Before the
Federal Communications Commission
Washington, D.C. 20554

MAILED
NOV 26 2008
FCC Mail Room

In the Matter of	)	
	)	
Section 63.71 Application of Sprint Communications Company L.P. for Authority to Discontinue Domestic Telecommunications Services	))))	WC Docket No. 08-116 Comp. Pol. File No. 871

DOCKET FILE COPY ORIGINAL

ORDER

Adopted: November 24, 2008 **Released:** November 24, 2008

By the Deputy Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant the application of Sprint Communications Company L.P. (Sprint or Applicant) to discontinue the provision of 900 Transport Service pursuant to section 214(a) of the Communications Act of 1934, as amended (the Act),[1] and section 63.71 of the Commission's rules.[2] Specifically, Sprint is granted authority to discontinue its provision of 900 Transport Service on or after December 19, 2008. As explained in further detail below, this order provides existing customers more than three weeks beyond the release date of this order, and a total of more than seven months from the date customers were originally informed of Sprint's plans, to complete their transition to alternative services. During this period the Wireline Competition Bureau (Bureau) will take steps to help facilitate the transfer of all blocks of 10,000 numbers within relevant 900-NPA code(s) from Sprint to any qualified alternative 900 service provider that the remaining customers request.

II. BACKGROUND

2. On May 8, 2008, Sprint filed an application with the Commission requesting authority, under section 214 of the Act and section 63.71 of the Commission's rules, to discontinue the provision of a certain domestic telecommunications service throughout the United States, Puerto Rico, and the U.S. Virgin Islands (collectively Service Areas).[3] Specifically, Sprint seeks authority to discontinue 900 Transport Service in the above-mentioned locations. Sprint specifies that its 900 Transport Service is an inward calling service provided to subscribers who offer information to end users via 900 telephone numbers.[4] At

[1] 47 U.S.C. § 214(a).

[2] 47 C.F.R. § 63.71.

[3] Sprint Application (filed May 8, 2008). By amendments filed June 6, 2008 and June 27, 2008, Sprint corrected certain deficiencies in its initial application and updated the record regarding notice to customers. *See* Letter from Michael B. Fingerhut, Director–Government Affairs, Sprint Nextel, to Rodney McDonald, Wireline Competition Bureau, FCC (filed June 6, 2008) (Sprint June 6 Amendment); Letter from Michael B. Fingerhut, Director–Government Affairs, Sprint Nextel, to Marlene H. Dortch, Secretary, FCC (filed June 27, 2008) (Sprint June 27 Amendment).

[4] Sprint asserts that it is non-dominant with respect to the service it seeks to discontinue.

the time of the original filing of its application, Sprint indicated that it provided 900 Transport Service on a common carrier basis to a total of six customers, and that the usage generated by those customers was de minimis. Thus Sprint proposed to discontinue its provision of this service in the Service Areas on or after July 31, 2008, after which date Sprint no longer planned to generally offer or provide the service.[5] Sprint represents that it sent letters on April 30, 2008 to inform its six customers of the proposed discontinuance, and that it later notified all but one of these customers, whose service was subsequently terminated for non-payment, by letters sent in compliance with section 63.71(a) of the Commission's rules as of June 13, 2008.

3. By Public Notice issued June 30, 2008, the Bureau announced that Sprint's application would be deemed to be automatically granted on the thirty-first day after the release date of the notice in accordance with section 63.71(c), unless the Commission notified Sprint that the grant would not be automatically effective.[6] Accordingly, the notice stated that pursuant to section 63.71(c), and absent further Commission action, Sprint could not terminate service to the customers affected by the application until July 31, 2008.

4. The Commission received three initial comments in opposition to Sprint's proposed discontinuance, filed on behalf of two commenters, Jartel, Inc. (Jartel) and Network Telephone Services Inc. (NTS).[7] Commenters primarily object to Sprint's application on the grounds that Sprint's proposed discontinuance of 900 transport services disregards the "brand" value these numbers have for customers and the disruption that will be caused to businesses that use specific 900 numbers if they are no longer able to use them. Commenters suggest that, in the absence of a requirement to port the specific numbers that customers use, the proposed discontinuance may force some affected customers to go out of business unless they are given the opportunity to prepare for the loss of 900 numbers which may have been used for many years.[8] Commenters submit that if Sprint is not required to maintain service, it should be required to transfer blocks containing these numbers in a way that allows the numbers to continue to be used in the marketplace.[9] Alternatively, these commenters submit that if Sprint's affected customers are required to

[5] Sprint states, however, that it plans to continue to self-provision dedicated access facilities for transporting 900 traffic for the benefit of its Telecommunications Relay Service (TRS). Sprint explains that this will facilitate access to 900 service providers for callers to the Sprint TRS center.

[6] *Comments Invited on Application of Sprint Communications Company L.P. to Discontinue Domestic Telecommunications Services*, Public Notice, WC Docket No. 08-116, DA 08-1564 (WCB June 30, 2008).

