

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of: The Application of Sprint Spectrum )  
L.P. dba Sprint for Designation as an Eligible )  
Telecommunications Carrier Under 47U.S.C. 214(e)(2) )  
)

DOCKET NO. 03-2227-01  
REPORT AND ORDER

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ISSUED: May 18, 2004

**SYNOPSIS**

The Public Service Commission of Utah grants Sprint Spectrum L.P.'s Federal ETC status for the requested area. Specifically, Sprint Spectrum L.P., is granted Federal ETC status for the Qwest exchanges in Utah.

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By The Commission:

**PROCEDURAL HISTORY**

On May 8, 1997, the Federal Communications Commission ("FCC") issued its Universal Service Report and Order, CC Docket 96-45, FCC 97-157 ("Universal Service Order") implementing the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act"). The Universal Service Order provides that only eligible telecommunications carriers designated by a state commission shall receive federal universal service support. Under 47 U.S.C. § 214(e), a state commission shall, upon its own motion or upon request, designate a common carrier that meets the requirements set forth by the FCC as an eligible telecommunications carrier ("ETC") for a service area designated by the state commission. The FCC defines a service area as a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms. Together, all of a carrier's calling areas represent the overall area for which the carrier shall receive support from federal universal service support mechanisms.

On September 15, 2003, Sprint Spectrum L.P. (Sprint) filed a Petition with the Public Service Commission (Commission) for designation as an federal ETC in Utah in each exchange served by Qwest Corporation

(Qwest) to receive federal universal service support under the Act and corresponding FCC regulations.

No parties have sought intervention in this Docket. On November 14, 2003, the Division of Public Utilities (Division) filed a request for more time to conduct its investigation. On April 20, 2004, the Division filed comments recommending approval of the application.

## **II. STATUTORY PROVISIONS**

To be designated as a federal ETC under the Act, a carrier must: (1) be a common carrier; (2) demonstrate it will provide the supported services set forth in 47 C.F.R. § 54.101(a) throughout its designated service areas; and (3) present an acceptable plan for advertising its universal service offerings and the charges therefor using media of general distribution. 47 U.S.C. § 214(e); Universal Service Order, ¶ 24.

The FCC's supported services set forth in 47 C.F.R. § 54.101(a) are:

- a. voice grade access to the public switched telephone network;
- b. local usage;
- c. dual tone multi-frequency signaling or its functional equivalent;
- d. single-party service or its functional equivalent;
- e. access to emergency services;
- f. access to operator services;
- g. access to interexchange service;
- h. access to directory assistance;
- i. toll limitation for qualifying low-income consumers.

### **III. DISCUSSION AND CONCLUSIONS**

#### **Federal ETC Designation**

With its existing network, Sprint has submitted evidence that it currently provides each of the supported services set forth in 47 U.S.C. § 54.101(a). The Division states: “Sprint appears to be meeting the minimum standards for federal ETC designation.” Each of the FCC's supported services provided by Sprint is discussed below:

a. Voice grade access to the public switched telephone network: Sprint provides voice-grade access to the public switched telephone network. Voice-grade access means the ability to make and receive phone calls within a bandwidth of approximately 2700 Hertz between the 300 and 3500 Hertz frequency range. 47 C.F.R. § 54.101(a)(i); Universal Service Order, ¶¶ 63-64. Through its interconnection arrangements with local telephone companies, all Sprint customers should be able to make and receive calls on the public switched telephone network within the prescribed frequency range. The Division does however, offer the following qualification of its endorsement of Sprint’s claims: “Based on the experience in the wireless industry to date, the Division questions whether all customers will be able to utilize simple faxing or advanced service with Sprint’s current network configuration and the current limitations of the wireless spectrum.”

b. Local usage: The FCC requires that a universal service offering include some level of local usage at a flat rate. 47 C.F.R. § 54.101(a)(2); Universal Service Order, ¶¶ 66-69. Unlike the Commission’s rules, the FCC does not currently require any minimum amount of local usage to be provided by an ETC. Sprint provides various levels of local usage in offerings from which customers can select.

