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Decision 97-08-045 August 1, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SPRINT
COMMUNICATIONS COMPANY L.P. (U-5112-C)
To Provide Local Exchange Service As a Competitive
Local Carrier.

Application 96-10-008
(Filed October 4, 1996)

ORIGINAL

OPINION

I. Summary

On October 3, 1996, Sprint Communications Company L.P. (Sprint) (U-5112-C) filed an application to amend its certificate of public convenience and necessity (CPCN) in California to authorize it to operate as a competitive local carrier (CLC) providing both facilities-based and resold local exchange service in the State of California, in all the service areas now served by Pacific Bell (Pacific) and GTE California Incorporated (GTEC).

Sprint currently holds a CPCN as a telecommunications provider (U-5112-C). Sprint provides a full range of long distance telecommunication services on an international, interstate, intrastate, interLATA and, to the extent permitted, intraLATA basis. Sprint is authorized to provide service in all 50 states, including California.

II. Background

By Decision (D.) 95-07-054 (R.95-04-043/I.95-04-044), we established initial procedures for the filing for CPCN authority to offer competitive local exchange service within the service territories of Pacific and GTEC. Prospective CLCs that filed petitions by September 1, 1995, for CPCN authority to enter the local exchange market and otherwise met eligibility requirements were authorized to offer local exchange service under the following schedule. Competitive local exchange service from facilities-based carriers was authorized effective January 1, 1996. Competitive resale of the bundled local exchange services of Pacific and GTEC was authorized effective March 31, 1996.

Any filings for CLC CPCN authority made after September 1, 1995, were to be treated as routine applications for certification authority and processed individually.

III. Overview of the Application

Sprint is a Delaware Limited Partnership, which is wholly owned by United Telecommunications, Inc. (UTI) and its subsidiaries. UTI is a wholly-owned subsidiary of Sprint Corporation and, through its subsidiary, US Telecom, Inc., holds the general partnership interest in Sprint Communications Company L.P.

Sprint has been granted authority to provide local exchange telecommunications services in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Hawaii, Illinois, Kansas, Maryland, Massachusetts, Montana, New Jersey, New York, Oklahoma, Wisconsin and Wyoming, and currently has pending applications in 30 other states.¹ Sprint intends to seek authority to provide local exchange telecommunications services in all 50 states and the District of Columbia.

Sprint seeks to provide facilities-based and resold local exchange telephone services in the State of California, in all of the service areas of Pacific and GTEC. Sprint plans to offer both local exchange and switched access services. Sprint will provide customers with access to 911 Emergency Services, Directory Assistance, Operator Assisted Services, California Relay Service, and Lifeline Service, and will also offer vertical features like Call Waiting, Call Forwarding and Caller ID. Additionally, Sprint may augment its service offerings in the future and add new services and capabilities.

¹ Applications are pending in Arizona, Arkansas, Colorado, Indiana, Iowa, Louisiana, Maine, Michigan, Minnesota, Missouri, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington and West Virginia.

Initially, Sprint will resell the local exchange services of Pacific and GTEC in those areas where it does not have facilities to provide service. As its customer base develops, Sprint plans to offer facilities-based services.

Sprint provides in its tariff a description of the Caller ID service it proposes to offer as a CLC, as well as a customer notification and education plan (CNEP) prepared pursuant to the requirements of the "Competitive Local Carrier Customer Notification and Education Rules" (CNEP Rules) adopted in D.96-04-049 for Caller ID. Sprint has elected to include its CNEP in its application so that, if the requested authority is granted, Sprint will be able to immediately begin offering Caller ID and passing calling party number (CPN). Privacy-related Custom Local Area Signaling Services (CLASS) features will not be provided until the Commission has approved Sprint's CNEP and Sprint has, in the manner specified in Sprint's approved CNEP, notified its customers of the nature of the service and the means by which customers can protect their privacy.

IV. California Environmental Quality Act (CEQA) Review

We have reviewed the Sprint application for compliance with CEQA. CEQA requires the Commission as the designated lead agency to assess the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced to the fullest extent possible. To achieve this objective, Rule 17.1 of the Commission's Rules of Practice and Procedure requires the proponent of any project subject to Commission approval to submit with the application for approval of such project an environmental assessment which is referred to as a Proponent's Environmental Assessment (PEA). The PEA is used by the Commission to focus on any impacts of the project which may be of concern and prepare the Commission's Initial Study to determine whether the project would need a Negative Declaration or an Environmental Impact Report.

