

Agenda Date: September 10, 2009
Item Number: A2

Docket: UT-073023
Company: Sprint Nextel Corporation
Staff: Jing Liu, Regulatory Analyst
Bob Williamson, Utilities Engineer
Tim Zawislak, Regulatory Analyst
William Weinman, Assistant Director - Telecommunications

Recommendation

Grant Sprint Nextel Corporation's petition for a temporary exemption until December 31, 2011, from WAC 480-123-030(1)(g) and WAC 480-123-070(6) which require at least four hours of back up power at each cell site subject to the following conditions:

1. The company must provide four hours of back up power at all new cell sites constructed during this period;
2. The company must include a compliance status report on back up power upgrades in its annual ETC filing with the commission;
3. The company 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.

Discussion

I. Background

On August 21, 2009, Sprint Nextel Corporation (Sprint Nextel or company) filed a petition with the Washington Utilities and Transportation Commission (commission) to extend the temporary exemption from the four hour back up requirement in WAC 480-123-030(1)(g) and the certification required by WAC 480-123-070(6) granted to the company on October 23, 2007. The company requests to extend the exemption to December 31, 2011.

Sprint Nextel is a Commercial Mobile Radio Service provider licensed by the Federal Communications Commission (FCC) and is headquartered in Overland Park, Kansas. The company was designated as a competitive Eligible Telecommunications Carrier (ETC) on October 29, 2003, in Docket UT-031558 and on January 13, 2005, in Docket UT-043120.¹

¹In Docket UT-031558, the commission designated Sprint Corporation as an ETC in certain wire centers served by Qwest Corporation and Verizon Northwest, Inc. (non-rural wire centers). In Docket UT-043120, the commission designated Sprint as an ETC for the portions of its licensed service area that coincide or

On October 23, 2007, the commission amended the company's ETC designation area to include 18 additional exchanges following the Sprint Nextel merger in August, 2005 and expanded its ETC service area to include the entire wire center boundary of the non-rural wire centers where the company was previously designated as an ETC for only a portion of those wire centers.² In the same docket, Sprint Nextel was granted a temporary exemption from the four hour battery back up power requirement in WAC 480-123-030(1)(g) and the certification required by WAC 480-123-070(6). The exemption will expire on October 23, 2009.

II. Analysis

As a wireless ETC, Sprint Nextel is subject to the Washington state rule requiring four hours of back up power at each cell site under WAC 480-123-030(1)(g) and the annual certification of continued compliance with the rule under WAC 480-123-070(6). The commission adopted the rule after the company was designated as an ETC in Washington.

Order 01 in this docket grants the company a temporary exemption from the back up power requirement of WAC 480-123-030(1)(g) and the certification requirements of WAC 480-123-070(6) for a period of two years from October 23, 2007, subject to the following condition:

Within two years of the date of this Order, the company must provide four hours of back up power at all cell sites using a reliable alternative power source (battery, fixed generation or fuel cells).³

The company has made efforts to upgrade back up power at its Integrated Dispatch Enhanced Network (iDEN) cell sites in its ETC designated areas in Washington. During the past two years, the company reduced the total number of non-compliant sites from 156 to 76. The non-complaint cell sites are about 14 percent of the total iDEN cell sites located in the company's ETC designated area in Washington.

The compliance status is reported as follows⁴:

overlap, in whole or in part, with exchange areas served by some rural telephone companies (rural wire centers).

² Docket UT-073023, Order 01.

³ *Id.*, ¶ 37.

⁴ Two of the Class Two sites are counted as compliant because currently the two sites house portable generators that are connected to each site. Each portable generator is capable of providing 72 hours of power generation before refueling is required. Although the portable generators may be temporarily relocated to provide back up power to another impacted site in an emergency situation, they are on site at least 95 percent of the time.

	In Compliance	Not In Compliance	Total
Class 1	81	1	82
Class 2	38	0	38
Class 3	344	75	419
Total	463	76	539

The company's cell sites with Code Division Multiple Access technology all comply with the four hour back up power standard.

The company's cell sites provide overlapping coverage for neighboring areas. Before the implementation of Washington state rule, its cell sites equipped with iDEN technology were engineered with a minimum of two, rather than four hours of back up battery standby power. However, if power failure occurs at a particular cell site, an adjacent cell site can provide coverage for most, if not all, of the affected area. The company anticipates that even if all Class 3 cell sites were to lose commercial power, the Class 1 and Class 2 cell sites would be capable of providing approximately 85 percent coverage of those Class 3 sites.

The company also has additional emergency response mechanisms in place to cope with power outage emergencies. The company has portable generators and equipment at key locations throughout its service area to ensure continuous service during power outages. The company uses an alarm system to alert its on-call technicians of cell site power outages. The alarm system works in stages and allows the technicians to evaluate and prioritize their deployment of back up power equipment during the power outages. The company also maintains several "Cells on Wheels" which are portable self-contained cell sites and can provide temporary coverage in emergency situations. Although these measures have limitations and cannot completely replace the on site back up power, they greatly reduce the risks of customers losing services during power outages.

The company estimates that it will cost at least \$1.5 million in order to bring the remaining cell sites into compliance. It will be a significant portion of the federal high cost support the company anticipates to receive. The company does not expect an increase in federal high cost support for its Washington service area due to the interim cap the FCC recently imposed on competitive ETCs for the receipt of federal High Cost Funds in a state.⁵ In addition, the company voluntarily committed to a 20 percent per year

⁵ *In the Matter of High-Cost Universal Service Support, et al.*, Order, WC Docket No.05-337 and CC Docket No.96-45, FCC 08-122 (Released May 1, 2008).

reduction in its federal high cost support funding when it merged with Clearwire Corporation.⁶

Staff weighs the costs and benefits of the immediate enforcement of the rule. It is important for all cell sites to have the required level of back up power to be sufficiently prepared for outages, but the cost of immediate compliance is prohibitive. It would limit the company's resources in other network investments. Moreover, the overlapping coverage provided by Class 1 and Class 2 cell sites significantly reduces the risks of service interruption even if not all Class 3 sites meet the four hour back up power standard. The company's emergency response measures further mitigate the adverse consequence of power outages lasting between two and four hours. Washington residents will receive a greater benefit from the company's use of federal universal service funds to expand network coverage and enhance capacity while gradually upgrading back up power over the next two years. Therefore, staff concludes that an extension of the rule exemption is in the public interest and the proposed timeline for full compliance is reasonable.

The company commits that all new cell sites in its ETC designated areas in Washington will comply with the four hour back up power requirement. It also agrees to file annual and final compliance status reports on back up power upgrades. Staff believes the commitments are consistent with the company's intent for rule compliance. Staff recommends that the commission grants the company's petition for a temporary exemption conditioned on these commitments.

Conclusion

For the above reasons, staff recommends that the commission grant Sprint Nextel's petition for a temporary exemption from WAC 480-123-030(1)(g) which require four hours of back up battery power at each cell site and the certification requirement of WAC 480-123-070(6) 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 recommended exemption is subject to the following conditions:

1. The company must provide four hours of back up power at all new cell sites constructed during this period;
2. The company must include a compliance status report on back up power upgrades in its annual ETC filing with the commission;

⁶ *In the Matter of Sprint Nextel Corporation and Clearwire Corporation Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations*, Memorandum Opinion and Order, WT Docket No.08-94, FCC 08-259 (Released November 7, 2008), ¶ 107.

3. The company 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.