c. Dual tone multi-frequency ("DTMF") signaling or its functional equivalent: DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Sprint’s network uses out-of-band digital signaling and in-band multi-frequency signaling. Sprint provides the functional equivalent of DTMF signaling in satisfaction of the FCC's requirement. 47 C.F.R. § 54.101(a)(3); Universal Service Order, ¶ 71.

d. Single-party service or its functional equivalent: Sprint provides the functional equivalent of single-party service. Sprint provides a dedicated message path for the length of a user's transmission, which the FCC has deemed to be the functional equivalent of single-party service. 47 C.F.R. § 54.101(a)(4); Universal Service Order, ¶ 62.

e. Access to emergency services: Sprint provides all of its customers with access to emergency services by dialing 911. The ability to reach a public emergency service provider through dialing 911 is a required universal service offering. Sprint also states in its filing that it is prepared to provide E911 services upon request from a local public emergency provider.

f. Access to operator services: Sprint currently provides access to operator services, this satisfies the FCC's requirements. 47 C.F.R. § 54.101(a)(6); Universal Service Order, ¶ 75.

g. Access to interexchange service: Sprint provides its own interexchange services as well as provides its customers the ability to access other providers of interexchange service by dialing an appropriate access code. This fulfills the FCC requirements interexchange requirements. 47 C.F.R. § 54.101(a)(7); Universal Service Order, ¶ 78.

h. Access to directory assistance: Sprint provides all of its customers with access to directory assistance by dialing "411" as required by FCC Rule 54.101(a)(8) and Universal Service Order, ¶ 80.

i. Toll limitation for qualifying low-income consumers: Sprint claims its switches are capable of providing toll blocking services, and that if a request is made they will provide the service. Additionally Sprint states it will provide the service at no charge for Lifeline customers. This satisfies FCC Rule 54.101(a)(9).

#### Notes on the State Universal Service Support Fund

The Commission makes no findings concerning whether Sprint qualifies for the State's Universal Service Support Fund. We do note however, that the Division's recommendation included language that Sprint's current service offerings failed to meet the State's requirements in at least two areas. First, that Sprint did not offer an unlimited flat rate local usage offering, and second, that telephone numbers are not listed in local directories that are generally received by

customers for free.

### **Findings**

We find that Sprint qualifies for federal ETC designation as defined by the Act and 47 C.F.R. § 54.1 et seq., in the Qwest service territory in Utah for the purpose of receiving federal universal service support.

The Commission has jurisdiction and authority to ensure that Sprint continues to meet the ETC criteria set forth in Section 214(e)(1) of the Act. Nothing prevents the Commission from, on its own motion, modifying, suspending or revoking sprint's ETC designation if it does not meet those obligations. An ETC's obligation to "offer the services that are supported by Federal universal service support mechanisms," as required by 47 U.S.C. § 214(e)(1), connotes not just willingness to offer the services, but actual performance of the services. Such performance in turn connotes provision of the services at an adequate service level. Whether an ETC (Sprint) is actually performing such services could arise in a proceeding to modify, revoke, or suspend the designation.

### **IV. ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. Sprint is designated an ETC under the federal guidelines in the Qwest Corporation Local Exchanges in the State of Utah, conditioned on meeting the requirements of this order.
2. Sprint shall provide universal service pursuant to a written service agreement in place with its customers. The Service Agreement shall be filed for review with the Commission, and shall contain provisions which ensure it will provide universal service as defined by 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.101(a) and this Order. The required components of this offering are reviewed in this Order above.
3. Pursuant to U.C.A. §63-46b-12, an aggrieved party may file, within 30 days after the date of this Report and Order, a written request for rehearing/reconsideration by the Commission. Pursuant to U.C.A. §54-7-15, failure to

file such a request precludes judicial review of the Report and Order. If the Commission fails to issue an order within 20 days after the filing of such request, the request shall be considered denied. Judicial review of this Report and Order may be sought pursuant to the Utah Administrative Procedures Act (U.C.A. §§63-46b-1 et seq.).

DATED at Salt Lake City, Utah, this 18<sup>th</sup> day of May, 2004.

/s/ Ric Campbell, Chairman

/s/ Constance B. White, Commissioner

/s/ Ted Boyer, Commissioner

Attest:

/s/ Julie Orchard  
Commission Secretary

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