equipment that they might not otherwise be able to afford. Where a carrier makes a discount offer broadly available, such an offer can and should be regarded as a legitimate, general marketing tactic, rather than an attempt to influence the E-rate competitive bidding process (one of the rationales behind the cost allocation/free services rule).

Second, allowing E-rate customers to take advantage of generally available discounted or free equipment without adjusting their funding request will simplify the E-rate application process, one of the Commission's long-standing goals.² Today, receiving

¹ By "generally," Sprint is referring to the offering of a discount by an individual service provider to retail customers who agree to the eligibility criteria, not (as SECA suggests at p. 3) discounts that are "a commercially common practice within the industry." In Sprint's view, so long as any service provider makes an end user discount generally available, that offer should be available to similarly situated E-rate applicants without triggering the cost allocation requirement. An individual carrier may initiate a discount offering for many reasons (to distinguish itself from its competitors, to clear out its inventory of particular devices, to gain a foothold in a new market, etc.), and requiring that such an offer be industry-wide in order to avoid the cost-allocation rule is overly broad and would only penalize E-rate applicants.

² See, e.g., *The National Broadband Plan*, released March 16, 2010, p. 238 (recommendation 11.19, that the FCC should streamline the E-rate application process); see also, *Schools and Libraries Universal Service Support Mechanism, Sixth Report and*

discounted or free equipment triggers the cost allocation rule in some, but – as the instant petition for clarification demonstrates -- not all, cases. The Commission has stated that

...many cell phones are free or available to the general public at a discounted price with the purchase of a two-year service contract. Schools and libraries are free to take advantage of these deals, without cost-allocation, but cannot accept other equipment with service arrangements that are not otherwise available to some segment of the public or class of users.³

Allowing E-rate applicants to forego cost allocation for all types of end user devices that are offered to the general public on a discounted basis is a logical extension of the existing free cell phone rule, and will eliminate much of the confusion over when the free services/cost allocation rule applies. Such an extension will protect E-rate applicants from denials of their funding requests, or receipt of a COMAD demand, in cases in which the applicant has interpreted the rule incorrectly, or imputed an “incorrect” dollar value for the discounted equipment for purposes of adjusting its E-rate funding request.

Despite the clear benefits of removing the cost allocation rule for a wider bundle of equipment/service packages, SECA correctly points out (Petition, p. 3) that such an expansion could affect “the ability to fund all of Priority 1 requests.” To address this concern, SECA has proposed (*id.*) that to avoid the requirement for cost allocation, a service provider should not be permitted “to offer a package or packages of equivalent eligible services, without bundled end-user equipment, at a lower price.”⁴ Sprint supports this proposal with one clarification: the service components of the bundled and

Order released September 28, 2010, para. 5 (adopting certain reforms to simplify and streamline the E-rate application process).

³ *In the Matter of Schools and Libraries Universal Service Support Mechanism; A National Broadband Plan For Our Future*, *Order* released December 15, 2010 (DA 10-2355), fn. 25

⁴ SECA’s proposed condition will help to ensure that E-rate funds are not used to support ineligible end-user devices.

unbundled offerings must be identical in terms of type of service/calling plan, demand quantity, length of service and other terms and conditions. Unless the service components are identical, direct price comparisons will be difficult if not impossible.

Respectfully submitted,

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