

BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of Sprint
Communications Company L.P. for
Arbitration with Whidbey Telephone
Company

Docket No. UT-073031

SUPPLEMENT TO PETITION FOR
INTERLOCUTORY REVIEW

1 On February 1, 2008, Whidbey Telephone Company (“Whidbey”) filed a Petition for Interlocutory Review in this matter. Whidbey respectfully requests that the Commission accept this Supplement to that Petition for Interlocutory Review.

2 The basis for this Supplement is WAC 480-120-061(3), which reads as follows:

A telecommunications company must deny service to a non-registered telecommunications company that intends to use the service requested to provide telecommunications for hire, sale, or resale to the general public within the state of Washington. Any telecommunications company requesting service from another telecommunications company must state in writing whether the service is intended to be used for intrastate telecommunications for hire, sale, or resale to the general public. If the service is intended for hire, sale or resale on an intrastate basis, the company must certify in writing, in the same manner as required by RCW 9A.72.085, that it is properly registered with the commission to provide the service.

This section has a direct bearing on the appropriateness of Whidbey’s concern that, as a telecommunications company, it not become involved in providing service to an unregistered provider of intrastate telecommunications services that is not otherwise exempt from registration. This section further shows that Whidbey’s concerns in this regard, rather than being an element of a breach of an obligation to negotiate in good faith (as found by the Administrative Law Judge), were not misplaced and were consistent with Commission policy. Sprint had previously described its relationship with Millennium Cable Company (“Millennium”) as being that of a “partner,”¹ thereby giving rise to the possibility that the prohibition set forth in WAC 480-120-161(3) would apply to any

¹ In his declaration, Mr. Burt refers to the service to be provided customers as “jointly provided” with Millennium. See, Paragraphs 7 and 11 of the Declaration. Further, Finding of Fact (5) in Order 04 finds this partnership relationship: “Sprint intends to offer telecommunications services in Whidbey’s service territory, including the Whidbey South [sic] Rate Center, through a partnership with Millennium Cable Company. At this time, Millennium is not registered as a telecommunications company with the Commission.” Order 04, Paragraph 49 (emphasis added).

provision of service by Whidbey to Sprint to that extent that such services would be used by Sprint's unregistered "partner," Millennium, to provide intrastate telecommunications for hire, sale or resale to the general public.

3 Thus, it appears that Whidbey's concern seeking some assurance that Millennium is either exempt from registration or would be registered with the Commission to provide intrastate telecommunications service prior to Millennium beginning intrastate telecommunications operations in Washington as a threshold issue is consistent with the Commission's regulation concerning the ability of Whidbey to provide service to a non-regulated telecommunications provider. Whidbey's concern certainly is not evidence of any breach by Whidbey of a duty to negotiate in good faith.

4 Thank you for your consideration of this Supplement.

Respectfully submitted this 5th day of February, 2008.

WHIDBEY TELEPHONE COMPANY

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