BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the) DOCKET NO. UT-051291
)
Request of Sprint Nextel Corporation for an) PUBLIC COUNSEL'S ANSWER
Order Declining to Assert Jurisdiction Over or,) TO SPRINT NEXTEL'S MOTION
in the Alternative, Application of Sprint Nextel) TO STRIKE OR IN THE
Corporation for Approval of the Transfer of) ALTERNATIVE ACCEPT
Control of United Telephone Company of the) REVISED TESTIMONY OF
Northwest and Sprint Long Distance, Inc. From) NANCY L. JUDY
Sprint Nextel Corporation to LTD Holding)
Company.)

Pursuant to the Commission's Notice of Opportunity to File Answer dated February 15, 2006, Public Counsel submits this Answer to Sprint Nextel's Motion to Strike revisions to the November 30 testimony of Staff witness, Wilford Saunders, or in the alternative, accept the revised testimony of Nancy L. Judy. We agree with Sprint's motion and urge the Commission to strike the revised testimony of Wilford Saunders, making revisions to the testimony of Nancy L. Judy unnecessary.

The Commission's January 30 decision sought supplementation of the record solely on the issue of the calculation and disposition of the gain on the sale of Sprint's directory publishing business in 2003. TR at 45, lines 22-23. The January 30 ruling also eliminated access charges and rate rebalancing issues from the case and directed the parties to work together to remove testimony and exhibits no longer relevant given the scope of the case. TR at 28, lines 13-23, TR at 29, lines 16-25 and TR 30, lines 1-11.

Staff's February 6 supplementation of Mr. Saunder's November 30 testimony goes beyond the Commission's January 30 ruling by addressing topics other than the directory sale. Consequently, Public Counsel did not proffer responsive testimony to the Revised Testimony, Exhibit No.___(WS-1T) on February 13 when responsive testimony was due.

1

Additionally, filing substantial changes to testimony without leave is inconsistent with the Commission's prior rulings in Orders 4 and 5 in this docket. The Commission has already said that allowing additional testimony from one party in this docket "opens the door" to requests for more rounds of testimony and "would unduly complicate this proceeding and potentially cause unnecessary delay." Order No. 04, ¶ 17. Indeed, the problems caused by Staff's revised testimony cannot be cured by the acceptance of Sprint's revised testimony since it too reopens the door to further testimony. Public Counsel has so far been prohibited from submitting direct testimony in response to Mr. Saunder's November 30 testimony and it should surprise no one that allowing Staff and Sprint to supplement the record now would reopen that question.

However, Public Counsel does not seek to supplement the record at this late date because the Commission's January 30 ruling on this matter is clear and easy to implement. Our continued intention is to work with the other parties to reach consensus on eliminating testimony and exhibits to reflect the January 30 ruling. We urge the Commission to strike Staff's revised testimony and order the parties to negotiate changes to the record between themselves. In the alternative, we enclose a chart (attached as Appendix A) containing testimony submitted by both Staff and Sprint that we believe should be eliminated from the record given the Commission's ruling. In any case, no further direct testimony should be allowed without leave at this juncture.

DATED this 22nd day of February 2006.

ROB MCKENNA ATTORNEY GENERAL

Simon J. ffitch, AAG

L'S 2 ATTORNEY GENERAL OF WASHINGTON Public Counsel 900 4th Ave., Suite 2000 Seattle, WA 98164-1012 (206) 464-7744

PC'S ANSWER TO SPRINT NEXTEL'S MOT TO STRIKE OR IN THE ALTERNATIVE ACCEPT REVISED TESTIMONY OF NANCY L. JUDY DOCKET NO. UT-051291