



**Sprint Nextel**  
Mailstop: VARESP0201-A208  
2001 Edmund Halley Drive, 2<sup>nd</sup> Floor  
Reston, Virginia 20191  
Office: (703) 592-7781 Fax: (703) 592-7404

**Jennifer A. Duane**  
Attorney, State Regulatory/Northeast  
Jennifer.a.duane@sprint.com

April 27, 2007

VIA OVERNIGHT MAIL

James J. McNulty  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
P.O. Box 3265  
Harrisburg, Pennsylvania 17105-3265

Re: Proposed Modifications to the Application Form for Approval of Authority to Offer, Render, Furnish, or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania  
Docket No. M-00960799

---

Dear Secretary McNulty:

I enclose for filing an original and eight (8) copies of the Reply Comments of Sprint Communications Company L.P. ("Sprint") in the above-referenced docket. All active parties to this docket have been served via electronic and overnight mail as evidenced by the attached Certificate of Service.

Please return a filed-stamped copy of this letter in the enclosed self-addressed, postage-prepaid envelope. If you have any questions, please feel free to contact me. Thank you for your attention to this matter.

Sincerely,

Jennifer A. Duane

Enclosure

cc: Tony Rametta, Bureau of Fixed Utility Services  
Robert Marinko, Office of Special Assistants  
Joseph Witmer, Law Bureau  
Louise Fink Smith, Law Bureau

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Proposed Modifications to the Application  
Form for Approval to Offer, Render, Furnish  
or Supply Telecommunications Services to the  
Public in the Commonwealth of Pennsylvania**

**Docket No. M-00960799**

---

**REPLY COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.**

On January 10, 2007 the Pennsylvania Public Utility Commission (“Commission” or “PUC”) entered a Tentative Order requesting comments from interested parties on a staff recommendation to revise the Application Form (PUC-377), as well as the accompanying instructions, filed by new entrants seeking certification to provide telecommunications services in the Commonwealth of Pennsylvania.<sup>1</sup> The Commission requested comments on the staff proposal within sixty days of the publication of the order in the Pennsylvania Bulletin and reply comments within ninety days of publication.<sup>2</sup>

On March 28, 2007 Sprint filed its initial comments in response to the Commission’s Tentative Order. Additionally, several parties also filed initial comments, including the Broadband Cable Association of Pennsylvania (“BCAP”), the United States Department of Justice (“USDOJ”), the National Emergency Number Association of Pennsylvania (“PA

---

<sup>1</sup> The Bureau of Fixed Utility Services (“FUS”) staff recommended revisions to the content and format of the Application Form, entitled “Application Form for Approval of Authority to Offer, Render, Furnish or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania.”

<sup>2</sup> The Tentative Order was published in the Pennsylvania Bulletin on January 27, 2007 at 37 Pa.B. 486, making reply comments due within 90 days of the publication or by April 27, 2007.

NENA”) and the Pennsylvania Telephone Association (“PTA”). Both BCAP and the USDOJ emphasized that the Commission should revise its CLEC entry procedures to reduce barriers to competitive entry by minimizing delays in the CLEC approval process. In contrast, PTA’s comments argued that the current consolidated entry procedures have worked very well since their inception and have not been abused.<sup>3</sup> Thus, it urged the Commission to maintain the status quo. The comments of PA NENA addressed aspects of the Commission’s CLEC approval process that impact Pennsylvania’s Public Safety Answering Points (“PSAPs”) and it proposed a number of recommendations that it claimed were needed to ensure that CLECs are aware of their obligations with respect to the Public Safety Emergency Telephone Act.

Sprint appreciates the opportunity to file reply comments in this matter for the Commission’s consideration and addresses certain points made in the initial comments filed by the other commenting parties.

## **DISCUSSION**

### **A. The Commission Should Revise Its CLEC Certification Process to Reduce Entry Barriers and Minimize Undue Delay in Competitive Entry**

The initial comments of BCAP and the USDOJ pointed out how the Commission’s CLEC certification process in the rural incumbent local exchange carrier (“ILEC”) service territories lead to unnecessary and undue delay in approving CLEC applications. As the USDOJ noted, it is problematic to permit the incumbent service provider to function as a “gatekeeper” over competitive entry in its service territory by giving it the right to protest CLEC certification applications and thereby triggering protracted administrative processes.<sup>4</sup> Sprint concurs with the reforms proposed by the USDOJ to reduce entry barriers and encourage facilities-based competition in rural ILEC territories by expediting the CLEC

---

<sup>3</sup> PTA Comments at 7-8.

<sup>4</sup> USDOJ Comments at 5.

certification process. Specifically, the USDOJ proposed that for facilities-based CLEC applicants in rural areas that do not seek to remove the ILEC's statutory rural exemption, the Commission should adopt the provisional certification processes already in place in the non-rural service territories of the Commonwealth.<sup>5</sup> These truncated procedures applicable to requests for certification in Verizon's service territory enable the applicant to enter the market and offer local service on a provisional basis pending the grant of final approval of its application. Additionally, the USDOJ recommended that the Commission adopt time limitations for resolving protests to CLEC certification and limit the scope of issues that are addressed in CLEC certification proceedings to questions relating to the applicant's fitness.<sup>6</sup> Sprint agrees that these recommendations are necessary and appropriate and should be adopted by the Commission.

The justification that the PTA provides for maintaining the current consolidated procedures are unconvincing. The PTA contends that protesting CLEC applications is often the only means by which the ILEC can engage the CLEC to discover the type of services the CLEC intends to offer upon the grant of its certificate and the impact of provisioning those services on the ILEC.<sup>7</sup> The relevant consideration for the Commission in a certification proceeding, however, is the CLEC applicant's fitness to provision the services it proposes to offer.<sup>8</sup> PTA's concerns about needing to understand the business the CLEC is proposing to offer is a topic better addressed in the interconnection negotiations that will typically be entered into by the CLECs and ILECs either while the certification process is proceeding or

---

<sup>5</sup> *Id.* at 10-11.

<sup>6</sup> *Id.*

<sup>7</sup> PTA Comments at 7.

<sup>8</sup> Sprint Initial Comments at 5-6.

after it has concluded. There is no compelling reason to tie up the CLEC certification process with this type of inquiry.

**B. Several of PA NENA's Recommendations are Inappropriately Tied to the CLEC Application and Certification Process and Will Create Undue Delays in CLEC Certification**

The proposed Application form contains a provision addressing compliance with the Public Safety Emergency Telephone Act. This provision, set forth in section 19 of the proposed form, is styled as an affidavit and it requires the CLEC applicant to verify that it has contacted the appropriate 911 coordinators via a certified letter from the list provided from the Pennsylvania Emergency Management Agency (PEMA). The CLEC applicant must also affirm that arrangements are underway for the provisioning of emergency 911 service in each of the counties or cities where CLEC service is to be provided. And it requires the CLEC to certify that it has attached a copy of the 911 Coordinator list indicating each 911 Coordinator that the CLEC has contacted. This provision essentially mirrors what now appears in section 22 of the current application form.

PA NENA's comments urge the Commission to adopt additional requirements associated with the Public Safety Emergency Telephone Act. These items are enumerated in the Appendix to PA NENA's comments. While Sprint either concurs or has no objection to some of the recommendations outlined in its comments – for example, it does not object to advising affected PSAPs when it exits the local service market or when a change of control in its corporate structure occurs - there are other points that give Sprint some concern. And in many cases, PA NENA's additional recommendations are already captured in the proposed Application form and are therefore largely unnecessary or duplicative. For example, it requests that the Commission require CLECs, as part of the Commission-reviewed

certification process, to show that the CLEC has notified affected PSAPs of their entry to provide local service in a particular county. This requirement, however, is already contained in the Application form.

Sprint specifically has concerns with using the CLEC application and the CLEC certification process as the means to enforce compliance with the Public Safety Emergency Telephone Act. While it is both appropriate and necessary for the Commission to ensure that CLECs are complying with the Public Safety Emergency Telephone Act post-certification, the recommendations that PA NENA proposes to be implemented pre-certification are problematic for CLECs due to their timing. For instance, PA NENA would have the Commission require CLECs to certify that they have made arrangements for the provisioning of 911 service when the application for certification is filed. Sprint, however, as well as most CLECs, would not begin to build out its network to implement 911 service until the Commission has approved its CLEC application and authorized it to begin its local service operations. Likewise, CLECs would often need to have an interconnection agreement in place with the ILEC before they are able to begin the process of implementing 911 service. In many cases, interconnection negotiations do not begin until the CLEC is granted authorization to operate or they are often taking place concurrently with the CLEC certification process. Thus, it would be difficult for the CLEC to certify that it has complied with this requirement at the time the certification application is filed when it may not have completed interconnection negotiations, finalized an interconnection agreement, and started the network build-out process. Accordingly, the Commission should not adopt this PA NENA recommendation.

Second, PA NENA recommends that the Commission require the CLEC to provide evidence with its application filing that the CLEC has submitted a completed Service Provider Questionnaire to each 911 coordinator in the cities and counties in which it intends to provide local service. Sprint is, of course, aware of the necessity to complete and submit a Service Provider Questionnaire to the affected PSAPs and it has no objection to complying with this submission, but again, its issue with this PA NENA proposal goes to the timing of the requirement. Requiring the submission of the questionnaire before the application for CLEC certification is even filed is premature and the information contained in that questionnaire may be obsolete well before certification is even granted and local service is actually implemented. Sprint's practice is to contact the affected PSAP and complete the questionnaire after certification has been granted and it is ready to implement local service in a particular rate center. Thus, Sprint urges the Commission to decline to adopt this PA NENA recommendation. Moreover, this concept is similarly addressed in bullet point number 6 that asks the Applicant to acknowledge its ongoing obligation to provide the Service Provider Questionnaire to each affected 911 coordinator in the event that it extends service into new service territories, ceases its operations in those areas, or undergoes a change in control. This provision could be further modified to reflect that CLECs have an ongoing obligation to submit the Service Provider Questionnaire to the appropriate PSAP upon the grant of certification and to keep its contents up-to-date when conditions or circumstances change.

### **CONCLUSION**

WHEREFORE, Sprint requests that the Commission take these reply comments, as well as its initial comments, into consideration as it determines whether to adopt revisions to its entry procedures applicable to new entrants and the accompanying Application form.

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY L.P.

/s/ Jennifer A. Duane

Jennifer A. Duane  
State Regulatory Attorney  
Sprint Nextel Corporation  
Mailstop: VARESP0201-A208  
2001 Edmund Halley Drive, 2<sup>nd</sup> Floor  
Reston, Virginia 20191  
Phone: (703) 592-7781  
Facsimile: (703) 59207404  
[Jennifer.a.duane@sprint.com](mailto:Jennifer.a.duane@sprint.com)

Its Attorney

Dated: April 27, 2007

**Proposed Modifications to the Application Form for Approval to Offer, Render, Furnish or Supply Telecommunications Services to the Public in the Commonwealth of Pennsylvania**

**Docket No. M-00960799**

**Service List**

I hereby certify that I have on this 27<sup>th</sup> day of April 2007 served a true and correct copy of Sprint Communications Company L.P.'s Reply Comments filed in the above-referenced docket on the following persons by Overnight, Electronic, or First Class U.S. Mail.

Pamela Polacek, Esquire  
McNees Wallace & Nurick LLC  
100 Pine Street  
Harrisburg PA 17101-1923  
[ppolacek@mwn.com](mailto:ppolacek@mwn.com)

Norman J. Kennard, Esquire  
Kennard Law Offices LLC  
116 Pine Street, 5<sup>th</sup> Floor  
Harrisburg PA 17101  
[njk@kennard-law.com](mailto:njk@kennard-law.com)

Kathleen S. O'Neill  
Carl Willner  
Attorneys  
Telecommunications & Media Enforcement  
Section - Antitrust Division  
1401 H Street, N.W., Suite 8000  
Washington, D.C. 20530

Timothy W. Baldwin, ENP  
Deputy Director  
Lancaster County-Wide Communications  
National Emergency Number Association  
Keystone State Chapter  
P.O. Box 487  
Manheim, PA 17545-0487

Anthony Rametta  
Bureau of Fixed Utility Services  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120  
[arametta@state.pa.us](mailto:arametta@state.pa.us)

Robert Marinko  
Office of Special Assistants  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120  
[rmarinko@state.pa.us](mailto:rmarinko@state.pa.us)

Joseph Witmer  
Law Bureau  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120  
[jowitmer@state.pa.us](mailto:jowitmer@state.pa.us)

Louise Fink Smith  
Law Bureau  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120  
[finksmith@state.pa.us](mailto:finksmith@state.pa.us)

  
Jo-Ann Monroe