

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Jeffrey L. Pursley, Director of	)	Application No. 911-029.05
the Nebraska Telecommunications	)	
Infrastructure and Public Safety	)	
Department of the Nebraska	)	
Public Service Commission,	)	
	)	
Complainant,	)	COMPLAINT
v.	)	
	)	
Sprint Spectrum d/b/a Sprint	)	
PCS,	)	
	)	
Respondent.	)	Filed: September 5, 2007

COMES NOW, Mr. Jeffrey L. Pursley, Director of the Nebraska Telecommunications Infrastructure and Public Safety Department (NTIPS) of the Nebraska Public Service Commission (Commission) (hereinafter "Complainant") for Complaint against Sprint Spectrum d/b/a Sprint PCS, (hereinafter "Respondent") and alleges the following:

1. Complainant is the Director of the Nebraska Telecommunications Infrastructure and Public Safety Department (NTIPS) of the Nebraska Public Service Commission (Commission).

2. Respondent is a wireless carrier as defined by Neb. Rev. Stat. § 86-456 (Cum. Supp. 2006), as amended by 2007 Neb. Laws LB 661.

3. Jurisdiction is proper pursuant to the Enhanced Wireless 911 Services Act, Neb. Rev. Stat. § 86-442 et seq., as amended by 2007 Neb. Laws LB 661.

4. Pursuant to Neb. Rev. Stat. § 86-465(3) (Cum. Supp. 2006), "The commission shall have any powers necessary to carry out the intent and purposes of the act."

5. Pursuant to Neb. Rev. Stat. § 86-459(4) (Cum. Supp. 2006), "Each wireless carrier shall comply with all commission rules and regulations regarding enhanced wireless 911 service."

6. Pursuant to Application No. 911-001/PI-52, Progression Order No. 5, "The PSAP, the wireless carrier, the local exchange

carrier, and the Director shall establish schedules for testing prior to activating wireless enhanced 911 service. Any testing must be scheduled at least two weeks in advance, unless all parties agree otherwise."

7. The Commission notified wireless carriers, including the Respondent, via certified mail, dated April 4, 2007, that due to occurrences of testing violations, the Commission would thereafter file Complaints against wireless carriers in the event of future testing violations.

8. The Complainant alleges the Respondent violated Progression Order No. 5 when it failed to notify the Commission prior testing prior to activating wireless enhanced 911 service in relation to a cell tower testing conducted on:

Lancaster County - March 2007 (iDEN), and April 2007 (CDMA) and June 2007 (CDMA);

Cass County - June 2007 (CDMA);

Douglas County - March 2007 (CDMA)

York County - March 2007 (CDMA) Received notification after testing took place.

9. The Complainant further alleges that due to the Respondent's failure, Respondent is subject to administrative fines and administrative fees pursuant to § 75-156 (Cum. Supp. 2006) and § 86-459(5) (Cum. Supp. 2006), as amended by 2007 Neb. Laws LB 661.

WHEREFORE, the complainant prays that this Commission

- a. enter an order setting this matter for hearing;
- b. after hearing, enter an order finding the Respondent guilty of the alleged violation, and levy an administrative penalty and administrative fees against the Respondent as authorized by Neb. Rev. Stat. § 86-459(5) (Cum. Supp. 2006), as amended by 2007 Neb. Laws LB 661, for each violation pursuant to Neb. Rev. Stat. § 75-156 (Cum. Supp. 2006), an amount not to exceed \$10,000 dollars per violation per day up to \$2 million

dollars per violation per year;

- c. after hearing, enter an order to withhold funding from the Respondent pursuant to Neb. Rev. Stat. § 86-442 et seq. (Cum. Supp. 2006), as amended by 2007 Neb. Laws LB 661; and
- d. after hearing, enter an order for any and all other relief as deemed appropriate by the Commission and as authorized by law.

Respectfully Submitted,

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Jeffrey L. Pursley  
Nebraska Public Service Commission  
300 The Atrium Building  
1200 N Street  
P.O. Box 94927  
Lincoln, Nebraska 68509

State of Nebraska     )  
                              ) ss  
County of Lancaster )

VERIFICATION

Jeffrey L. Pursley, being first duly sworn on oath, deposes and says that he is the duly-appointed Director of the Nebraska Telecommunications Infrastructure and Public Safety Department of the Nebraska Public Service Commission; that he is the Complainant in the foregoing pleading; that he has read the allegations contained therein; and understands them to be true to the best of his knowledge and belief.

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Jeffrey L. Pursley

SUBSCRIBED AND SWORN to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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Notary Public

(SEAL)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above Complaint was sent by First Class United States Mail postage prepaid on \_\_\_\_\_, 2007 to the following: Barbara Craig and Jim Propst, Sprint Communications, 6000 Sprint Parkway, MS: KSOPHP0512-5A452, Overland Park, KS 66251 and, Fred Frantz, 6450 Sprint Parkway, Overland Park, KS 66251.

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Angela Melton, #21755  
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Nebraska Public Service Commission  
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## N O T I C E

1. Pursuant to Neb. Admin. R. & Regs., title 291, chapter 1, section 005.09, the Respondent is hereby notified that an answer to this complaint shall be filed and shall admit or deny each material allegation of the complaint. The answer shall assert any affirmative defenses which the Respondent may assert. The answer shall be filed with the Commission within twenty (20) days after service of the complaint. Except for good cause shown, failure to answer will be construed as an admission of the allegations in the complaint. Failure to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order assessing a civil penalty and administrative fees as provided by law; or (b) to proceed with the hearing and receive evidence of the alleged violation and to assess a civil penalty and administrative fees as provided by law.

2. Pursuant to Neb. Rev. Stat. §§ 86-459(5) (Cum. Supp. 2006), as amended by 2007 Neb. Laws LB 661, and 75-156, (Cum. Supp. 2006), the Commission may impose an administrative penalty and administrative fees against the Respondent not to exceed ten thousand dollars (\$10,000.00) for each violation per day up to two million dollars (\$2,000,000) per violation per year.