We previously performed a CEQA review for the initial group of 40 facilities-based CLCs which were certified pursuant to D.95-12-057. We consolidated these 40 CLC petitioners into a single comprehensive CEQA review. Based on its assessment of those 40 facilities-based-petitioners filed PEAs, the Commission's staff prepared a draft

Negative Declaration and Initial Study generally describing the facilities-based petitioners' projects and their potential environmental effects. The Negative Declaration prepared by the Commission's staff was considered a Mitigated Negative Declaration (MND). This means that, although the initial study identified potentially significant impacts, revisions which mitigate the impacts to a less than significant level were agreed to by the petitioners. (Pub. Res. Code § 21080(c)(2).)

Based upon our Initial Study and the public comments received, we determined that, with the inclusion of mitigation measures incorporated in the projects, the proposed projects would not have potentially significant environmental effects. Accordingly, we approved the MND, including the Commission staff's proposed Mitigation Monitoring Plan, in D.95-12-057.

Following the adoption of D.95-12-057, the Commission processed subsequent MNDs for additional applications for facilities-based services. Sprint argued that the Commission should approve its application without requiring any additional environmental assessment, since Sprint did not anticipate that any new construction is necessary to provide facilities-based local exchange service.

Consistent with our treatment of past facilities-based CLC applicants, however, we concluded that a separate MND must be adopted for Sprint to comply with CEQA. We therefore consolidated a number of applicants for CLC facilities-based authority, including Sprint, and prepared a single MND covering all of these applicants. This MND was the third in the series prepared in conjunction with the review and approval of CLC CPCNs which began with D.95-12-057. The MND was officially approved on February 18, 1997, as part of D.97-02-038.² With the incorporation of the specific mitigation measures outlined in the MND, Sprint's proposed project will not have potentially significant adverse environmental impacts.

² D.97-02-038 approved a CPCN for SpectraNet Orange, and concurrently approved the MND which included a number of CLCs among which was Sprint.

V. Financial and Technical Entry Requirements

The Commission adopted minimum financial requirements for competitive CLCs in D.95-07-054 (Rule 4.B(2)). This decision requires demonstration of a minimum \$25,000 financial requirement for applicants seeking CPCNs for resale authority and \$100,000 for facilities-based authority.

As a demonstration of its possession of, or its access to, funds meeting the \$100,000 minimum financial requirement, Sprint attached a copy of its 1995 annual "Form 10K" and a copy of its quarterly "Form 10Q" for the quarter ended March 31, 1996, filed by Sprint with the Securities and Exchange Commission. As can be seen from its financial statements (Exhibit G), Sprint possesses the Commission-adopted minimum financial requirement of \$100,000 for facilities-based CLC CPCN applicants.

Applicant considers its estimated results of operations for its local service and projected customer base to be confidential and proprietary. Applicant therefore filed, concurrently with its application, a motion for limited protective order with respect to its Exhibits F and J. We hereby grant the motion.

Also included as part of Exhibit G is a letter from Sprint Corporation guaranteeing funds will be made available to Sprint in the State of California, as provided for in Initial Rule 4.B.(3) and D.91-10-041 referenced in that rule. A consolidated balance sheet and income statement for Sprint, for the 12 months ended December 31, 1995, was filed with the Commission on April 3, 1996 as part of Sprint's California Annual Report.

CLCs must also conform to the following financial requirements adopted in D.95-12-056. CLCs with no prior established credit record that order interconnection service from an incumbent LEC must also pay a deposit equal to an estimated two months of recurring flat-rated or usage-based interconnection charges based on the number and type of interconnection facilities ordered from the LEC. Customer deposits collected by a CLC must be deposited in a protected, segregated interest-bearing escrow account subject to Commission oversight.

Sprint demonstrated its technical expertise to provide the services for which authority is requested by attaching Exhibit H, a sample tariff applicable to its proposed competitive local services.

On March 3, 1997, the Commission staff notified applicant regarding deficiencies in its filed tariffs. Applicant subsequently submitted tariff corrections in response to the deficiency letter. Applicant's corrections submitted in response to the deficiency letter resolve the deficiencies.

In addition, as further evidence of technical expertise, Sprint attached summary biographies of its key management personnel (Exhibit K) describing their respective backgrounds and expertise in the telecommunications industry.

We have reviewed applicant's proposed filing and conclude that it conforms to the adopted Commission rules, including the Consumer Protection Rules set forth in Appendix B of D.95-07-054. We conclude the applicant satisfies the Commission's requirements for certification as a reseller and facilities-based CLC subject to the terms and conditions set forth in the order below. Accordingly, we shall grant the application, as ordered below.

