

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Request of)	DOCKET UT-063066
)	
CINGULAR WIRELESS AND)	ORDER 01
SPRINT NEXTEL CORPORATION,)	
)	ORDER GRANTING TEMPORARY
)	EXEMPTIONS FROM THE
For a Temporary Exemption from the)	REQUIREMENTS OF WAC 480-
Requirements in WAC 480-123-070(6))	123-070(6)
.....)	

1 **Synopsis:** *Cingular Wireless (Cingular) and Sprint Nextel Corporation (Sprint) are eligible telecommunications carriers (ETC) that each requested a temporary exemption from the requirements of WAC 480-123-070(6). The Commission grants the temporary exemptions for the filings made in 2006.*

BACKGROUND

2 Cingular and Sprint are subject to WAC 480-123-070(6) and on July 31, each company requested a temporary exemption from the obligation to certify that in 2005 the company had at least four hours of back up battery power at each cell site, back up generators at each microwave hub, and at least five hours back up battery power and back up generators at each switch.

3 The Commission adopted on June 28, 2006, new rules that apply to ETCs. The rules became effective July 29, and the first reports and certifications required by the new rules were due on July 31. The purpose of the rules is to permit the Washington Utilities and Transportation Commission (Commission) to determine if ETCs have used federal high-cost support in the manner prescribed by law. This purpose is to be achieved by collection of readily available information and certifications made by ETCs.

4 Cingular receives annually approximately \$24 million in federal support, and Sprint receives annually approximately \$2.8 million. Certification by the Commission to the Federal Communications Commission (FCC) that Cingular and Sprint “will use federal high-cost universal service fund support only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended” is required for Cingular and Sprint to continue receiving federal support. *47 C.F.R. § 54.313, 314.*

Cingular and Sprint cannot obtain that certification unless they comply with WAC 480-123-070(2) or receive a temporary exemption. WAC 480-123-060. Cingular and Sprint stated in their filings that in 2005 they did not meet all the standards in WAC 480-123-070(2).

DISCUSSION

- 5 Cingular states in its request for a temporary exemption that in 2005 it had an internal standard in place to generally require a certain amount of back up power (not necessarily battery back up power) at each cell site, but Cingular's standard did not require four hours of battery back up at all cell sites. Cingular also states that its experience is that its standard has been sufficient to protect against most commercial power outages.
- 6 Cingular states that because the requirement for back up power at each cell site was not adopted by the commission until June 28, 2006, Cingular had no way to know that it would be required to have four hours of battery back up power during calendar 2005.
- 7 Sprint states in its filing that it has one microwave hub that does not have an on-site generator. It is a hub for four microwave satellite sites.
- 8 Sprint states it is researching whether there is space for a generator at the location and researching zoning laws that could affect placement of a generator. Sprint states the hub has four hours of battery back up power and that Sprint will increase the level of back up battery power to 12 hours by November 1. Sprint also states it will report to the Commission in its July 31, 2007, filing the status of power at the hub and seek another temporary exemption if necessary.
- 9 The Commission has provided temporary exemptions when to do so is consistent with the public interest, the purposes underlying regulation, and applicable statutes. Commission Staff has provided an analysis that supports a finding that granting the requested temporary exemptions will not be inconsistent with the public interest, the purposes underlying regulation, and applicable statutes. We adopt Commission Staff's analysis.

SUMMARY FINDINGS AND CONCLUSIONS

From the foregoing, the Commission finds and concludes:

- 10 (1) The Commission has jurisdiction over Cingular and Sprint and the subject matter of this proceeding.
- 11 (2) Neither Cingular nor Sprint met the back up power standards during the year 2005.
- 12 (3) Temporary exemptions will allow the companies a reasonable time to meet the new requirements.
- 13 (3) The requests for temporary exemptions are not inconsistent with the public interest, the purposes underlying regulation, and applicable statutes.

ORDER

- 14 (1) The temporary exemptions from WAC 480-123-070(2) for the filings made in 2006 are granted.

DATED at Olympia, Washington, and effective September 13, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner