

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

THE APPLICATION OF THE GTE SPRINT)
COMMUNICATIONS CORPORATION FOR A)
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO OFFER INTERCITY) CASE NO. 9030
TELECOMMUNICATIONS SERVICES TO THE)
PUBLIC IN THE COMMONWEALTH OF)
KENTUCKY AND FOR THE ESTABLISHMENT)
OF INITIAL RATES)

ORDER AMENDING ORDER DATED NOVEMBER 21, 1984

By an Order dated November 21, 1984, the Commission granted GTE Sprint Communications Corporation ("Sprint") a certificate of public convenience and necessity to begin intrastate operations in Kentucky as a non-dominant facilities-based carrier. On December 10, 1984, Sprint filed an application requesting the Commission to alter or amend its November 21, 1984, Order, or in the alternative, to grant rehearing, so as to delete the order contained on page 9 that states "Sprint shall be classified as a facilities-based carrier and not a WATS reseller." Sprint notes in its application that the ordering paragraph to which it objects conflicts with an earlier determination made in the Order at page 5. Therein the Commission determined not to take action at that time on the request of AT&T Communications of the South Central States, Inc. ("ATTCOM"). ATTCOM requested that Sprint, MCI and Allnet be recognized as facilities-based carriers, but the Commission declined, given that Sprint was not seeking

authority to operate as a WATS reseller, but rather was seeking only intrastate-interLATA authority. Sprint further observes that the Orders granting certificates to MCI and Allnet did not contain the ordering paragraph to which Sprint objects.

The Commission agrees that there is an inconsistency between the ordering paragraph in dispute and the statements made at page 5 of the Order. This inconsistency within the Order coupled with the unexplained distinction between Sprint and MCI or Allnet's Orders issued concurrently underscores the fact that the inclusion of the paragraph was an inadvertent error. Therefore, the Commission will delete the order contained on page 9 of its November 21, 1984, Order which states, "Sprint shall be classified as a facilities-based carrier and not a WATS reseller," and grant Sprint's request to this extent.

Sprint is also correct in pointing out that there has been no formal finding of fact that Sprint is a facilities-based carrier in Kentucky. However, this does not alter the fact that Sprint requested, and was ultimately granted, a certificate of convenience and necessity as a non-dominant facilities-based carrier. The nature of Sprint's certificate request was firmly established at the outset of the hearing in this case:

VICE CHAIRMAN DOZIER:

. . . There has been an issue that was raised, I think, initially by Sprint about whether their application for a certificate would be on the basis of a non-dominant facility based carrier that would be providing interLATA communication only or as a reseller. At this point, then, let me ask Ms. Randall--is that [the] basis on which Sprint is applying for its certificate?

MS. RANDALL:

Sprint, today, is asking for intrastate inter-LATA authority in accordance with the order in 273. It is not asking for authority as what you all call a pure [pure] reseller in the order in 261.

The Commission, through Administrative Case Nos. 261 and 273, has made provision for two fundamental types of intrastate interLATA toll telecommunications carriers: facilities-based carriers and WATS resellers.² A request for operating authority that is not on the basis of WATS resale under Administrative Case No. 261 is necessarily a request for authority as a facilities-based carrier under Administrative Case No. 273.

Sprint chose to request the type of certificate provided for by the Orders in Administrative Case No. 273, even though the October 26, 1984, Order on Rehearing in that case specifically advised Sprint that its certificate case was the proper forum for consideration of Sprint's status.³ Therefore, under the current terms of its operating authority, Sprint is accordingly bound by all requirements and obligations imposed upon non-dominant facilities-based carriers.

IT IS THEREFORE ORDERED that the November 21, 1984, Order in this case shall be amended to delete the following ordering

¹ Transcript of Evidence, October 30, 1984, pages 7-8.

² In the category of facilities-based carriers, a further distinction has been drawn between dominant and non-dominant carriers. Sprint qualifies as a non-dominant carrier.


³ See Order on Rehearing, Administrative Case No. 273, page 19 and November 21, 1984, Order in Case No. 9030, page 4.

paragraph which appears at page 9: "Sprint shall be classified as a facilities-based carrier and not a WATS reseller."

Done at Frankfort, Kentucky, this 28th day of December, 1984.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary