

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

In the Matter of the Petition of

WASHINGTON INDEPENDENT
TELEPHONE ASSOCIATION and LEWIS
RIVER TELEPHONE COMPANY, d/b/a
TDS TELECOM

For a Declaratory Ruling

DOCKET UT-083056

**COMMENTS OF SPRINT
COMMUNICATIONS COMPANY
L.P. ON PETITION FOR
DECLARATORY RULING**

COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.

1. On October 28, 2008, the Washington Independent Telecommunications Association (WITA) and Lewis River Telephone Company, d/b/a TDS Telecom (TDS) asked the Washington Utilities and Transportation Commission (Commission) to issue a Declaratory Ruling. WITA and TDS request that the Commission:
 - i. Declare whether WITA's member companies and, specifically TDS, are required to negotiate terms of interconnection pursuant to Section 251 of the Communications act of 1934, as amended (the "Act") with Comcast Phone ... for the provision of fixed location VoIP services by Comcast Phone or an affiliate of Comcast Phone; and,

- ii. Declare that Comcast Phone is not acting as a telecommunications carrier for purposes of its VoIP service, whether provided by itself or through an affiliate, and thus, is not entitled to interconnection rights pursuant to Section 251 of the Act; or,
 - iii. In the alternative, declare that Comcast Phone is a telecommunications carrier and the VoIP service that it, or its affiliate, is offering is a telecommunications service and is subject to regulation for those services as a telecommunications company offering telecommunications within the state of Washington.
2. Comcast filed its answer on November 17, 2008. On December 1, 2008, the Commission issued its Notice of Opportunity to File Comments on Petition for Declaratory Ruling. The Commission invited any interested person to file comments addressing the threshold issue presented in RCW 34.053240(7), which reads as follows:

An agency may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.
3. The Commission's Notice invites comments on "whether there are any necessary parties to the proceeding, whether they object in writing to deciding the issues in a declaratory order proceeding and whether entering a declaratory order would substantially prejudice the rights of a necessary party."¹ Sprint Communications Company LP (Sprint) takes this opportunity to provide its comments in accordance with the Commission's December 1, 2008 Notice.
4. Sprint is a competitive local exchange carrier (CLEC) registered with the Commission

¹ Notice, p.2.

and is currently offering services in Washington through its jointly provided service with Millennium Cable Company. Sprint recently commenced providing service in the Whidbey Telephone Company exchange.² The service being offered to end users through this jointly provided arrangement is a fixed location VoIP service. Sprint notes that the issues raised by WITA and TDS in the Petition for Declaratory Ruling were addressed, as they applied to the obligation to negotiate terms for interconnection with Sprint, in Docket UT-073031. In that docket, the Commission joined the overwhelming weight of authority on the issue in finding that Sprint was a telecommunications carrier entitled to interconnection under Section 251 of the Act.³

5. The Commission should take note of the decisions reached in that docket and ensure that nothing decided in this proceeding alters the Commission's prior decisions granting Sprint the ability to provide its services in Washington.
6. Sprint supports Comcast's argument that the issues raised by WITA and TDS should be addressed in the arbitration between TDS and Comcast, just as the determination that Sprint is a telecommunications carrier was addressed in the arbitration Docket UT-073031, rather than allowing TDS to bypass the proceeding through this request for declaratory ruling.
7. WITA and TDS also ask the Commission to declare that Comcast's VoIP service is subject to state regulation. This issue is separate from the issue of whether an interconnection obligation exists. Sprint agrees with Comcast's assertion that the

² *In the Matter of the Petition for Arbitration of an Interconnection Agreement Between Sprint Communications Company L.P. with Whidbey Telephone Company Pursuant to 47 U.S.C. Section 252(b)*. Docket UT-073031.

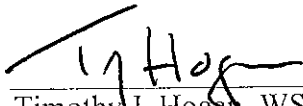
³ Order Determining Threshold Issues, Order 4, Docket UT-073031, ¶¶ 54 and 56 (January 24, 2008).

Commission should not determine the regulatory treatment of Comcast's VoIP service through a declaratory ruling. Such a decision will broadly impact other carriers and should not be determined in this proceeding.

8. Sprint would be harmed if its ability to continue offering services as authorized by the prior decisions of the Commission were altered by the issuance of a declaratory ruling in this proceeding. If the Commission were to take action in this proceeding that would modify those previous decisions, Sprint would be a necessary party to the proceeding and hereby objects in writing to deciding the issues in a declaratory order proceeding. Entering such a ruling in a declaratory order would substantially prejudice Sprint's rights as a necessary party. Sprint does not view itself as a necessary party if the decision is limited to Comcast; however, Sprint believes the issues raised by WITA and TDS should not be decided at all in a declaratory ruling proceeding.
9. WHEREFORE, Sprint respectfully requests that the Commission dismiss the Petition for Declaratory Ruling and grant such other or further relief as the Commission finds fair, just, and reasonable.

DATED this 12 day of DECEMBER 2008.

RIDDELL WILLIAMS P.S.

By 

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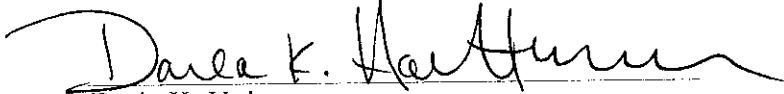
CERTIFICATE OF SERVICE

I, Darla K. Holterman hereby certify that on the 12th day of December, 2008, I served true copies of the foregoing and supporting documents upon counsel of record below via the below-listed method:

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