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**BEFORE THE ARIZONA CORPORATION COMMISSION**

*Arizona Corporation Commission*

COMMISSIONERS

**DOCKETED**

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

MAY - 4 2011

DOCKETED BY nr

IN THE MATTER OF THE APPLICATION OF  
SPRINT SPECTRUM L.P. FOR APPROVAL TO  
RELINQUISH ITS ELIGIBLE  
TELECOMMUNICATIONS CARRIER  
DESIGNATION IN ARIZONA.

DOCKET NO. T-04206A-11-0070

DECISION NO. 72283

**ORDER**

Open Meeting  
May 4, 2011  
Phoenix, Arizona

**BY THE COMMISSION:**

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On February 4, 2011, Sprint Spectrum L.P. dba Sprint ("Sprint") filed a "Notice of Relinquishment Of Eligible Telecommunications Carrier Designation" ("Notice"). By its Notice, Sprint stated it was notifying the Commission pursuant to 47 U.S.C. § 214(e)(4) and 47 C.F.R. § 54.205 that it was relinquishing its eligible telecommunications carrier ("ETC") designation in Arizona effective December 31, 2010.<sup>1</sup>

2. On March 29, 2011, the Commission's Utilities Division ("Staff") filed a Staff Report recommending approval of Sprint's request to relinquish its ETC designation, and also recommending that Sprint's informational tariff be cancelled and withdrawn.

3. The Commission approved Sprint's Application for Designation as an ETC within

<sup>1</sup> An ETC is a common carrier that has been designated to receive Lifeline and universal service support in a specified area. To be designated as an ETC, the carrier files an application with the state utility regulator and must meet all federal and state ETC criteria. Decision No. 66787 approved Sprint's ETC designation for those areas within Sprint's licensed service area that overlap Qwest's service area.

1 Arizona in Decision No. 66787 (February 13, 2004). Sprint states that it has operated as an ETC in  
2 Arizona from that date until the date of its Notice.

3 4. Sprint is a subsidiary of Sprint Nextel.

4 5. On November 4, 2008, the Federal Communications Commission (“FCC”) approved  
5 the merger of Sprint Nextel, Clearwire Corporation (“Clearwire”) and certain of their subsidiaries.<sup>2</sup>

6 6. During the course of the merger proceeding, Sprint Nextel filed a letter offering a  
7 voluntary commitment that, at the end of a five-year transition, it would not seek Universal Service  
8 Fund (“USF”) support for its wireless service unless the request is supported by an actual cost  
9 analysis or by whatever mechanism the FCC may subsequently adopt. Sprint offered to reduce its  
10 high-cost USF support in five equal increments beginning in January 2009.<sup>3</sup> The FCC conditioned its  
11 approval of the merger on Sprint Nextel’s commitment to surrender high-cost USF support over a  
12 period of five years from the closing date of the merger, but provided no direction regarding how  
13 these commitments were to be met.

14 7. On September 3, 2010, the FCC released an order providing instructions for  
15 implementing Sprint’s commitment.<sup>4</sup> The *Implementation Order* specified that Sprint could meet its  
16 high-cost USF phase-out obligation through “line loss, relinquishment of ETC status, or other  
17 circumstances....”

18 8. Sprint’s actual high-cost USF support for 2009 and its projected high-cost USF  
19 support for 2010 were below the allowable cap for those years, such that no action was required. In  
20 order to meet the phase-out requirement for 2011, however, Sprint states that it will have to take  
21 additional steps to reduce its high-cost receipts, and it has decided to relinquish its ETC designation  
22 in Arizona (as well as some other states).<sup>5</sup> Sprint states further that although it will no longer receive  
23 federal high-cost USF in Arizona after December 31, 2010, it plans to continue to provide wireless  
24

25 <sup>2</sup> *Sprint Nextel Corporation and Clearwire Corporation Applications for Consent to Transfer Control of Licenses, Leases,*  
26 *and Authorizations*, WT Docket No. 08-94, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd  
17570 (2008) (“*Sprint Nextel Merger Order*”).

