

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer	Chair
Marshall Johnson	Commissioner
Ken Nickolai	Commissioner
Thomas Pugh	Commissioner
Phyllis A. Reha	Commissioner

In the Matter of the 911 Plan for EN-TEL
Communications, L.L.C.

ISSUE DATE: September 28, 2005

DOCKET NO. P-430, 5882/M-05-132

ORDER REQUIRING EXPLANATION AND
INVITING REPLY

PROCEDURAL HISTORY

On September 22, 2003, the Commission authorized EN-TEL Communications, L.L.C. (EN-TEL), to offer local telecommunications service throughout the service areas of Citizens Telephone Company, Frontier Communications of Minnesota, Inc., Qwest Corporation (Qwest), and Sprint Minnesota, Inc. (Sprint), under certain conditions.¹ In particular, EN-TEL could not expand its service area until it had filed an updated Emergency 911 plan reflecting the expanded service area.

On January 18, 2005, EN-TEL submitted a copy of the proposed 911 plan for its expanded service area. EN-TEL stated that it had provided copies of the necessary 911 agreements to Qwest and Sprint on August 27, 2004, but that these companies had not yet executed the agreements.

On February 7, 2005, EN-TEL reported that Qwest had signed its 911 agreement.

On May 31, 2005, EN-TEL reported that it had contacted Sprint several times about signing its 911 agreement, but that Sprint still had not executed the agreement. EN-TEL asked the Commission to approve its 911 plan as filed on January 18 without awaiting further action from Sprint, or to order Sprint to execute the agreement.

On June 30, 2005, the Minnesota Department of Commerce (the Department) recommended that the Commission require Sprint to 1) execute the necessary documents or show cause for not doing so, 2) respond to EN-TEL's and the Department's comments, and 3) explain how its actions are consistent with Minnesota Rules part 7812.0550, subpart 2.

On September 15, 2005, this matter came before the Commission.

¹ *In the Matter of the Request by EN-TEL Communications, L.L.C., to Expand its Service Area*, Docket No. P-5882/M-03-1381; see also Order (October 3, 2003) (eliminating some conditions because they had already been fulfilled).

FINDINGS AND CONCLUSIONS

I. PARTY COMMENTS

At the hearing the parties reported that Sprint had executed the necessary documents, rendering the request to compel this outcome moot. EN-TEL and the Department said that they had recently received the documents from Sprint, and were in the process of reviewing them.

Nevertheless, EN-TEL and the Department remain dissatisfied with the length of time Sprint required to fulfill this obligation. EN-TEL complains that Sprint's inaction has had anti-competitive consequences because it impaired EN-TEL's ability to compete in Sprint's service area. The Minnesota Telephone Company, another local service competitor, also reported delays in securing cooperation from Sprint.

The Department questions whether Sprint's conduct violates Minnesota Rules part 7812.0550, subpart 2 ("LEC Cooperation"). That rule directs an incumbent local exchange carrier (LEC) such as Sprint to provide competitors with access to facilities and information necessary to enable the competitor to meet its 911 obligations. EN-TEL and the Department continue to recommend that the Commission compel Sprint to respond to their comments, and to explain how its actions comply with Commission rules.

Sprint defends its actions, arguing that the 911 documents it was asked to sign would have subjected Sprint to unwarranted liability. Sprint also alleged that issues concerning its interconnection agreement with EN-TEL complicated this matter. Sprint offered to provide a more detailed explanation upon Commission request.

II. COMMISSION ACTION

The Commission is pleased to learn that EN-TEL and Sprint have resolved their impasse in the current matter, and that EN-TEL will be able to progress toward extending its services throughout Sprint's service area.

To avoid similar delays in the future, the Commission will accept the recommendations of EN-TEL and the Department to seek a greater understanding of the source of the delays in the current case. Consequently, the Commission will direct Sprint to respond to comments of EN-TEL and the Department, and to explain how its actions comply with Commission rules. The Commission will also invite comments on Sprint's explanations, as set forth below.

ORDER

1. Within 20 days of the date of this Order, Sprint Minnesota, Inc., shall provide a written response to the comments of EN-TEL Communications, LLC, and the Minnesota Department of Commerce, and shall explain how its actions comply with Minnesota Rules part 7820.0550.
2. Within 20 days of the filing of Sprint's response, interested persons may file replies.

3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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