

December 8, 2009

Pamela D. Taber, Director
Communications Division
Indiana Utility Regulatory Commission
National City Center
101 West Washington Street, Suite 1500E
Indianapolis, IN 46204

Re: Sprint Nextel & T-Mobile Comments on
Proposed Strawman Telecommunications Rule

Dear Pam:

In response to your letter dated November 10, 2009, Sprint Nextel¹ and T-Mobile² submit these comments on the Commission staff's proposed strawman revisions to the administrative rules affecting Communications Service Providers ("CSPs") in Title 7 of the Indiana Administrative Code (the "Proposed Rules").

Generally, Sprint Nextel's and T-Mobile's concerns focus on the Commission's lack of jurisdiction to impose several of the Proposed Rules. As an initial matter, the broad definition of CSP in the Proposed Rule includes CMRS and information service providers, thereby subjecting those entities to many of the Proposed Rules. As you may know, federal law limits state regulation of CMRS and prohibits regulation of information service providers. See 47 U.S.C. § 332 and *Vonage Holding Corp. Petition for Declaratory Ruling Concerning an Order of the Minnesota Pub. Util. Comm'n*, 19 FCC Rcd. 22404, 22424 ¶ 32 (2004). Despite the fact that I.C. 8-1-2.6-1.1 specifically states that the Commission has no jurisdiction over CMRS carriers or information service providers, the following Proposed Rules appear to regulate those entities:

- 170 I.A.C. 7-1.2-7 appears to require CMRS carriers to respond to Commission staff inquiries;

¹ These comments are submitted on behalf of the following Sprint Nextel entities: Sprint Communications Company L.P., Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. d/b/a Nextel Partners (collectively "Sprint Nextel").

² These comments are submitted on behalf of the following T-Mobile entities: T-Mobile Central LLC and PowerTel Memphis, Inc. (collectively, "T-Mobile").

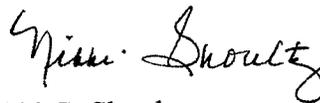
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- 170 I.A.C. 7-1.3-6 appears to require CMRS carriers to comply with certain billing requirements;
- 170 I.A.C. 7-1.3-7 may be read to require CMRS carriers to make certain billing adjustments.
- 170 I.A.C. 7-1.3-5(b) appears to require information service providers to furnish notice of rate increases to affected customers at least 30 days prior to the increase.

Finally, as a wireless ETC in Indiana, Sprint Nextel is also concerned with several of the Proposed Rules that apply to ETCs. It is unclear whether the Proposed Rules designed for ETCs are intended to apply to wireless ETCs. Many of the provisions appear to be focused on wireline ETCs, but if they are intended to apply to wireless ETCs, the provisions go beyond the requirements in the Commission's ETC designation order for Sprint Nextel (attached).

Because the above referenced concerns are primarily legal in nature and relate to the Commission's jurisdiction, Sprint Nextel and T-Mobile would welcome an opportunity to participate in a workshop or meeting where the Commission's staff, legal counsel, and industry counsel can discuss and seek resolution of these concerns. Should you wish to schedule a meeting or further discuss these concerns, please give me a call. Thank you in advance for your consideration.

Best regards,



Nikki G. Shoultz

cc: Kenneth Schifman (w/o attach.)
Garnet Hanly (w/o attach.)

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