

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

In the Matter of the Petition of)	DOCKET UT-073023
)	
SPRINT NEXTEL CORPORATION,)	ORDER 02
)	
)	ORDER GRANTING A
)	TEMPORARY EXEMPTION
For a Temporary Exemption from)	FROM THE FOUR-HOUR BACK-
WAC 480-123-030(1)(g) and WAC)	UP POWER REQUIREMENT FOR
480-123-070(6))	CELL SITES
.....)	

BACKGROUND

- 1 On August 21, 2009, Sprint Nextel Corporation (Sprint Nextel or Company) filed with the Washington Utilities and Transportation Commission (Commission) a petition requesting a temporary waiver of WAC 480-123-030(1)(g), requiring each wireless Eligible Telecommunications Carrier (ETC) to provide four hours of battery back-up power. The Commission previously granted the Company a two-year exemption from WAC 480-123-030(1)(g) in Order 01, Docket UT-073023 dated October 23, 2007. The Company requests another temporary exemption in this proceeding ending December 31, 2011.
- 2 Sprint Nextel is a Commercial Mobile Radio Service provider licensed by the Federal Communications Commission (FCC). The Company is based in Overland Park, Kansas.
- 3 The Commission designated Sprint Nextel as an ETC on October 29, 2004, in Docket UT-031558 and on January 13, 2005, in Docket UT-043120. The designation was amended on October 23, 2007, in Docket UT-073023.
- 4 As a Commission-designated ETC, Sprint Nextel is subject to the ETC designation and annual certification requirements in WAC 480-123. Specifically, WAC 480-123-030(1)(g) requires a wireless ETC to demonstrate in its petition for ETC designation that it has at least four hours of battery back-up power at each cell site, back-up generators at each microwave hub, and at least five hours of back-up battery power and back-up generators at each switch. WAC 480-123-070(6) requires each ETC that receives federal high-cost funds to certify annually that it continues to adhere to the standards in WAC 480-123-030(1)(g).

- 5 Sprint Nextel brought its petition for an exemption from WAC 480-123-030(1)(g) before the Commission at its regularly scheduled meeting on September 10, 2009.

DISCUSSION

- 6 Sprint Nextel states that it has made significant progress in augmenting back-up power at its cell sites since the original temporary exemption was granted, while it has not been able to do so sufficiently to comply with WAC 480-123-030(1)(g) and Order 01 in this docket. When Sprint Nextel initially sought a temporary exemption in 2007, the Company had approximately 156 cell sites that could not provide four hours of back-up power in the event of a power outage. The Company has reduced the number of non-compliant cell sites to 76. The Company asserts that it will be able to finish upgrading the back-up power for the remaining cell sites by December 31, 2011. The Company also commits that new cell sites constructed in the future will be equipped with four hours of back-up power.
- 7 The Company's cell sites provide overlapping coverage for neighboring areas. The redundant signal coverage reduces the risk of consumers losing services when a particular cell site is affected by a power outage. Should the Company lose power at all its Class 3 cell sites, its Class 1 and Class 2 cell sites, a majority of which are equipped with four hours of back-up power, would be able to provide approximately 85-percent coverage to the entire ETC-designated area in Washington. The Company also has emergency response equipment such as portable generators and portable cell sites to remedy power outages.
- 8 Sprint Nextel estimates that it will cost at least \$1.5 million to bring the remaining cell sites into compliance with WAC 480-123-030(1)(g). This is a significant portion of the federal high-cost support the Company anticipates to receive. The Company would prefer to use the federal high-cost support to construct new cell sites and maintain existing facilities while upgrading the back-up power at the remaining non-compliant cell sites. Staff believes that the public interest is better served by deferring the Company's full compliance with the four-hour back-up power rule until the end of 2011 and allowing the Company to have more funds to expand network coverage and enhance network capacity during the same period. Staff considers the proposed timeline reasonable.
- 9 Sprint Nextel agrees to commit to the following conditions during the temporary exemption period:

- a. The Company must provide four hours of back-up power at all new cell sites constructed during this period.
- b. The Company must include a compliance status report on back-up power upgrades in its annual ETC filing with the Commission.
- c. The Company must file a final compliance report upon completion of the back-up upgrades or at the expiration of the temporary exemption, whichever occurs first.

FINDINGS AND CONCLUSIONS

- 10 (1) The Washington Utilities and Transportation Commission has jurisdiction over Eligible Telecommunications Carriers in Washington and the subject matter pursuant to WAC 480-123.
- 11 (2) Sprint Nextel Corporation is an ETC designated by the Commission.
- 12 (3) After reviewing the petition Sprint Nextel filed in Docket UT-073023 on August 21, 2009, and giving due consideration, the Commission finds that the petition for a temporary exemption from the four-hour back-up power rule under WAC 480-123-070(6) and WAC 480-123-030(1)(g) until December 31, 2011, should be granted subject to conditions.

ORDER

THE COMMISSION ORDERS:

- 13 (1) Sprint Nextel Corporation is granted a temporary exemption from the four-hour back-up power requirement of WAC 480-123-070(6) and WAC 480-123-030(1)(g) until December 31, 2011. The company must use reliable power sources (battery, fixed generator or fuel cells) to meet the four-hour back-up power standard. The temporary exemption is subject to the following conditions:

- a. Sprint Nextel must provide four hours of back-up power at all new cell sites constructed during this period.
 - b. Sprint Nextel must include a compliance status report on back-up power upgrades in its annual ETC filing with the Commission.
 - c. Sprint Nextel must file a final compliance report upon completion of the back-up power upgrades or at the expiration of the temporary exemption, whichever occurs first.
- 14 (2) The Commission retains jurisdiction over Sprint Nextel's ETC designation and the subject matter of this Order.

DATED at Olympia, Washington, and effective September 10, 2009.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner