

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-3204
of Sprint Communications, L.P.,)
Overland Park, Kansas, seeking)
approval of an amendment to its)
Certificate of Public)
Convenience and Necessity to) GRANTED
provide local exchange)
telecommunications service in)
all exchanges within the state)
of Nebraska in which Sprint is)
not currently certificated.)
) Entered: February 8, 2005

APPEARANCES:

For the Intervenor:
Southeast Nebraska Telephone
Company
Paul Schudel
James Overcash
Woods & Aitken LLP
Suite 500
301 S. 13th Street
Lincoln, Nebraska 68508

NICE-BCS
Mark Fahleson
Troy Kirk
Rembolt, Luedtke & Berger,
LLP
1201 Lincoln Mall
Suite 102
Lincoln, Nebraska 68508

For Sprint:
Bradford Kistler
Kinsey Ridenour Becker &
Kistler, LLP
121 South 13th Street
Suite 601
P.O. Box 85778
Lincoln, Nebraska 68501
and
Monica Barone
Sprint
Mail Stop KSOPHN0212-2A203
6450 Sprint Parkway
Overland Park, KS 66251

For the Commission:
Angela Melton
300 The Atrium
1200 N Street
Lincoln, Nebraska 68508

BY THE COMMISSION:

On May 11, 2004, Sprint Communications, L.P., (Sprint or Applicant) of Overland Park, Kansas, filed an application seeking approval of an amendment to its Certificate of Public Convenience and Necessity to provide local exchange telecommunications service in all exchanges within the state of Nebraska in which Sprint is not currently certificated. Notice of the application was published in The Daily Record, Omaha, Nebraska, on May 18, 2004. Petitions of Formal Intervention

were filed by the following: Southeast Nebraska Telephone Company; Benkelman Telephone Company; Arapahoe Telephone Company; Cozad Telephone Company; Curtis Telephone Company; Diller Telephone Company; Glenwood Telephone Membership Corporation; Keystone-Arthur Telephone Company; Plainview Telephone Company; Wauneta Telephone Company; Hartman Telephone Company; and Mainstay Communications. A hearing on the application was held at the Commission on November 4, 2004, with appearances as shown above.

EVIDENCE

Sprint is a limited partnership consisting of one general and three limited partners, all of which are wholly-owned subsidiaries of Sprint Corporation. Sprint seeks to provide local exchange telecommunications services in all exchanges within the State of Nebraska in which Sprint is not currently certified. Sprint was granted authority to provide local exchange service in the areas served by US West, GTE, Aliant and United, by Order entered March 10, 1997, in Application No. C-1386. The applications were made pursuant to Neb. Rev. Stat. §§ 86-128 and 86-129 (2002 Cum. Supp.) and Title 291, Article 5 §§ 002.49 and 003.12A of the Nebraska Public Service Commission Telecommunications Rules and Regulations.

Initially, Sprint proposes to provide transport, switching and interconnection for the origination and termination of local and long distance traffic. These services will be provided upon request of wholesale customers within the state of Nebraska. No deposits will be required. Sprint intends to partner with cable companies who want to provide local and long distance service. One such relationship exists with Time Warner Cable, whose CLEC application was granted on November 23, 2004. Time Warner Cable will provide end user billing, marketing and sales, customer service and customer access. Sprint provides wholesale services that enable the Time Warner Cable retail service. These services include Public Switched Telephone Network interconnectivity, long distance service, operator and directory assistance service, 911 connectivity and number administration.

Prior to providing local switched service, Sprint will make the appropriate filing with the Commission describing the terms and conditions under which it will provide such services, including any required advance payment and/or deposits. Should the Commission require a bond in the event Sprint requires advance payment and/or deposit, Sprint will comply. In addition, Sprint will provide address based 911 and E911

service, and, when applicable, directory assistance and operator services. Further, the services Sprint provides will be compatible with telephone relay service.

O P I N I O N A N D F I N D I N G S

As the Hearing Officer previously stated in the prehearing conference, the Commission's review of this Application is based upon the Commission's Rules in the Neb. Admin. Code Title 291, Ch. 5, Rule 002.49. Accordingly, the Commission considers this application for authority in light of the following criteria and standards established in the Commission's telecommunications rules:

- (a) Whether the Applicant has provided the information required by the Commission;
- (b) Whether the Applicant has provided a performance bond, if required;
- (c) Whether the Applicant possesses adequate financial resources to provide the proposed service;
- (d) Whether the Applicant possesses adequate technical competence and resources to provide the proposed service;
- (e) Whether the Applicant possesses adequate managerial competence to provide the proposed service; and
- (f) Whether granting the Applicant a certificate preserves and advances universal service, protects the public safety and welfare, ensures the continued quality of telecommunications services and safeguards the rights of consumers, pursuant to Section 253(b) of the Act.

