

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
High-Cost Universal Service Support)	CC Docket No. 96-45
)	
Petition for Revocation of Sprint/Nextel's)	
Designation as an Eligible)	
Telecommunications Provider in the State of)	
Virginia.)	

**COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER
ADVOCATES
SUPPORTING THE RURAL ILECS' PETITION**

Pursuant to the Public Notice issued by the Federal Communications Commission (“Commission”),¹ the National Association of State Utility Consumer Advocates (“NASUCA”²) offers these brief comments on the Petition filed by a group of rural incumbent local exchange carriers (“ILECs”), including TDS Telecommunications Corp.; FairPoint Communications, Inc.; and Burke’s Garden Telephone Company (collectively, “Petitioners”). The Petition asks the Commission to revoke the 47 U.S.C. § 214(e)(6)

¹ DA 07-3068 1 (rel. July 9, 2007).

² NASUCA is a voluntary, national association of 44 consumer advocates in 41 states and the District of Columbia, organized in 1979. NASUCA’s members are designated by the laws of their respective states to represent the interests of utility consumers before state and federal regulators and in the courts. *See, e.g.*, Ohio Rev. Code Chapter 4911; 71 Pa. Cons. Stat. Ann. § 309-4(a); Md. Pub. Util. Code Ann. § 2-205(b); Minn. Stat. Ann. Subdiv. 6; D.C. Code Ann. § 34-804(d). Members operate independently from state utility commissions, as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (*e.g.*, the state Attorney General’s office). Associate and affiliate NASUCA members also serve utility consumers, but have not been created by state law or do not have statewide authority.

designation of Sprint Nextel Corporation (“Sprint”³) as an eligible telecommunications carrier (“ETC”) in the State of Virginia able to receive money from the federal universal service fund (“USF”). Based upon the information included in the Petition,⁴ NASUCA supports the revocation of Sprint’s ETC status. The public interest demands it.

This is not just an issue for Virginia. This is a national issue, affecting customers throughout the nation who pay the universal service funds that Sprint receives, and an issue that is connected to the current significant debate on limiting the USF. As a competitive ETC (“CETC”), Sprint’s receipt of dollars from the USF is part of the cause of the recent recommendation of the Federal-State Joint Board on Universal Service that the Commission cap high-cost USF payments to CETCs.⁵ The Commission has already received extensive comment on the cap. But correcting conditions like an ETC that does not live up to its commitments is part of the long-term solutions that will have to take the place of such a cap. It is in the interest of consumers nationwide that they do not pay for support for ETCs -- whether CETCs or incumbents -- that do not meet the public interest qualifications for receiving such support.

The Commission conditioned the granting of Sprint’s ETC status on Sprint’s commitment to expand its service area and infrastructure to customers throughout the Virginia study areas for which Sprint was granted ETC status, including rural and unserved areas.⁶ Sprint has not lived up to those commitments, as demonstrated in detail

³ As used herein, “Sprint” is used to refer to the current corporation and its previously-independent component, Nextel Partners.

⁴ The Petition is supported by the Declaration of Timothy W. Ulrich.

⁵ See *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-1 (rel. May 1, 2007) (“Recommended Decision”).

⁶ Petition at 5-7.

in the Petition.⁷ This of course invokes the specific public interest in ETC designations, given that consumers across the nation who pay universal service funds for ETCs have an interest in seeing that only qualified ETCs receive federal USF dollars. But it also invokes a more institutional need, for the Commission to enforce commitments made to it by carriers that receive some dispensation from the Commission.

Sprint will have both initial and reply comment opportunities to defend itself, if the allegations in the Petition are untrue. That opportunity is adequate under the Commission's prior orders on this subject.⁸

Based on the Commission's order, Sprint has been eligible to receive universal service funding since 2004. Yet in that time, Sprint "has expanded coverage in only a fraction of the Virginia study areas in which it is currently designated...."⁹ This in the face of Sprint's numerous commitment to do so.¹⁰ As Petitioners state, "Sprint/Nextel's actions in Virginia provide a textbook example of the cream-skimming concerns that gave rise to the Commission's public interest analysis."¹¹ The Commission should not allow such publicly-funded cream-skimming to continue.

Petitioners note that the Petition "requests the Commission [to] fulfill its statutory duty to assess retrospectively -- on the basis of a well-developed factual record premised not merely on the claims of observers, but on the behavior of Sprint/Nextel itself -- whether Sprint/Nextel has in fact met its commitments and currently merits ETC

⁷ Id. at 7-10.

⁸ Id. at 14.

⁹ Id. at 2.

¹⁰ See id. at 5-7.

¹¹ Id. at 12.

status.”¹² The action proposed against Sprint is entirely consistent with the Commission’s statutory responsibilities. Unless Sprint can disprove the Petitioners’ allegations that it failed to meet its public interest commitments, the Commission should revoke Sprint’s ETC designation in Virginia, in the interest of protecting all the customers across the nation that are paying the universal service funds that Sprint receives as an eligible telecommunications carrier.

Respectfully submitted,

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¹² Id. at 3.