

**BEFORE THE WASHINGTON STATE
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 Over or, in the)	ORDER NO. 03
Alternative, Application of Sprint)	
Nextel Corporation for Approval of)	DENYING PETITION FOR
the Transfer of Control of United)	INTERLOCUTORY REVIEW OF
Telephone Company of the Northwest)	ORDER NO. 01 REGARDING
and Sprint Long Distance, Inc. From)	HEARING DATES
Sprint Nextel Corporation to LTD)	
Holding Company.)	
.....)	

1 **PROCEEDINGS:** On August 26, 2005, Sprint Nextel Corporation filed with the Commission a request for an order declining to assert jurisdiction over or, in the alternative, an application for approval of the transfer of control of United Telephone Company of the Northwest and Sprint Long Distance, Inc., from Sprint Nextel Corporation to LTD Holding Company. The Commission conducted a prehearing conference on October 7, 2005, before Administrative Law Judge (ALJ) Dennis J. Moss, and entered its Order No. 01 Prehearing Conference Order on October 12, 2005. Order No. 01 includes a procedural schedule, as discussed during the prehearing conference.

2 **PARTY REPRESENTATIVES:** Tre Hendricks, III, attorney, Sprint Corporation, Hood River, Oregon, and Gregory J. Kopta, Davis Wright Tremaine L.L.P., Seattle, Washington, represent Sprint Nextel. Robert Cromwell, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of Attorney General. Gregory J. Trautman, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (“Commission Staff” or “Staff”).

3 **PETITION FOR INTERLOCUTORY REVIEW:** On October 21, 2005, Public Counsel filed its Petition for Interlocutory Review of Order No. 01 Regarding the Hearing Dates. Public Counsel asserts that the hearing dates in the current schedule, January 23 – 27, 2006, are prejudicial to Public Counsel because they follow closely hearings in a PacifiCorp general rate case scheduled for January 7 – 20, 2005, and are immediately before the January 30, 2006, date scheduled for briefs in the PacifiCorp/MidAmerican merger proceeding. Public Counsel requests that the hearings in this proceeding be set for February 14 – 17, 2006.

4 Sprint answered Public Counsel’s Petition on October 28, 2005. Sprint argues that the Petition is premature and should be denied, without prejudice to Public Counsel’s right to request an adjustment to the schedule at a later date.

5 **COMMISSION DETERMINATION:** The Commission denies Public Counsel’s Petition for Interlocutory Review because it is premature. Scheduling was the subject of considerable discussion at the prehearing conference on October 7, 2005. The presiding ALJ informed the parties during the prehearing conference that the week Public Counsel now requests for hearing—the week of February 13, 2006—is not available for hearing.¹ In addition, the presiding ALJ heard Public Counsel’s scheduling concerns, as reiterated in Public Counsel’s Petition, and discussed that it would be necessary for all parties and the Commission to remain flexible on scheduling matters as developments in this, and other cases on the Commission’s calendar, dictate.² The presiding ALJ also discussed the point that the schedule established in this proceeding is itself flexible, independent of what may occur in other proceedings.³

¹ TR. 13:16 – 21.

² TR. 19:2 – 14, 18:20.

³ TR. 19:15 – 20:2.

6 The Commission denies Public Counsel's Petition without prejudice to Public Counsel's right to later seek a continuance of the hearing dates, either via an agreed request or, if the parties cannot agree, a contested motion.⁴ The Commission acknowledges the pressing schedule faced by Public Counsel, other parties, and the Commission itself during the relevant period. The Commission will continue its longstanding practice of working with parties to ensure that no party is denied due process of law. In this particular instance, the Commission and the parties will be better informed concerning potential conflicts in hearing and briefing obligations later this year, or early in 2006. Public Counsel can consider renewing its request for a continuance of the hearing dates and, if appropriate, other process changes (*e.g.*, one round of briefs instead of two) closer in time to the currently scheduled hearing dates.

ORDER

7 THE COMMISSION ORDERS That Public Counsel's Petition for Interlocutory Review of Order No. 01 Regarding the Hearing Dates is denied, without prejudice.

DATED at Olympia, Washington, and effective this 9th day of November, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

⁴ WAC 480-07-385.