Applicant has demonstrated that it meets the standards of financial, technical and managerial competence. No party in this proceeding refuted the Applicant's competence.

The Applicant's ability to meet the Commission's public interest criteria was a disputed issue. Southeast Nebraska Telephone Company (Southeast) and the NICE-BCS raised concerns with Sprint's ability to provide customer service. Sprint committed to ensuring that end users would be provided continuous quality of service. However, Sprint also testified that customer contact would ultimately be the responsibility of the carrier to whom Sprint provides its wholesale service.

Furthermore, Sprint offered that granting its application is in the public interest because it will safeguard the rights of consumers by helping to move toward a robust market environment where consumers are not captive to monopoly providers. It will preserve and advance universal service by enabling the offering of additional services from additional providers to additional customers. It will help to ensure the provision of quality telecommunications service at just, reasonable and affordable rates.

Concerns were also raised as to whether Sprint plans to offer additional retail services particularly in territories where the rural exemption has not been lifted. Sprint testified that in the event that it proceeds with plans to provide other retail services as a common carrier, it would file tariffs per the Commission's rules. Furthermore, Sprint will request to negotiate interconnection arrangements with incumbent carriers pursuant to the Telecommunications Act of 1996 (Act). Although Sprint argued the rural exemption issue inapplicable to the instant application, it committed to complying with the Act by notifying the Commission of any bona fide requests to rural incumbent carriers that it may make in the future. The Commission finds that these commitments sufficiently address the concerns raised in this regard.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-3204 filed by Sprint Communications, L.P., be and it is hereby granted to the extent provided herein.

IT IS FURTHER ORDERED that the Applicant comply with Section 251(f)(1)(B) of the Telecommunications Act of 1996 and that the Applicant submit any bona fide request(s) for interconnection, services or network elements from a rural telephone company to the Commission for its approval prior to the provision of any service under the certification in a rural telephone company area.

IT IS FURTHER ORDERED that Applicant is obligated to abide by the same laws, rules and regulations, both federal and state (including any laws, rules or regulations regarding universal service, restrictions on joint marketing and quality of service), applicable to any other interexchange and local

exchange carriers, except obligations imposed on incumbent local exchange carriers pursuant to Section 251(c) of the Act.

IT IS FURTHER ORDERED that, to the extent Applicant provides access line service as referenced in the Telecommunications Relay System Act, Neb. Rev. Stat. §§ 86-301 through 315 (Relay Act) and defined in Neb. Admin. R. & Reg. Title 291, ch. 5 § 001.01B, the Applicant shall collect from its subscribers a surcharge (Relay Surcharge) pursuant to the relay act and the Commission's annual orders establishing the amount of the surcharge, and shall remit to the Commission the proceeds from the relay surcharge as provided by the relay act.

IT IS FURTHER ORDERED that the Applicant comply with all necessary statutes and Commission Rules and Regulations as they pertain to the Nebraska Universal Service Fund.

IT IS FURTHER ORDERED that Applicant, like all other certificated carriers, shall file, in accordance with the applicable statutes, on or before April 30 of each year, an annual report with the Commission consisting of: (a) a copy of any report filed with the Federal Communications Commission; (b) a copy of any annual report to stockholders; and (c) a copy of the latest Form 10-K filed with the Securities and Exchange Commission. If such reports are unavailable, Applicant shall file a balance sheet and income statement for the previous year of operation, and for the state of Nebraska on a combined interstate-intrastate basis, the investment in the telephone plant and equipment located within the state, accumulated depreciation thereon, operating revenues, operating expenses and taxes.

IT IS FURTHER ORDERED that within 30 days from the entry of this order that the Applicant file a tariff with the Commission as required by state statutes and the Commission's regulations.

IT IS FINALLY ORDERED that this order be, and hereby is, made the Commission's official Certificate of Public Convenience and Necessity to the Applicant to provide local exchange telecommunications services within the state of Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 8th day of February 2005.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director