

RUTLEDGE, ECENIA & PURNELL

PROFESSIONAL ASSOCIATION
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA
RICHARD M. ELLIS
JOHN M. LOCKWOOD
MARTIN P. McDONNELL
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551
215 SOUTH MONROE STREET, SUITE 420
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788
TELECOPIER (850) 681-6515

R. DAVID PRESCOTT
HAROLD F. X. PURNELL
MARSHA E. RULE
GARY R. RUTLEDGE
MAGGIE M. SCHULTZ

GOVERNMENTAL CONSULTANTS
JONATHAN M. COSTELLO
MARGARET A. MENDUNI

December 5, 2008

Ms. Ann Cole, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center
Room 110
Tallahassee, FL 32399-0850

HAND DELIVERY

Re: Docket No. 080234-TP

Dear Ms. Cole:

Enclosed for filing on behalf of Sprint Nextel are the original and fifteen copies of the Direct Testimony of John E. Mitus.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,


Marsha E. Rule

MER/rl
Enclosures
cc: All Parities of Record

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Implementation of Florida lifeline) DOCKET NO. 080234-TP
program involving bundled service packages)
and placement of additional enrollment)
requirements on customers)

DIRECT TESTIMONY

OF

JOHN E. MITUS

ON BEHALF OF SPRINT NEXTEL

DOCUMENT NUMBER-DATE

11291 DEC-5 8

FPSC-COMMISSION CLERK

1 **Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH SPRINT NEXTEL**
2 **AND YOUR BUSINESS ADDRESS.**

3 A. My name is John E. Mitus. I am employed by Sprint Nextel Corporation as ETC
4 Program Manager. My business address is 6300 Sprint Parkway, Overland Park,
5 Kansas 66251.

6
7 **Q. PLEASE STATE WHICH PARTIES TO THIS PROCEEDING YOU ARE**
8 **REPRESENTING TODAY.**

9 A. I am providing this testimony on behalf of the wholly-owned operating subsidiaries of
10 Sprint Nextel Corporation that have been designated as eligible telecommunications
11 carriers (“ETCs”) in portions of Florida by the Federal Communications Commission
12 (“FCC”), authorizing them to provide Lifeline service in those areas.¹ NPCR, Inc.
13 (“Nextel Partners”) is designated as an ETC in portions of the panhandle of Florida,
14 mostly to the north and west of Tallahassee. Sprint PCS is designated as an ETC and
15 authorized to provide Lifeline service in a broader area covering roughly 50% of the
16 state. In this testimony I refer to them collectively as “Sprint Nextel.”

17
18

¹ In the Matter of Federal-State Joint Board on Universal Service; Sprint Corporation; Application for Designation as an Eligible Telecommunications Carrier in the State of Alabama, Florida, Georgia, New York, North Carolina, Tennessee and Virginia, CC Docket No. 96-45, Order, DA 04-3617 (rel. Nov. 18, 2004); In the Matter of Federal-State Joint Board on Universal Service; NPCR, Inc. d/b/a Nextel Partners; Application for Designation as an Eligible Telecommunications Carrier in the State of Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee and Virginia, CC Docket No. 96-45, Order, DA 04-2667 (rel. Aug. 25, 2004), corrected by Erratum (Sept. 13, 2004); see also 47 C.F.R. § 54.401.

1 **Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND**
2 **AND EXPERIENCE.**

3 A: In 1992, I Received an MBA degree from the University of Nevada – Las Vegas and
4 I received my Bachelor of Science in Finance from Bryant College, Smithfield,
5 Rhode Island in 1988. I have been employed by Sprint Nextel since January 1995.
6 Prior to my employment with Sprint Nextel, I was employed by First Interstate Bank
7 as a Commercial Loan Officer.

8

9 I have been the ETC Program Manager since March 2006. In my current position I
10 am responsible for ensuring that Sprint Nextel remains compliant to receive Universal
11 Service Funds (USF”) as an Eligible Telecommunications Carrier (“ETC”) in 24
12 states and the Commonwealth of Puerto Rico. Prior to this current position I worked
13 in Sprint Nextel’s State Regulatory Affairs Group.² While in that position I was
14 responsible for regulatory oversight in Alabama, Georgia, Kentucky, Louisiana,
15 Mississippi, North Carolina, South Carolina and Puerto Rico.

16

17 **Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE REGULATORY BODIES?**

18 A: I have testified before the Indiana Utility Regulatory Commission, the Pennsylvania
19 Public Utility Commission, the Nevada Public Utilities Commission, the North
20 Carolina Utilities Commission, the Public Utility Commission of Texas, the
21 Louisiana Public Service Commission, and the South Carolina Public Service
22 Commission.