27 <sup>3</sup> *Id.*

28 <sup>4</sup> *In the Matter of High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal*  
*Service, Request for Review of Decision of Universal Service Administrator by Corr Wireless Communications, LLC*, CC  
Docket No. 96-45, Order released Sept. 3, 2010 (FCC 10-155) (“*Implementation Order*”).

<sup>5</sup> Arkansas, Florida, Kansas, New Mexico, North Carolina, Tennessee, Utah and Wisconsin.

1 service in all of its designated areas as a non-ETC.

2 9. The federal requirements for a carrier to relinquish its ETC designation are outlined in  
3 47 U.S.C. § 214(e)(4) which provides:

4 (4) *RELINQUISHMENT OF UNIVERSAL SERVICE.*—A State  
5 commission shall permit an eligible telecommunications carrier to  
6 relinquish its designation as such a carrier in any area served by more  
7 than one eligible telecommunications carrier. An eligible  
8 telecommunications carrier that seeks to relinquish its eligible  
9 telecommunications carrier designation for an area served by more than  
10 one eligible telecommunications carrier shall give advance notice to the  
11 State commission of such relinquishment. Prior to permitting a  
12 telecommunications carrier to cease providing universal service in an  
13 area served by more than one eligible telecommunications carrier, the  
14 State commission shall require the remaining eligible carrier or carriers  
15 to ensure that all customers served by the relinquishing carrier will  
16 continue to be served, and shall require sufficient notice to permit the  
17 purchase or construction of adequate facilities by any remaining eligible  
18 telecommunications carrier. The State commission shall establish a time,  
19 not to exceed one year after the State commission approves such  
20 relinquishment under this paragraph, within which such purchase or  
21 construction shall be completed.

22 10. Attached to its Notice, Sprint provided a list of the Qwest wire centers in which Sprint  
23 is currently designated as an ETC and for which it seeks to relinquish that status. Sprint asserts that  
24 Qwest and Telescape Communications, Inc.<sup>6</sup> are currently designated as an ETC in each of the wire  
25 centers. Thus, Sprint believes that following relinquishment of its ETC designation, there will  
26 continue to be at least one ETC in each of its previously-designated areas and there is no bar that  
27 would prevent Sprint from relinquishing its ETC designation in Arizona. Sprint states that to the best  
28 of its knowledge, none of the remaining ETCs will be required to purchase or construct additional  
facilities in order to continue to provide service within these areas. Sprint states further that because  
other ETCs currently serve the entire areas in which Sprint is designated as an ETC in Arizona, the  
Commission need not provide notice to those carriers to permit them to purchase or construct  
facilities to ensure that Sprint's customers will continue to receive service.<sup>7</sup>

11. Staff states that because there are currently three carriers designated as ETCs in  
Sprint's designated service area, such that if Sprint is allowed to relinquish its ETC designation, there

<sup>6</sup> See Decision No. 67519 (January 20, 2005).

<sup>7</sup> As previously noted, Sprint will continue to provide service in Arizona, although it will no longer receive high-cost USF support.

1 will be at least one ETC to provide service to customers. Staff further notes that because sufficient  
2 facilities already exist, notice to permit the purchase or construction of adequate facilities by the  
3 remaining ETC should not be required. Thus, Staff believes that Sprint meets the FCC's ETC  
4 relinquishment criteria.<sup>8</sup>

5 12. Sprint states that upon acceptance of its relinquishment, Sprint will provide written  
6 notice by U.S. mail to each of its then-current Lifeline customers in Arizona advising them that  
7 Sprint will no longer provide service discounts as an ETC.<sup>9</sup> The notice will inform these customers  
8 that the monthly Lifeline credit will be discontinued within 45 days. Sprint states that it will offer  
9 each of these customers the option of continuing to receive the same service from Sprint, or selecting  
10 an alternative calling plan, and the notice will also inform each customer that discounted Lifeline  
11 service may be obtained from one of the remaining ETCs in the area. Sprint states that it will not  
12 activate any new Lifeline subscribers in Arizona after December 31, 2010.