Findings of Fact

1. Applicant filed its application on October 4, 1996.
2. A notice of the filing of the application appeared in the Daily Calendar on October 8, 1996.
3. No protests have been filed.
4. A hearing is not required.
5. By prior Commission decisions, we authorized competition in providing local exchange telecommunications service within the service territories of Pacific and GTEC.
6. By D.95-07-054 and D.95-12-056, we authorized facilities-based CLC services effective January 1, 1996, and CLC resale services effective March 31, 1996, for carriers meeting specified criteria.
7. Applicant has demonstrated that it has a minimum of \$100,000 of cash or cash equivalent reasonably liquid and readily available to meet its start-up expenses.

8. Applicant's technical experience is demonstrated by Exhibit C which provides summary biographies of its key management personnel.

9. Applicant has submitted with its application a complete draft of applicant's initial tariff which, after necessary corrections, complies with the requirements established by the Commission, including prohibitions on unreasonable deposit requirements.

10. By D.97-06-107, applicants or petitioners for nondominant CLC CPCN authority are exempt from Rule 18(b).

11. Exemption from the provisions of PU Code §§ 816-830 has been granted to other nondominant carriers. (See, e.g., D.86-10-007 and D.88-12-076.)

12. The transfer or encumbrance of property of nondominant carriers has been exempted from the requirements of PU Code § 851 whenever such transfer or encumbrance serves to secure debt. (See D.85-11-044.)

Conclusions of Law

1. Applicant has the financial ability to provide the proposed service.
2. Applicant has made a reasonable showing of technical expertise in telecommunications.
3. Public convenience and necessity require the competitive local exchange services to be offered by applicant.
4. Applicant is subject to:
 - a. The current 3.2% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the Universal Lifeline Telephone Service (PU Code § 879; Resolution T-15799, November 21, 1995);
 - b. The current 0.36% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Relay Service and Communications Devices Fund (PU Code § 2881; Resolution T-16017, April 9, 1997);
 - c. The user fee provided in PU Code §§ 431-435, which is 0.11% of gross intrastate revenue for the 1997-1998 fiscal year (Resolution M-4786);
 - d. The current surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-A (PU Code § 739.30; D.96-10-066, pp. 3-4,

App. B, Rule 1.C; Resolution T-15987 at 0.0% for 1997, effective February 1, 1997.);

- e. The current 2.87% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California High Cost Fund-B (D.96-10-066, p. 191, App. B, Rule 6.F.); and
 - f. The current 0.41% surcharge applicable to all intrastate services except for those excluded by D.94-09-065, as modified by D.95-02-050, to fund the California Teleconnect Fund (D.96-10-066, p. 88, App. B, Rule 8.G.).
5. Applicant is exempted from Rule 18(b).
 6. Applicant should be exempted from PU Code §§ 816-830.
 7. Applicant should be exempted from PU Code § 851 when the transfer or encumbrance serves to secure debt.
 8. Sprint must agree to, and is required to, carry out the specific mitigation measures outlined in the Negative Declaration approved in D.97-02-038 in compliance with CEQA.
 9. With the incorporation of the specific mitigation measures outlined in the approved Negative Declaration, Sprint's proposed project will not have potentially significant adverse environmental impacts.
 10. The application should be granted to the extent set forth in the order below.
 11. Any CLC which does not comply with our rules for local exchange competition adopted in R.95-04-043 shall be subject to sanctions including, but not limited to, revocation of its CLC certificate.
 12. Because of the public interest in competitive local exchange services, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Authority is granted to Sprint Communications Company (applicant) for an expansion of its current certificate of public convenience and necessity to permit it to operate as a reseller and as a facilities-based provider of competitive local exchange telecommunications services.

2. Applicant shall file a written acceptance of the certificate authority granted in this proceeding.

3. a. Applicant is authorized to file with this Commission a tariff schedule for the provision of competitive local exchange services. Applicant may not offer either service until tariffs are on file. Applicant's initial filing shall be made in accordance with General Order (GO) 96-A, excluding Sections IV, V, and VI, and shall be effective not less than one day after filing.

b. Applicant is a competitive local carrier (CLC). The effectiveness of its future tariffs is subject to the schedules set forth in Appendix A, Section 4.E of D.95-07-054:

"E. CLCs shall be subject to the following tariff and contract filing, revision and service pricing standards [Contracts shall be subject to GO 96-A rules for NDIECs, except those for interconnection]:

"(1) Uniform rate reductions for existing tariff services shall become effective on five (5) days' notice.

"(2) Uniform rate increases, except for minor rate increases, for existing services shall become effective on thirty (30) days' notice, and shall require bill inserts, a message on the bill itself, or first class mail notice to customers of the pending increased rates.

"(3) Uniform minor rate increases, as defined in D.90-11-029, for existing services shall become effective on not less than five (5) working days' notice. Customer notification is not required for such minor rate increases.

"(4) Advice letter filings for new services and for all other types of tariff revisions, except changes in text not affecting rates or relocations of text in the tariff schedules, shall become effective on forty (40) days' notice.