² State Regulatory Affairs Group was spun off as part of Embarq in 2006.

1 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

2 A. The purpose of my testimony is to support Sprint Nextel's ("Sprint Nextel" or
3 "Company") position that the Lifeline discounts should only be applied to the lowest
4 priced generally available service. The Florida Public Service Commission's
5 ("Commission") Proposed Agency Action ("PAA")³ that Sprint Nextel and others
6 oppose in this proceeding concludes that the Lifeline discount should be applied not
7 to the lowest tariffed or otherwise generally available service, but instead to all
8 available rate plans, including those plans that include data services.

9

10 **Q: PLEASE DESCRIBE SPRINT NEXTEL'S LIFELINE PROGRAM.⁴**

11 A: Sprint Nextel operates a Lifeline program in 24 states and the Commonwealth of
12 Puerto Rico. This program allows for a \$13.50 discount on Sprint Nextel's lowest
13 generally available rate plan, which is priced at \$29.99 per month.⁵ At this time, that
14 plan allows for 200 anytime minutes and unlimited nights and weekends starting at
15 9PM until 7AM the next day (Monday morning in the case of weekend calling).
16 These minutes can be used to call anywhere in the country, including Puerto Rico and
17 the U.S. Virgin Islands. The cost to a qualifying lifeline customer is \$16.49 plus
18 taxes and surcharges. In addition to the \$13.50 discount, the end user is not charged

³ Notice of Proposed Agency Action, Order on Application of the Lifeline Discount to Bundled Service Packages, Order No. PSC-08-0417-PAA-TP, June 23, 2008.

⁴ The Lifeline program consists of both Lifeline and LinkUp. For the purpose of this testimony I will only refer to Lifeline. LinkUp allows for up to an \$18 discount for activation fees.

⁵ The Kansas PUC has required Lifeline providers to apply the discount on all rate plans. This decision is under review by the FCC.

1 the USF surcharge or the Number Portability surcharge, thus providing Lifeline
2 customers with even greater savings from the prices charged to the general public.

3
4 Sprint Nextel's current Lifeline offering provides a beneficial alternative to low-cost
5 wireline service plans. Sprint Nextel's Lifeline calling scope is all of the United
6 States and does not include additional per minute charges for calls that are
7 traditionally considered long distance and incur toll charges when dialed from a
8 landline phone. Low-cost wireline plans generally only have a local calling scope.
9 Sprint Nextel's Lifeline plan also includes Voicemail, Call Waiting and Caller ID as
10 part of the standard monthly service charge, providing a further cost advantage over
11 low-cost landline service that does not include these features as part of the standard
12 monthly charge. These unique characteristics of Sprint Nextel's present Lifeline
13 offering provide consumers who qualify for Lifeline with a valuable alternative
14 service option at an affordable discounted rate.

15
16 **Q: HOW DOES A FLORIDA RESIDENT APPLY TO RECEIVE LIFELINE**
17 **BENEFITS?**

18 **A:** There are several ways of applying to receive Lifeline Service. In Florida most of
19 Sprint Nextel's Lifeline customers come from the Commission's Automatic
20 Enrollment Process. The Automatic Enrollment Process is an arrangement between
21 the Department of Children and Family Services ("DCF"), the Commission and
22 ETCs. This process allows low income individuals to apply for Lifeline while
23 enrolling in qualifying public assistance programs through the DCF. Information
24 collected from applicants by DCF is forwarded to the Commission which, in turn,

1 notifies the ETC identified by the applicant as his or her current service provider.
2 The ETC then downloads the information from a secure website for enrollment in
3 Lifeline. A second way is to obtain a Sprint Nextel Lifeline Application on-line at
4 www.sprint.com/lifeline or to call 1-888-408-3306 and ask for an application. Both
5 the website and the toll free number have Spanish language options.