13 13. Staff states that in response to Staff Data Requests, Sprint provided information that as  
14 of January 1, 2011, it had twenty (20) customers who received the Lifeline discount in Arizona, and  
15 that it did not collect deposits from Lifeline customers in Arizona. Sprint also provided Staff with a  
16 copy of the notice that it intends to send to its Lifeline customers, which letter Staff reports, presents  
17 these customers with their options and adds that if the customers choose to obtain Lifeline benefits  
18 from another service provider, customers would not be subject to early termination fees for cancelling  
19 service with Sprint.

20 14. Staff recommends approval of Sprint's ETC designation relinquishment as of  
21 December 31, 2010, and that Sprint's informational Arizona tariff be cancelled and withdrawn  
22 effective 60 days after the date of the Commission Order in this matter. Staff's recommendation is  
23 based on the facts that Sprint has never collected deposits from Arizona Lifeline customers; that  
24 Qwest is a designated ETC provider in the same geographic areas; and that Qwest provides service in  
25 the same areas where Sprint is designated as an ETC.

26 15. We find that Sprint meets the requirements of 47 U.S.C. § 214(e)(4) for the

27 <sup>8</sup> Staff Report at 3.

28 <sup>9</sup> Lifeline service provides basic telephone service with discounts on monthly telecommunications charges for the poor and elderly.

1 relinquishment of ETC status in Arizona. Consequently, we find that Sprint's request to relinquish its  
2 ETC status should be granted.

3 16. We will require Sprint to notify all of its Arizona Lifeline customers of its  
4 relinquishment of ETC status, and explain the customers' options in a form approved by Staff within  
5 15 days of the effective date of this Order, and Sprint shall give its Lifeline customers at least 45 days  
6 from the date of the notice to make alternative arrangements for Lifeline service from an alternative  
7 carrier.

### 8 CONCLUSIONS OF LAW

9 1. Sprint is a telecommunications corporation as defined in A.R.S. § 40-201(26), and is a  
10 "telecommunications carrier" as defined in 47 U.S.C. § 153 (44). Sprint is also a Commercial Mobile  
11 Radio Service provider as defined in 47 U.S.C. § 153 (27) and A.A.C. R14-2-1201.

12 2. The Commission has jurisdiction over the subject matter of this Application.

13 3. Pursuant to 47 U.S.C. § 214(e)(4), Sprint has provided advance notice to the  
14 Commission that it is seeking to relinquish its ETC status, and there are no bars under 47 U.S.C. §  
15 214(e)(4), to the Commission approving Sprint's request to relinquish its ETC status effective  
16 December 31, 2010.

17 4. Staff's findings and recommendations, as set forth herein, are reasonable and should  
18 be adopted.

### 19 ORDER

20 IT IS THEREFORE ORDERED that the Sprint Spectrum L.P. dba Sprint request to  
21 relinquish its ETC status in Arizona pursuant to 47 U.S.C. § 214(e)(4) is hereby granted and shall be  
22 effective as of December 31, 2010.

23 IT IS FURTHER ORDERED that within 15 days of the effective date of this Order, Sprint  
24 Spectrum L.P. dba Sprint shall mail notice of the effect of this Order to its Lifeline customers in a  
25 form acceptable to Staff, and such notice shall give Lifeline customers at least 45 days from the date  
26 of the notice to make alternative arrangements for Lifeline service, with no early termination fees for  
27 cancelling service with Sprint Spectrum L.P. dba Sprint.

28 ...

1 IT IS FURTHER ORDERED that Sprint Spectrum L.P. dba Sprint's informational Arizona  
2 tariff shall be cancelled and withdrawn effective 60 days after the effective date of this Order.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

5  
6   
7 CHAIRMAN

  
COMMISSIONER

8   
9 COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

10  
11 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
12 Executive Director of the Arizona Corporation Commission,  
13 have hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this 4<sup>th</sup> day of MAY, 2011.

16   
17 ERNEST G. JOHNSON  
18 EXECUTIVE DIRECTOR

19 DISSENT \_\_\_\_\_

20 DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: SPRINT SPECTRUM L.P.

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