

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for
certificate to provide
interexchange telecommunications
service by Sprint Spectrum L.P.
and request for waiver of bond
requirement.

DOCKET NO. 970385-TI
ORDER NO. PSC-97-1311-FOF-TI
ISSUED: October 22, 1997

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CERTIFICATE TO PROVIDE
INTEREXCHANGE TELECOMMUNICATIONS SERVICE
AND GRANTING WAIVER OF BOND REQUIREMENT

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

I. CASE BACKGROUND

On March 27, 1997, Sprint Spectrum L.P. (Sprint Spectrum)
filed an application for certification as an interexchange
telecommunication service company. Thereafter, on June 17, 1997,
we received a petition from Sprint Spectrum seeking a waiver of
Rule 25-24.490(2), Florida Administrative Code. The rule requires
that a company maintain on file with the Commission a bond covering
its current balance of deposits and advance payments from its
customers.

DOCUMENT NUMBER-DATE

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FPSC AND PSC REPORTING

Sprint Spectrum L.P.'s Petition for Waiver of Bond Requirement was filed on June 17, 1997. The Notice of Petition of Waiver of Bond Requirement was submitted to the Secretary of State for publication in the Florida Administrative Weekly on July 2, 1997. The comment period ended on July 25, 1997, and no comments were submitted. The Statutory Deadline for the our decision regarding this petition was September 15, 1997. Due to needed modifications on its tariff, Sprint Spectrum agreed to extend the review process beyond the Statutory Deadline.

II. SPRINT SPECTRUM'S IXC APPLICATION

Sprint Spectrum has applied for a certificate to provide interexchange telecommunications (IXC) service. Upon review of its application, it appears that Sprint Spectrum has sufficient technical, financial, and managerial capability to provide such service, as required under Section 364.337(3), Florida Statutes. Accordingly, we hereby grant Certificate No.5240 to Sprint Spectrum.

If this Order becomes final and effective, it shall serve as Sprint Spectrum's certificate. It should, therefore, be retained by Sprint Spectrum as proof of its certification.

IXCs are subject to Chapter 25-24, Florida Administrative Code, Part X, Rules Governing Telephone Service Provided by Interexchange Telephone Companies. IXC's are also required to comply with all applicable provisions of Chapter 364, Florida Statutes, and Chapters 25-4, Florida Administrative Code. Further, pursuant to the provisions of Order No. 16804, issued November 4, 1986, IXC's may not construct facilities to bypass a local exchange company without our prior approval.

III. SPRINT SPECTRUM'S WAIVER REQUEST

Rule 25-24.490(2), Florida Administrative Code, states as follows:

An interexchange company may require a deposit as a condition of service and may collect advance payments for more than one month of service if it maintains on file with the Commission a bond covering its current balance of deposits and advance payments (for more than one month's service). A company may

apply to the Commission for a waiver of the bond requirement by demonstrating that it possesses the financial resources and income to provide assurance of continued operation under its certificate over the long term.

We believe that the company has demonstrated adequate financial resources and income to assure the longevity of its operations. Sprint Spectrum has nearly \$10 billion in capitalization and financial commitments. The company has also invested millions of dollars in its construction of Florida PCS networks. Further, Sprint Spectrum predicts income in excess of \$30 million for its first year of operations in Florida.

In addition to meeting the requirements of Rule 25-24.490(2), Florida Administrative Code, for waiver of the bond requirement, Sprint Spectrum's petition for waiver must also meet the requirements of Chapter 120.542, Florida Statutes. Under this statutory requirement, a petitioner requesting a waiver of one of our rules must first demonstrate that the purpose of the underlying statute will otherwise be served if waiver of the rule is granted. Secondly, the petitioner must demonstrate that our continued enforcement of the rule would result in substantial hardship for the petitioner or violate principles of fairness.

We find that Sprint Spectrum's amended petition meets the requirements of Chapter 120.542, Florida Statutes. First, the petitioner has demonstrated that the pro-consumer, public interest purposes of Chapter 364.03 and 364.337, Florida Statutes, underlying Rule 25-24.490(2), Florida Administrative Code, will be served if we grant the waiver request. Sprint Spectrum has demonstrated that a bond is not necessary to protect consumers' interests in this situation because of its substantial financial resources and overall stability.

Secondly, the company has demonstrated that our enforcement of the bond requirement would result in substantial economic hardship for the company. Enforcement of the bond requirement would force Sprint Spectrum to invest a great amount of money in a bond and its associated expenses. Given Sprint Spectrum's financial stability and size, the posting of a bond is not necessary to protect the public interest. Moreover, we have already granted Sprint Spectrum's wireless competitors waivers of this bond requirement. Accordingly, we hereby grant Sprint Spectrum's waiver petition.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby grant to Sprint Spectrum L.P. Certificate No. 5240, subject to the terms and conditions specified in the body of this Order. It is further

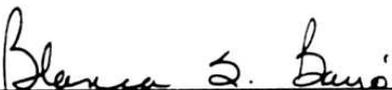
ORDERED that this Order shall serve as Sprint Spectrum L.P.'s certificate and should be retained by Sprint Spectrum L.P. as proof of its certification. It is further

ORDERED that Sprint Spectrum L.P.'s petition for waiver of Rule 24-24.490(2), Florida Administrative Code, is granted. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 22nd day of October, 1997.



BLANCA S. BAYO, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 12, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court.

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This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.