6
7 **Q: PLEASE EXPLAIN WHY THE LIFELINE DISCOUNT ONLY APPLIES TO**
8 **SPRINT NEXTEL'S LOWEST PRICED PLAN.**

9 A: 47 C.F.R § 54.403(b) imposes different Lifeline obligations on telecommunications
10 providers, depending on whether they do or do not charge the End User Common
11 Line charge ("EUCL", also known as the "Subscriber Line Charge"):

12 *Eligible telecommunications carriers that charge federal End User*
13 *Common Line charges or equivalent federal charges shall apply*
14 *Tier-One federal Lifeline support to waive the federal End-User*
15 *Common Line charges for Lifeline consumers. Such carriers shall*
16 *apply any additional federal support amount to a qualifying low-*
17 *income consumer's intrastate rate, if the carrier has received the*
18 *non-federal regulatory approvals necessary to implement the*
19 *required rate reduction. Other eligible telecommunications*
20 *carriers shall apply the Tier-One federal Lifeline support amount,*
21 *plus any additional support amount, to reduce their lowest tariffed*
22 *(or otherwise generally available) residential rate for the services*
23 *enumerated in §54.101(a)(1) through (a)(9), and charge Lifeline*
24 *consumers the resulting amount. (emphasis added).*
25

26 The EUCL, a flat monthly charge assessed by incumbent local exchange carriers
27 ("ILECs"), is intended to recover much of the ILEC's interstate loop costs. ILECs
28 are required by § 54.403(b) to waive this charge for Lifeline customers, with any
29 additional federal support used to reduce the customer's "intrastate rate". As the FCC
30 recognized, however, not all telecommunications providers charge the EUCL. Those
31 who do not, including wireless providers like Sprint Nextel, are referred to as "[o]ther

1 eligible telecommunications carriers”, and are subject to a different Lifeline discount
2 regime. Rather than waive the EUCL and reduce the customer’s “intrastate rate”,
3 wireless providers must reduce their “lowest tariffed (or otherwise generally
4 available) residential rate” for the services listed in §54.101(a)(1) through (a)(9).
5 Thus, § 54.403(b) clearly establishes two different classifications of providers, each
6 with its own unique Lifeline obligation.

7
8 I will leave it to the lawyers to give you their legal opinion, but here is how I interpret
9 wireless providers’ Lifeline obligation, and what it means in practice. As noted
10 above, wireless carriers are required to reduce their “lowest tariffed (or otherwise
11 generally available) residential rate” for enumerated services. Wireless carriers in
12 the normal course of business do not file tariffs, but they do have generally available
13 rates. Thus, this section directs wireless carriers to apply the Tier One federal
14 Lifeline support amount, plus any additional support amount, to reduce their lowest
15 generally available residential rate for the services enumerated in §54.101(a)(1)
16 through (a)(9), and charge Lifeline consumers the resulting amount. Sprint Nextel’s
17 lowest generally available residential rate for a plan that includes the required
18 services is \$29.99.

19
20 Clearly, if the FCC had wanted the Lifeline discount to be applied to all rate plans, it
21 would have left out the term “lowest”. For example, if the discount was to be applied
22 to all rate plans, this section would read:

23 Other eligible telecommunications carriers shall apply the Tier-
24 One federal Lifeline support amount, plus any additional support
25 amount, to reduce their ~~lowest~~ tariffed (or otherwise generally

1 available) residential rate for the services enumerated in
2 §54.101(a)(1) through (a)(9), and charge Lifeline consumers the
3 resulting amount.
4

5 Thus, the Lifeline discount clearly applies only to the lowest generally available rate
6 offered by wireless providers.
7

8 **Q: IS THERE ANOTHER REASON THAT THE DISCOUNT SHOULD BE**
9 **LIMITED TO THE LOWEST PRICED PLAN?**

10 A: Yes. The purpose of the Lifeline program is to provide affordable service so that
11 low-income individuals can maintain telecommunications service as a “Lifeline.”
12 One may question whether the purpose of the Lifeline program is being served when
13 low income consumers are encouraged to subscribe to expensive plans that they may
14 not be able to maintain even with the Lifeline discount. I note that this issue was
15 discussed at the Commission’s June 3, 2008 Agenda Conference.⁶ If the concern is
16 truly that consumers who qualify for Lifeline should have access to certain vertical
17 voice services rather than the “high end bundled packages which would include
18 Internet access and cable TV” mentioned by the Commission Staff during the Agenda
19 Conference, I would point out that the Lifeline plan Sprint Nextel offers already
20 includes Call Waiting, Voicemail and Caller ID. This plan clearly provides Lifeline
21 consumers with a unique alternative to “plain old telephone service” at a very
22 affordable price, consistent with what I believe was the FCC’s policy choice in
23 defining Lifeline according to the lowest cost plan.⁷ The PAA fails to consider these

⁶ See June 3, 2008 Transcript at pp. 10-12.

⁷ Sprint Nextel does not advocate second-guessing or limiting any consumer’s choice of service or service provider. Sprint Nextel’s Lifeline customers have always been free to add-on available services such as text messaging to its lowest generally available rate plan,

1 issues and, unfortunately, ignores the plain language of the FCC's rule requiring that
2 the discount be applied only to the lowest rate plan. Ultimately, however, the
3 question presented in this docket is not what consumers should or should not
4 purchase, but what services must be subsidized by other telecommunications
5 subscribers and their providers pursuant to the specific provisions of 47 C.F.R. §
6 54.403(b).

7
8 **Q: DO ANY OF SPRINT NEXTEL'S PLANS INCLUDE DATA FEATURES?**

9 A: Yes, the Simply Everything plan, which is priced at \$99.99 per month exclusive of
10 taxes and surcharges, includes data services. Data services are not included in the
11 FCC's definition of Lifeline set forth at 47 CFR §54.401. That rule defines a Lifeline
12 service offering that includes the nine functions enumerated in §54.101(a)(1) through
13 (a)(9) that an ETC must provide in order to be designated as an ETC. The Company
14 would be providing Lifeline discounts on services that are not eligible for a discount
15 if it is required to provide a discount on all price plans.

16
17 **Q: IN ORDER NO. PSC-08-0417-PAA-TP, THE COMMISSION PROPOSED TO**
18 **REQUIRE PROVIDERS TO APPLY THE LIFELINE DISCOUNT TO**
19 **"BUNDLED SERVICE PACKAGES" THAT "COMBINE BASIC LOCAL**
20 **EXCHANGE SERVICE WITH NONBASIC SERVICES." DOES ANY**
21 **SPRINT NEXTEL RATE PLAN HAVE A "BASIC LOCAL EXCHANGE**
22 **SERVICE" PORTION"?**

23 A. No. The service offered by Sprint Nextel does not fit the definition of basic local
24 exchange service as defined in Chapter 364.02(1), Florida Statutes.⁸ As I mentioned

regardless of the Commission's action in this docket.

⁸ Section 364.02(1) states:

"Basic local telecommunications service" means voice-grade,

1 earlier, Sprint Nextel offers customers calling plans that have a national scope with no
2 extra charges based on whether the call is terminated outside the local exchange.
3 This type of calling plan gives Lifeline customers a valuable alternative to traditional
4 local exchange service, but does not fit the traditional definition of "basic local
5 telecommunications service" because it does not include local usage necessary to
6 place unlimited calls within a local exchange area. Thus, there is no basic local
7 service portion to either the lowest-cost plan that is Sprint Nextel's Lifeline plan or
8 any other Sprint Nextel service plan.

9
10 There is a practical reason why this is significant for this proceeding. Pricing for
11 Sprint Nextel plans and wireless plans generally are not divided into "portions" (e.g.,
12 "basic" local calling portions, long distance, or other components of the service).⁹
13 Nor can the services be segregated so that only local calling can be offered if, for
14 instance, long distance calling is disabled. This makes it impossible as a practical
15 matter to apply the Lifeline discount strictly to a "basic local rate portion" of Sprint
16 Nextel service plan rates, and equally impossible to continue providing only the basic

flat-rate residential, and flat-rate single-line business local exchange services which provide dial tone, local usage necessary to place unlimited calls within a local exchange area, dual tone multifrequency dialing, and access to the following: emergency services such as "911," all locally available interexchange companies, directory assistance, operator services, relay services, and an alphabetical directory listing. For a local exchange telecommunications company, the term shall include any extended area service routes, and extended calling service in existence or ordered by the commission on or before July 1, 1995.

⁹ As mentioned above, however, Sprint customers may add-on certain services to their plans, such as text messaging, international long distance, or "Sprint to Home."

1 voice service in the event of non-payment, as Staff suggests.¹⁰ Thus, a customer who
2 has the Simply Everything Plan discussed above receives a bill for the \$99.99 rate for
3 the plan and does not receive a separate line item on the bill for “basic local
4 telecommunications service” or even “unlimited voice service.” The product is
5 priced, offered and provisioned as a single package at a single rate.

6

7 **Q: DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

8 **A: Yes.**

¹⁰ See Transcript, pgs. 13-14.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail and where indicated, by email, on December 5, 2008, to the following parties:

Charles W. Murphy, Esq.
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
Email: cmurphy@psc.state.fl.us

Dulaney L. O'Roark III
Verizon Florida LLC
P.O. Box 110, 37th Floor
MC FLTC0007
Tampa, FL 33601-0110
Email: de.oroark@verizon.com

Denise Collins
Stephen Rowell
Alltel Communications, LLC
1410 Market Street
Tallahassee, FL 32312
Email: denise.collins@alltel.com
Email: stephen.b.rowell@alltel.com

J.R. Kelly/Patricia Christensen
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
Phone: 850-488-9330


Marsha E. Rule