"(5) Advice letter filings merely revising the text or location of text material which do not cause an increase in any rate or charge shall become effective on not less than five (5) days' notice."

4. Applicant may deviate from the following provisions of GO 96-A:

(a) paragraph II.C.(1)(b), which requires consecutive sheet numbering and prohibits the reuse of sheet numbers, and (b) paragraph II.C.(4), which requires that "a separate sheet or series of sheets should be used for each rule." Applicant is also exempt from

GO 96-A, paragraph III.G.(1) and (2) which requires service of advice letters on competing and adjacent utilities, unless such utilities have specifically requested such service. Tariff filings incorporating these deviations shall be subject to the approval of the Commission's Telecommunications Division. Tariff filings shall reflect all fees and surcharges to which applicant is subject, as reflected in Conclusion of Law 4.

5. Applicant shall file as part of its initial tariff, after the effective date of this order and consistent with Ordering Paragraph 3, a service area map.

6. Prior to initiating service, applicant shall provide the Commission's Consumer Services Division with the applicant's designated contact person(s) for purposes of resolving consumer complaints and the corresponding telephone number. This information shall be updated if the name or telephone number changes, or at least annually.

7. Applicant shall notify this Commission in writing of the date resale-based local exchange service is first rendered to the public within five days after service begins, and again within five days of when facilities-based local exchange service begins.

8. Applicant shall keep its books and records in accordance with the Uniform System of Accounts specified in Title 47, Code of Federal Regulations, Part 32.

9. Applicant shall file an annual report, in compliance with GO 104-A, on a calendar-year basis using the information-request form developed by the Commission Staff and contained in Attachment A.

10. Applicant shall ensure that its employees comply with the provisions of Public Utilities (PU) Code § 2889.5 regarding solicitation of customers.

11. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 12 months after the effective date of this order.

12. The corporate identification number assigned to applicant is U-5112-C which is the same number previously assigned for inter- and intraLATA toll authority and shall be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

13. Within 60 days of the effective date of this order, applicant shall comply with PU Code § 708, Employee Identification Cards, reflecting its expanded authority, and notify the Director of the Telecommunications Division in writing of its compliance.

14. Applicant is exempted from the provisions of PU Code §§ 816-830.

15. Applicant is exempted from PU Code § 851 for the transfer or encumbrance of property, whenever such transfer or encumbrance serves to secure debt.

16. If applicant is 90 days or more late in filing an annual report or in remitting the fees listed in Conclusion of Law 4, Telecommunications Division shall prepare for Commission consideration a resolution that revokes the applicant's CPCN, unless the applicant has received the written permission of Telecommunications Division to file or remit late.

17. The Final Negative Declaration, including the Mitigation Monitoring Plan, approved in D.97-02-038, is incorporated herein by reference and adopted.

18. Sprint shall comply with the conditions, and carry out the mitigation measures outlined, in the adopted Negative Declaration.

19. Sprint shall provide the Director of the Commission Energy Division with reports on compliance with the conditions and implementation of mitigation measures under the schedule outlined in the Negative Declaration.

20. Applicant's motion for a protective order for its estimated results of operations and customer base is granted, and shall remain under seal for one year from the date of this decision.

A.96-10-008 ALJ/TRP/sid

21. The application is granted, as set forth above.

22. Application 96-10-008 is closed.

This order is effective today.

Dated August 1, 1997, at San Francisco, California.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners

**TO: ALL COMPETITIVE LOCAL CARRIERS AND INTEREXCHANGE
TELEPHONE UTILITIES**

Article 5 of the Public Utilities Code grants authority to the California Public Utilities Commission to require all public utilities doing business in California to file reports as specified by the Commission on the utilities' California operations.

A specific annual report form has not yet been prescribed for the California competitive local carriers and interexchange telephone utilities. However, you are hereby directed to submit an original and two copies of the information requested in Attachment A no later than March 31st of the year following the calendar year for which the annual report is submitted.

Address your report to:

California Public Utilities Commission
Financial Reports, Room 3251
505 Van Ness Avenue
San Francisco, CA 94102-3298

Failure to file this information on time may result in a penalty as provided for in §§ 2107 and 2108 of the Public Utilities Code.

If you have any question concerning this matter, please call (415) 703-1961.

ATTACHMENT A

Information Requested of California Competitive Local Carriers and Interexchange Telephone Utilities.

To be filed with the California Public Utilities Commission, 505 Van Ness Avenue, Room 3251, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

1. Exact legal name and U # of reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (e.g., corporation, partnership, sole proprietorship, etc.).
If incorporated, specify:
 - a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Commission decision number granting operating authority and the date of that decision.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. A list of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

(END OF ATTACHMENT A)