

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE DESIGNATION)
 OF ELIGIBLE TELECOMMUNICATIONS)
 CARRIERS BY THE INDIANA UTILITY)
 REGULATORY COMMISSION PURSUANT) CAUSE NO. 41052 ETC 47
 TO THE TELECOMMUNICATIONS ACT OF)
 1996 AND RELEVANT FCC ORDERS,) APPROVED: JUN 29 2011
 APPLICATION OF SPRINTCOM, INC. AND)
 WIRELESSCO., L.P. D/B/A SPRINT PCS TO)
 BE SO DESIGNATED)

BY THE COMMISSION:
David E. Ziegner, Commissioner
David E. Veleta, Administrative Law Judge

On May 20, 2011, Sprintcom, Inc., WirelessCo., L.P. and NPCR, Inc. (collectively, "Sprint Nextel") filed a Verified Petition for Relinquishment of Eligible Telecommunications Carrier Status ("Verified Petition") requesting that the Indiana Utility Regulatory Commission ("Commission") permit the relinquishment of its designation as an "eligible telecommunications carrier" ("ETC") pursuant to 47 U.S.C. §214(e)(4).

Pursuant to notice duly published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public hearing was held in this Cause at 2:30 p.m., on June 21, 2011, in Suite 224, PNC Center, 101 West Washington Street, Indianapolis, Indiana. Sprint Nextel and the Indiana Office of Utility Consumer Counselor ("OUCC") were present and participated. Sprint Nextel's Verified Petition and the OUCC's testimony were admitted into the record. No members of the general public appeared or sought to testify at the hearing.

Based upon the applicable law and the evidence presented herein, the Commission now finds:

- 1. Notice and Jurisdiction.** Due, legal, and timely notice of the hearing in this cause was given and published by the Commission as required by the law. Pursuant to Section 214(e) of the Communications Act of 1934, as amended, 47 C.F.R. §§54.201 and 54.203 of the Federal Communications Commission's ("FCC") rules, and Indiana Code §8-1-2.6-13(d)(5), this Commission is authorized to designate ETCs, thereby enabling those so designated to apply for federal universal service support under 47 U.S.C. §254. Therefore, the Commission has jurisdiction over the parties and subject matter of this cause.

2. Relevant Prior Proceedings. On March 17, 2004, the Commission designated NPCR, Inc. d/b/a Nextel Partners as an ETC in Cause No. 41052-ETC 43. On June 8, 2005, the Commission designated SprintCom, Inc. and WirelessCo., L.P. d/b/a Sprint PCS as ETCs in this Cause. The geographic area in which Sprint Nextel was designated as an ETC is referred to as its “Designated Service Area.” In August 2005, Sprint Corporation merged with Nextel Communications, Inc., to form Sprint Nextel Corporation. In June 2006, Sprint Nextel acquired Nextel Partners, Inc. and each of its subsidiaries, including NPCR, Inc. At that time, NPCR, Inc. became a wholly owned subsidiary of Sprint Nextel Corporation. On December 11, 2006, Sprint Nextel filed a petition in this Cause seeking authority to consolidate the existing ETC designations of SprintCom, Inc., WirelessCo., L.P. and NPCR, Inc. into one ETC designation and to expand the Designated Service Area to include certain additional non-rural incumbent local exchange carrier wire centers and rural ILEC study areas. On March 7, 2007, the Commission granted Sprint Nextel’s petition and consolidated Sprint Nextel’s ETC designations.

3. Summary of the Evidence. The evidence relating to this matter consists of the Verified Petition and attached exhibits, along with the OUCC’s pre-filed testimony of Ronald Keen. The evidence demonstrates that in WT Docket No. 08-94 before the FCC, Sprint Nextel agreed to reduce its federal high-cost universal service fund (“USF”) support in five equal increments beginning in January 2009.¹ On September 3, 2010, the FCC released an order providing instructions for implementing this commitment.² Among other things, the FCC Implementation Order specified that Sprint Nextel could meet its high-cost USF phase-out obligation through “line loss, relinquishment of ETC status, or other circumstances...”³ Sprint Nextel’s actual high-cost USF support for 2009 and 2010 are below the allowable cap for those years; thus, no further action is required for those years. In order to meet the phase-out requirement for 2011, however, Sprint Nextel will be required to take additional steps to reduce its high-cost receipts. In compliance with the Implementation Order, Sprint Nextel has decided to relinquish its ETC designation in Indiana effective June 30, 2011. Although Sprint Nextel will no longer receive federal high cost USF in Indiana after its relinquishment, it plans to continue to provide wireless service in all of its designated areas in Indiana as a non-ETC. Existing subscribers will be able to continue receiving wireless service from Sprint-Nextel on a non-ETC basis.

Attached to Sprint Nextel’s Verified petition is a list of wire centers where Sprint Nextel is designated as an ETC. Sprint Nextel noted that ILECs will continue to serve

¹ *Sprint Nextel Corp. and Clearwire Corp., Application for Consent to Transfer Control of Licenses, Leases, and Authorizations*, WT Docket No. 08-94, 23 FCC Rcd 17570 (2008).

² *In the Matter of High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint board on Universal Service, Request for Review of Decision of Universal Service Administrator by Corr Wireless Communications LLC*, CC Docket No. 9645, Order released September 3, 2010 (FCC 10-155) (“Implementation Order”).

³ *Id.* n. 39.

customers in the Designated Area, and these incumbent local exchange carriers (“ILEC”) are all ETCs; accordingly, there will be at least one ETC remaining in each of the Wire Centers. Sprint Nextel also noted that relinquishment of its ETC designation will not alter the ability of any of Sprint Nextel’s resellers or affiliates (such as Virgin Mobile) to offer Lifeline if they are presently designated to do so. Therefore, Sprint Nextel noted that there is no barrier to prevent Sprint Nextel from relinquishing its ETC designation in Indiana.

