S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of **SPRINT COMMUNICATIONS COMPANY L.P.'s** petition for de novo review pursuant to MCL 484.3117 of Determination No. 5 made by the METRO Authority.	)	Case No. U-14878

At the May 25, 2006 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

ORDER AND NOTICE OF HEARING

This case involves a question of first impression raised by Sprint Communications Company L.P. (Sprint) regarding an interpretation of the Metropolitan Extension Telecommunications Rights-of-way Oversight Act (METRO Act), 2002 PA 48, as amended, MCL 484.3101 *et seq.*

On November 1, 2002, the METRO Act became effective. Section 3 of the METRO Act created an oversight authority, known as the METRO Authority, to manage telecommunications facilities located in public rights-of-way. Among other things, the METRO Act standardized management of public rights-of-way, the collection of fees from telecommunications providers for facilities owned by the provider, and the remittance of such fees to municipalities for the use of the rights-of-way.

The following facts do not appear to be in dispute. Sprint provides telecommunications services via fiber facilities located in the public rights-of-way. As such, Sprint is responsible for

making payments to the METRO Authority for the use of these rights-of-way. On March 30, 2005, Sprint first reported its linear fiber footage to the METRO Authority. In so doing, Sprint's report detailed all fiber in place and delineated owned fiber and leased fiber. On May 20, 2005, the METRO Authority billed Sprint for both leased and owned fiber for the 2003, 2004, and 2005 right-of-way fees. On June 1, 2005, Sprint objected to the invoice. On June 10, 2005, the METRO Authority modified its original invoice and re-billed Sprint an amount based only on the facilities actually owned by Sprint. Sprint submitted a payment for the full amount of the revised invoice on June 28, 2005.

On July 19, 2005, the METRO Authority issued Determination No. 5, which states that a provider's maintenance fees should be based on the linear feet of all facilities "occupied" by the provider in the public right-of-way without regard to whether the facilities are leased or owned by the provider. Determination No. 5 was communicated to Sprint via letter dated July 28, 2005 from Melvin Farmer, Jr., Director of the METRO Authority. On August 11, 2005, Sprint communicated its disagreement with Determination No. 5 to Mr. Farmer.

On May 3, 2006, Sprint filed a petition pursuant to Section 17 of the METRO Act, MCL 484.3117, for *de novo* review by the Commission of Determination No. 5 made by the METRO Authority. In its petition, Sprint represents that it has no objection to paying the per linear foot amounts for its owned facilities. However, Sprint insists that it should not be required to pay fees for leased facilities that are owned by other providers.

Because Sprint's petition presents a question of first impression that involves a previously untested *de novo* review procedure and will likely affect numerous interested persons, the Commission finds that this matter should be set for a prehearing conference before an administrative law judge. Toward that end, the Commission directs that copies of this order and notice of

hearing be served on Sprint, the METRO Authority, all providers of telecommunications services who routinely receive invoices from the METRO Authority, The Michigan Municipal League, and the Michigan Townships Association. In addition, in the interests of fairness and broad participation, the Commission encourages the METRO Authority to place a conspicuous notice of the intervention procedures and the prehearing conference on its website.

Any person who is interested in intervening in this proceeding as a party shall file a petition to intervene in Case No. U-14878 by June 22, 2006 in accordance with the Commission's Rules of Practice and Procedure, R 460.17101 *et seq*. The prehearing conference shall be held at 9:00 a.m. on June 29, 2006 at the Commission's Lansing office location, which is located at 6545 Mercantile Way, Lansing, Michigan, 48911.

All documents filed in this case shall be submitted electronically through the MPSC Electronic Case Filings Web site at: https://efile.mpsc.cis.state.mi.us/cgi-bin/efile/login.pl. Requirements and instructions for filing electronic documents can be found in the Electronic Case Filings Users Manual at: http://efile.mpsc.cis.state.mi.us/efile/pdfs/usersmanual.pdf. An application for account and letter of assurance, required of all first-time users, are located at: http://efile.mpsc.cis.state.mi.us/efile/pdfs/assurance.pdf. If you require assistance prior to e-filing, contact the Commission Staff at 517-241-6170 or by e-mail at: mpscefilecases@michigan.gov.

The Commission FINDS that:

a. Jurisdiction is pursuant to 2002 PA 48, as amended, MCL 484.3101 *et seq*.; 1969 PA 306, as amended, MCL 24.201 *et seq*.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 *et seq*.

b. Any person who is interested in intervening in this proceeding as a party should file a petition to intervene in Case No. U-14878 by June 22, 2006 in accordance with the Commission's Rules of Practice and Procedure, R 460.17101 *et seq*.

c. A prehearing conference should be scheduled for 9:00 a.m. on June 29, 2006 at the Commission's Lansing office location, which is located at 6545 Mercantile Way, Lansing, Michigan, 48911.

d. Copies of this order and notice of hearing should be served on Sprint, the METRO Authority, all providers of telecommunications services who routinely receive invoices from the METRO Authority, The Michigan Municipal League, and the Michigan Townships Association. In addition, in the interests of fairness and broad participation, the METRO Authority should be encouraged to place a conspicuous notice of the intervention procedures and the prehearing conference on its website.

THEREFORE IT IS ORDERED that:

A. Any person who is interested in intervening in this proceeding as a party shall file a petition to intervene in Case No. U-14878 by June 22, 2006 in accordance with the Commission's Rules of Practice and Procedure, R 460.17101 *et seq*.

B. A prehearing conference should be scheduled for 9:00 a.m. on June 29, 2006 at the Commission's Lansing office location, which is located at 6545 Mercantile Way, Lansing, Michigan, 48911.

C. Copies of this order and notice of hearing shall be served on Sprint Communications Company L.P., the METRO Authority, all providers of telecommunications services who routinely receive invoices from the METRO Authority, The Michigan Municipal League, and the Michigan Townships Association. In addition, in the interests of fairness and broad participation, the Metro

Authority is encouraged to place a conspicuous notice of the intervention procedures and the prehearing conference on its website.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chairman

(S E A L)

/s/ Laura Chappelle
Commissioner

/s/ Monica Martinez
Commissioner

By its action of May 25, 2006.

/s/ Mary Jo Kunkle
Its Executive Secretary

Authority is encouraged to place a conspicuous notice of the intervention procedures and the prehearing conference on its website.

The Commission reserves jurisdiction and may issue further orders as necessary.

MICHIGAN PUBLIC SERVICE COMMISSION

_____
Chairman

_____
Commissioner

_____
Commissioner

By its action of May 25, 2006.

_____
Its Executive Secretary

In the matter of **SPRINT COMMUNICATIONS COMPANY L.P.'s** petition for de novo review pursuant to MCL 484.3117 of Determination No. 5 made by the METRO Authority.	)	Case No. U-14878

Suggested Minute:

> "Adopt and issue order dated May 25, 2006 scheduling a proceeding for consideration of the May 3, 2006 petition for *de novo* review of Determination No. 5 made by the METRO Authority that was filed by Sprint Communications Company L.P. pursuant to Section 17 of the METRO Act, MCL 484.3117, as set forth in the order."