

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the)	DOCKET NO. UT-051291
)	
Request of Sprint Nextel Corporation for)	
an Order Declining to Assert Jurisdiction)	PUBLIC COUNSEL’S PETITION FOR
Over or, in the Alternative, Application of)	INTERLOCUTORY REVIEW OF
Sprint Nextel Corporation for Approval of)	ORDER No. 1 REGARDING THE
the Transfer of Control of United)	HEARING DATES
Telephone Company of the Northwest and)	
Sprint Long Distance, Inc. From Sprint)	
Nextel Corporation to LTD Holding)	
Company.)	
.....)	

I. PETITION

The Public Counsel Section of the Washington State Attorney General’s Office (“Public Counsel”) respectfully requests that the Washington State Utilities and Transportation Commission (“Commission”) revise the procedural schedule established in Order No. 01 as issued on October 12, 2005 by the Commission. Specifically, Public Counsel requests that the hearing dates be moved from mid January to early February, 2006.

II. BACKGROUND

On August 26, 2005 Sprint Nextel Corporation (“Sprint Nextel”) filed a request for an order disclaiming jurisdiction or approving the transfer and control of United Telephone Company of the Northwest (“United”) and Sprint Long Distance, Inc. from Sprint Nextel to LTD Holding Company. The Commission held a prehearing conference

on this matter on October 7th, 2005 at which Administrative Law Judge Dennis Moss presided.

Prior to the Prehearing conference the parties to the docket consulted informally on various matters including scheduling. All parties were aware prior to the prehearing conference that scheduling hearings the week of January 23, 2006 would place a severe hardship upon Public Counsel. Various options were discussed, including a single round of briefing.

During the prehearing conference scheduling was discussed and the company presented its preferred schedule, including the January 23-27, 2006 hearing dates. Undersigned counsel for Public Counsel indicated on the record that this was very problematic given the two weeks of hearings set immediately prior to that week (January 7-20, 2006) in Docket UE-050684, the PacifiCorp general rate case. ALJ Moss decided to accept the company's proposed schedule and indicated that motions would be entertained if problems eventuate. The Commission should also be aware that Public Counsel is also substantially involved in the PacifiCorp-MidAmerican Holding Company merger, Docket No.UE-051090, which has briefs due on January 30th, 2006.

III. ARGUMENT

The winter of 2005-2006 promises to continue the recent history of a very heavy body of work before the Commission. Public Counsel is involved in virtually every significant telecommunications, electricity, and natural gas docket before the Commission and this can create special scheduling difficulties.

Pursuant to WAC 480-07-810, Public Counsel requests interlocutory review of Order No. 1 because Public Counsel is substantially prejudiced by the currently

scheduled hearing dates. Public Counsel believes the hearing schedule established in Order No. 1 meaningfully impairs Public Counsel's ability to prepare for hearing of this matter. It is not realistic to expect Public Counsel's attorney to appear effectively in "back-to-back" hearings on a \$39.2 million general rate case and an asset transfer of Sprint United, which will become the largest independent phone company in the nation.¹ Further, the current schedule would also meaningfully impair Public Counsel's ability to provide briefing on January 30th in the PacifiCorp-MEHC merger docket. Accordingly, Public Counsel respectfully requests that the hearings be set for February 14-17, 2006.

Unfortunately, alternative dates between January 30th and February 14th are problematic as well. If a week of hearings were set for January 30th then Public Counsel would face briefing the PacifiCorp-MEHC merger and preparing for the hearings in this case at the same time. If hearings are set either the week of January 30th or February 6th Public Counsel will have the same poor choice between meaningfully briefing the PacifiCorp general rate case or preparing for these hearings. Largely because of the two PacifiCorp dockets there is no meaningful opportunity for Public Counsel to "front load" trial preparation in this case. The procedural difficulties outlined above are of such magnitude that Public Counsel is very concerned about its ability to effectively discharge its responsibilities consistent with the rules of professional conduct.

Public Counsel is not in a position to address this time conflict by simply reassigning the case to a different attorney. Public Counsel does not have the option as do large firms, or in some cases the UTC Division, of assigning multiple lawyers to one

¹ Reported by Sprint Nextel to have over \$5 billion in annual revenues. *Application of Sprint Nextel* at p. 5.

case. Public Counsel has two attorneys. Each has sole responsibility for the cases in his case load. Changing the attorney of record on the eve of hearing or brief to an attorney with no background in the discovery, technical issues, evidence, or witnesses, and with his own case obligations, is not only unworkable, it is prejudicial to the interests of the customers Public Counsel represents, and contrary to the attorneys' professional obligations.

It does not appear that any prejudice would result to other parties from allowing for a single round of briefing and a one week reduction in the period of time for review the record and issuance a final order.

The ratepayers of both PacifiCorp and United in Washington state deserve representation that is not substantially prejudiced by the procedural schedule adopted by the Commission. Public Counsel believes it is important to note that there is no statutory time limit on its review of this matter. Public Counsel understands the Commission's desire, as expressed by ALJ Moss, to provide a timely review by the Commission that allows the proposed transaction to close as scheduled (assuming all regulatory approvals are received). However, Public Counsel believes that this Commission should not be constrained by the artificial time frame the Applicant has proposed, to the detriment of a fair and reasonable process for all parties. It is possible to meet both Public Counsel's concerns and the Company's desire for a timely resolution. By setting hearings on February 14-17, 2006, and a single round of briefing on March 3rd, 2006, the Commission can still have three weeks to review the case as presented by the parties to meet the company's requested date of resolution.

IV. CONCLUSION

For the foregoing reasons Public Counsel respectfully requests that the Commission modify the procedural schedule adopted in Order No. 1 to set hearings for February 14-17, 2006, and a single round of briefing on March 3, 2006, or other dates sufficient to provide Public Counsel a meaningful opportunity to prepare for hearing.

DATED this 21st day of October, 2005.

ROB MCKENNA
Attorney General

ROBERT W. CROMWELL, JR. AAG
Public Counsel