Sprint Nextel stated that, to the best of its knowledge, ILECs will not be required to purchase or construct additional facilities to continue providing service within the Designated Area. Sprint Nextel stated that because the ILECs currently serve the entire study area in which Sprint Nextel is designated as an ETC in Indiana, the Commission need not provide notice to the ILECs to permit them to purchase or construct facilities to ensure that Sprint Nextel’s customers will continue to receive service. Sprint Nextel noted that this “advance notice to the commission” therefore completes all requirements of the federal rule.

Sprint Nextel stated that upon acceptance of its Indiana ETC relinquishment, Sprint Nextel will provide written notice by US mail to each of its then-current Lifeline customers in Indiana advising that Sprint Nextel will no longer provide service discounts as an ETC. The notice will inform these customers that the monthly Lifeline credit will be discontinued within 45 days. Sprint Nextel will offer each of these customers the option of continuing to receive the same service from Sprint Nextel, or selecting an alternative calling plan. The notice will further inform each customer that Lifeline discounted service may be obtained from the ILEC, or another ETC in the area, as appropriate. Sprint Nextel noted that if it receives no response to the customer notice, it will place a call to the customer and leave a message if there is no answer. Sprint Nextel stated that no early termination fee will apply if the customer elects to discontinue service from Sprint Nextel as a result of the discontinuation of the Lifeline discount. Sprint Nextel stated that after June 30, 2011, it will not activate any new Lifeline subscribers in Indiana. Since Sprint Nextel will continue to receive federal universal service high cost support and Lifeline funding for its designated Indiana service area until the effective date of the Commission’s Order, Sprint Nextel agreed to file a final verified report in this Cause within sixty (60) days of the effective date of the Commission’s Order confirming that all federal universal service support funding Sprint Nextel received since its last annual ETC recertification for the State of Indiana was used for its lawful, intended purpose. Because it will no longer be seeking certification as an ETC and will not be seeking high cost support for additional periods going forward, Sprint Nextel indicated that it will not be filing further annual ETC reports with the Commission.

The OUCC offered evidence indicating that it has no objection to the relief requested. Mr. Keen presented evidence indicating that on November 24, 2009, following FCC approval, Virgin Mobile became a new wholly-owned subsidiary of Sprint Nextel, and on November 10, 2010, the Commission granted an ETC designation to Virgin Mobile under Cause No. 41052-ETC 55. Mr. Keen testified that Virgin Mobile will continue to provide discounted Lifeline service to eligible Indiana customers after Sprint Nextel’s ETC designation is relinquished. Mr. Keen stated that with the loss of Sprint Nextel as an ETC, Indiana still has at least one designated ETC that will provide landline-based ETC coverage to each portion of

the state through ILECs. He testified that Sprint Nextel currently serves fewer than forty (40) Lifeline customers in Indiana, and therefore the number of Lifeline customers negatively impacted by Sprint Nextel's planned ETC relinquishment should be minimal. He noted that customers will have a variety of options to maintain network connectivity, and stated that to avoid any interruptions in service or Lifeline discounts, Sprint Nextel will provide advance written notice to each of its Lifeline customers, advising them the company will no longer provide Lifeline supported service in Indiana. Mr. Keen testified that affected customers may choose to continue purchasing Sprint Nextel service without the Lifeline discount; they may choose a different, more affordable wireless calling plan from Sprint Nextel; or they may switch to another provider that offers a Lifeline discount.

4. **Findings and Conclusions.** 47 U.S.C. §214(e)(4), states, in relevant part, “[a] State commission ... shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier.” Sprint Nextel and the OUCC testified that there is at least one ILEC serving the relevant Designated Service Area that will offer Lifeline service to qualified customers. Sprint Nextel has provided an acceptable customer letter that should be used to communicate with all Indiana Lifeline customers still served by Sprint Nextel as of the date this Order is approved. Sprint Nextel is ordered to provide the approved written notice to their remaining Lifeline customers within thirty (30) days of this approval.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION THAT:

1. This Commission grants Sprint Nextel's request to relinquish its ETC designation and its right to receive federal universal service funding in the State of Indiana.

2. Within thirty (30) days of the effective date of this Order, Sprint Nextel will provide written notice by US mail to each of its then-current Lifeline customers in Indiana advising that Sprint Nextel will no longer provide service discounts as an ETC. The notice will inform these customers that the monthly Lifeline credit will be discontinued within 45 days of the date of the notice.

3. As Sprint Nextel will continue to receive federal universal service high cost support and Lifeline funding for its designated Indiana service area until the effective date of this Order, the Sprint Nextel is also ordered to file a final verified report in this cause within sixty (60) days of the effective date of this order confirming that all federal universal service support funding Sprint Nextel received since its last annual ETC recertification for the State of Indiana was used for its lawful, intended purpose. Sprint Nextel shall use the form most recently issued by the Commission under Cause No. 42067 to certify the proper use of all federal universal service funds received after its 2010 recertification filings for the State of Indiana. However, since Sprint Nextel will have no right to receive additional federal universal service funding after the effective date of this Order, information on planned future capital improvement projects need only be reported through the projected depletion of federal

high cost support previously received by Sprint Nextel for use in its designated Indiana service area.

ATTERHOLT, BENNETT, MAYS AND ZIEGNER CONCUR; LANDIS ABSENT:

APPROVED: JUN 29 2011

**I hereby certify that the above is a true
and correct copy of the Order as approved.**

A handwritten signature in cursive script that reads "Brenda A. Howe". The signature is written in black ink and is positioned above the printed name and title.

**Brenda A. Howe
Secretary to the Commission**