

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

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

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation (“Sprint”), pursuant to the Public Notice released on April 9, 2013 (DA 13-592), hereby respectfully submits its comments regarding the bundling of devices, equipment and services that are ineligible for E-rate support, with E-rate eligible services and products.

The Wireline Competition Bureau (“Bureau”) has previously ruled that E-rate customers may accept free or discounted cell phones without cost-allocating the value of the phones, because “many cell phones are free or available to the general public at a discounted price with the purchase of a two-year service contract.”¹ The *Gift Rule Clarification Order* further stated that schools and libraries “cannot accept other equipment with service arrangements that are not otherwise available to some segment of the public or class of users.”² In the instant public notice, the Commission has proposed to reverse this policy, suggesting that “beginning with applications seeking discounts for

¹ *In the Matter of Schools and Libraries Universal Service Support Mechanism; A National Broadband Plan for Our Future*, 25 FCC Rcd 17324 (2010) (“*Gift Rule Clarification Order*”), fn. 25.

² *Id.*

E-rate funding year 2014, any ineligible components must be cost allocated, even if bundled with E-rate eligible services and offered to the public or some class of users.”³

Sprint has supported, and continues to support, the policy of allowing free/discounted equipment (with certain safeguards) without requiring a downward adjustment to the E-rate funding request.⁴ Generally available offers of free or discounted handsets and other equipment constitute 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. The *Gift Rule Clarification Order* also simplifies the E-rate application process by eliminating the need to perform cost allocation adjustments in certain limited cases. Absent any evidence that the *Gift Rule Clarification Order* is causing harm to the E-rate program, the policy set forth therein should be retained, and the instant proposal to reinstate the cost allocation rule (including where generally available offers of free or discounted equipment are extended to E-rate applicants) should be rejected.

The Commission has stated that “to the extent that the real cost to the provider of the “free” or reduced price ineligible component results in a more expensive bundle, the money saved by not paying for the entire bundle will result in more funds being available to other E-rate recipients for E-rate eligible services.”⁵ As a theoretical matter, this is correct. However, insofar as Sprint is aware, there is no data to support this supposition – Sprint is unaware of any cases in which the entire bundle (eligible service + free equipment) was in fact more expensive than the E-rate eligible-only service package. If

³ Public Notice, para. 6.

⁴ See comments filed by Sprint in CC Docket No. 02-6 on September 10, 2012.

⁵ Public Notice, para. 7.

this situation has in fact arisen, it could be addressed by adopting SECA's proposed rule that to avoid the requirement for cost allocation, a service provider is prohibited from offering a package of equivalent eligible services, without bundled end-user equipment, at a lower price.

The Commission has requested comment on how difficult it would be for USAC and the Commission to determine whether a bundled service offering is a commercially common practice available to the public (Public Notice, para. 8). No doubt this would involve some effort. However, if the free/discounted part of a bundled service offering is in fact commercially available, it is not unreasonable to expect that either the E-rate applicant or the service provider could provide some marketing and sales information that demonstrates the availability of that offer in the marketplace.

Should the Bureau adopt its proposed policy reversal, it should, at a minimum, grandfather existing customers under the previous no-cost-allocation policy for the life of the contract. Customers and service providers that entered into multi-year contracts based on the policy reflected in the *Gift Rule Clarification Order* should be allowed to keep their free or discounted handsets and other equipment without cost allocating out the value of that equipment, for the remaining duration of the contract. Changing the cost-allocation policy mid-stream may well change an E-rate customer's ability to meet the terms of the E-rate contract (less E-rate support could lead to an inability to pay), forcing it to breach the contract to the detriment of students and library patrons. Moreover, estimating the cost/value of equipment mid-way through the contract period can be a difficult task, given the rate of technological change, which makes accurate cost allocations highly subjective.

Respectfully submitted,

SPRINT NEXTEL CORPORATION

/s/ Charles W. McKee

Charles W. McKee
Vice President, Government Affairs
Federal and State Regulatory

Norina T. Moy
Director, Government Affairs

900 Seventh St. NW, Suite 700
Washington, DC 20001
(703) 433-4503

May 23, 2013