IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SPRINT COMMUNICATIONS COMPANY L.P.,	)	4:05CV3260
Plaintiff,	)	
vs.	)	**MEMORANDUM AND ORDER**
NEBRASKA PUBLIC SERVICE COMMISSION, et al.,	)	
Defendants,	)	
and	)	
SOUTHEAST NEBRASKA TELEPHONE COMPANY,	)	
Defendant/ Intervener.	)	

On May 15, 2006, I stayed this case pending the release of an order in Federal Communications Commission (FCC) case No. DA 06-534, captioned *In the Matter of Petition of Time Warner Cable for Declaratory Ruling that Competitive Local Exchange Carriers May Obtain Interconnection under Section 251 of the Communications Act of 1934, as amended, to Provide Wholesale Telecommunications Services to VoIP Provider*.[1] (Filing 68.)

On September 26, 2006, Sprint filed a motion to dissolve the stay. (Filing 74.) The defendants oppose the motion. I will deny the motion without prejudice.

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[1]There may be other numbers associated with this FCC case, such as "WC Docket No. 06-55."

Sprint relies upon WWC License, L.L.C. v. Boyle, 459 F.3d 880, 892 (8th Cir 2006) (recognizing related but unresolved proceeding before FCC, but stating that "we owe no deference to the FCC's silence.") Based upon this authority, Sprint argues that I should lift the stay. Sprint argues that, as in WWC, the related matter has been pending for some time before the FCC and remains unresolved. Thus, so the argument goes, if the Court of Appeals did not wait for the FCC decision in WWC, I should not wait either.

Respectfully, I do not read the language relied upon by Sprint from the WWC decision or the WWC opinion more broadly to limit or alter my discretionary authority to continue the stay in this case. On the contrary, the question of whether a Court of Appeals should wait for a decision of the FCC raises different prudential concerns than whether a trial judge should do so.

However, I do agree with Sprint that everyone (most especially the public) would be far better off if the FCC would promptly make a decision on the related matters pending before it. I cannot and will not hold this case in abeyance indefinitely. Indeed, I take this opportunity to respectfully request an early ruling from the FCC. In that respect, Sprint (or the appropriate interested party) may inform the FCC of my request.

Accordingly,

IT IS ORDERED that the motion to dissolve the stay (filing 74) is denied without prejudice.

October 16, 2006.

BY THE COURT:

s/Richard G. Kopf
United States District Judge