STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

SPRINT NEXTEL'S COMMENTS ON STAFF'S REVISED "STRAWMAN" DRAFT OF PROPOSED ADMINISTRATIVE RULES FOR INDIANA LIFELINE ASSISTANCE PROGRAM 170 IAC 7-8-1 et. seq.

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Introduction

Sprint Nextel ("Sprint") submits the following additional comments directed toward the staff's most recent revised proposed ILAP rule, circulated on December 14, 2007. In addition to the se comments, Sprint stands by the comments it submitted on September 21, 2007. Sprint remains concerned with the applicability of the proposed rules to wireless ETCs and continues to be troubled by the provisions of the proposed rule as described in Sprint's September 21, 2007 comments.

I. Comment on Staff Proposal to Incorporate by Reference the FCC's Definition of Telecommunications Services and Functionalities Supported by the Federal Universal Service Fund in 47 C.F.R. 540.101(a)(1)-(a)(9)

Staff has requested workshop participants to comment on the proposal to incorporate by reference the FCC's definition of those telecommunications services and functionalities supported by the federal universal service fund (the "supported services"), which are set forth at 47 C.F.R. § 540.101(a)(1)-(a)(9). The concern identified by Staff is that the FCC's definition of the "supported services" does not include telecommunications relay service ("TRS"). Sprint Nextel shares the concern that consumers have access to TRS, but respectfully submits that the IURC cannot mandate the provision of TRS as a "supported service" without establishing a mechanism to support the service.

As set forth in section 254(f) of the Telecommunications Act, 47 U.S.C. § 254(f), each "State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State [but] <u>only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or</u>

standards that do not rely on or burden Federal universal service support mechanisms." (Emphasis and bracket added).

Likewise, the FCC has recognized that a state may require an ETC to provide additional services or functionalities to certain classes of consumers, but that any such requirements must be funded through a separate state universal service support mechanisms *See In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶ 403 (rel. May 8, 1997) ("NAD suggests that universal service support mechanisms should provide support so that TTY users can make free relay calls to numbers providing LEC service information . . . The states are most familiar with the number of consumers in their respective states affected by charges for these calls and may impose such a requirement on carriers pursuant to section 254(f) through state universal service support mechanisms.") (emphasis added).

In this case, the proposed rules mandate that all ETCs provide eligible Lifeline subscribers access to TRS, but the ILAP does not include a funding mechanism to enable ETCs to recover the cost of providing this service. Indeed, as set forth in the draft rules, an ETC may only receive reimbursement from the ILAP for (1) lost revenues resulting from reduced consumer charges, (2) administrative expenses, and (3) outreach expenses. Draft Rule 170 IAC 7-8-12. None of these categories would reimburse an ETC for costs associated with providing access to TRS. As a result, such a requirement would violate section 254(f)'s prohibition against the creation of unfunded state mandates.

II. Comment on AT&T Proposal on Migration of Federal Lifeline Subscribers to ILAP and Interrelationship Between State and Federal USF Participation

Sprint Nextel does not believe it is necessary to further amend the text of draft rule 170 IAC 7-8-5(c), which simply states that a current Lifeline subscriber would not be required to separately apply to receive the additional $1.00 discount available from the ILAP ($1.50 when combined with Tier 3 federal matching support). Sprint Nextel agrees that Lifeline subscribers who are not currently receiving an equivalent or greater carrier-provided discount should be able to obtain the additional ILAP discount without the burden of a separate application process. As drafted, § 7-8-5(c) clearly states this appropriate standard.

Sprint Nextel strongly objects to the proposed text submitted by AT&T. AT&T suggests the text of draft rule 170 IAC 7-8-5(c) be amended to read: "Each ETC shall migrate its customers from the Federal Lifeline program to the ILAP." The proposed text reveals a fundamental misunderstanding of the relationship between the federal Lifeline/Link Up programs and the ILAP. At its core, the ILAP is intended to compliment the existing federal programs by providing an additional $1.00 discount to be matched up to 50% by the federal Lifeline fund. This combined support will represent an additional $1.50 discount to Lifeline customers who are not already receiving an equivalent or greater carrier-provided discount. In other words, the ILAP does not replace but, rather, merely supplements the federal Lifeline program by making additional state support available for purposes of increasing the amount of federal support provided to an eligible Lifeline subscriber.

Eligible, low-income consumers in Indiana will therefore continue to participate in the federal Lifeline/Link Up programs following implementation of the ILAP. The only difference is that those subscribers who were not already receiving an equivalent or greater carrier-provided discount will begin receiving an additional $1.50 combined state/federal discount. Because the

ILAP does not replace (but merely supplements) the federal Lifeline program, it would therefore be nonsensical to require an ETC to "migrate" its customers from the federal Lifeline program to the ILAP. These customers must continue to participate in the federal Lifeline program to receive the significantly greater federal discounts and, therefore, cannot be "migrated" off the federal program.

Conclusion

Sprint respectfully requests that the Staff and Commission consider the foregoing comments along with Sprint's September 21, 2007 submission and revise the proposed rule accordingly.

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