[7] *See* Letter from Daniel H. Coleman, Vice President - Legal & Business Affairs, Network Telephone Services, Inc. to Marlene H. Dortch, Secretary, FCC (filed May 2, 2008) (NTS May 2 Letter); Letter from Michael B. Hazzard and Jennifer M. Kashatus, Counsel for Jartel, Inc., to Marlene Dortch, Secretary, FCC (filed May 30, 2008) (Jartel May 30 Letter) (indicating that Jartel is a service bureau whose customers also may have used these 900 numbers for as long as 18 years); Opposition to Sprint Application for Discontinuance of Jartel, Inc., WC Docket No. 08-116, Comp. Pol. File No. 871 (filed July 15, 2008) (Jartel Opposition).

[8] *See* NTS May 2 Letter at 1; Jartel Opposition at 4.

[9] *See* NTS May 2 Letter at 2; Jartel May 30 Letter at 2; Jartel Opposition at 2, 5-6 (stating that the Commission also could direct Sprint to continue to provide these services but allow Jartel to manage them). Jartel suggests that Sprint's originally proposed discontinuance on July 31, 2008 would not allow sufficient time for Sprint either to return the relevant 900 NPA/NXX codes to the NANPA for eventual use by an alternative 900 service provider, or to directly transfer those relevant 10,000 number blocks containing the customer numbers to an alternative provider. *See* Jartel May 30 Letter at 2; Jartel Opposition at 2, 6-7. Jartel indicates that a direct transfer to an alternative provider would allow customers to continue to use their numbers with as little disruption as possible. *See* Jartel May 30 Letter at 2.

obtain new 900 numbers, Sprint should be required to continue service beyond the originally proposed discontinuance date in order to allow customers enough time to obtain and sufficiently advertise their new numbers.[10] Commenters warn that the proposed discontinuance could put some companies out of business and have a profound negative effect on the 900 number industry.[11] In its reply, Sprint submits that it is extremely expensive to maintain a network of switches and transport facilities for so few customers generating a de minimis amount of traffic, and that there are a number of providers that have 900 numbering resources that are available to Sprint's remaining customers.[12] In consideration of the unresolved concerns raised in the record regarding a need for the retention of certain 900 numbers, a potential loss or disruption of service to customers, and a lack of reasonable substitutes or time to fully transition to alternative providers, the Bureau issued a second Public Notice, on July 30, 2008, requesting additional public comment and alerting the public that Sprint's application would not be automatically granted.[13] In response to this second Public Notice, the Commission received comments and *ex parte* communications from Jartel, NTS and Sprint.[14]

---

[10] *See* Jartel Opposition at 7-8 (suggesting that Sprint be required to maintain its service for at least fourteen months); NTS May 2 Letter at 2 (suggesting that Sprint be required to provide no less than two years notice).

[11] NTS May 2 Letter at 1; Jartel May 30 Letter at 2; Jartel Opposition at 2, 4-5, 8 (also explaining that Jartel is a service bureau that serves many other information providers as an intermediary between the carrier and other information providers).

[12] *See* Reply of Sprint Communications L.P., WC Docket No. 08-116 at 3-4 (filed July 25, 2008) (Sprint Reply); *but see* Letter from Michael B. Hazzard and Jennifer M. Kashatus, counsel for Jartel, Inc., to Marlene Dortch, Secretary, FCC at 3 (filed July 30, 2008) (Jartel July 30 Letter) (submitting that Sprint should be able to route its traffic over alternate trunks without any additional charges other than normal usage charges, and that Sprint's discontinuance application should be removed from streamlined treatment given the issues in the record).

[13] *Application of Sprint Communications Company L.P. to Discontinue Domestic Telecommunications Services Not Automatically Granted, Further Comment Requested*, Public Notice, WC Docket No. 08-116, Comp. Pol. File No. 871, DA 08-1820 (rel. July 30, 2008).

[14] *See* Further Comments of Jartel, Inc. in Opposition to Sprint Application for Discontinuance, WC Docket No. 08-116, Comp. Pol. File No. 871 (filed Aug. 6, 2008) (Jartel Further Comments) (suggesting that Sprint should transfer its 900 NPA/NXXs to another provider in order to allow customers to maintain their numbers or at least maintain its service for fourteen months); Letter from Michael B. Hazzard and Jennifer M. Kashatus, counsel for Jartel, Inc., to Marlene Dortch, Secretary, FCC (filed Aug. 18, 2008) (Jartel Aug. 18 Letter); Letter from Jennifer M. Kashatus, counsel for Jartel, Inc., to Marlene Dortch, Secretary, FCC (filed Oct. 9, 2008) (Jartel Oct. 9 Letter); Further Comments of Network Telephone Services Inc. pursuant to DA 08-1820, WC Docket No. 08-116, Comp. Pol. File No. 871 (filed Aug. 5, 2008) (NTS Further Comments) (indicating that NTS immediately began to promote its services on available alternative 900 telephone numbers upon receiving notice of the discontinuance, but suggesting that a third party could help administer Sprint's 900 services to allow continued operation; alternatively requesting an additional 18 months before Sprint is allowed to discontinue service); Letter from Daniel H. Coleman, Vice President - Legal & Business Affairs, Network Telephone Services, Inc., to Carmell Weathers, Competition Policy Division, Wireline Competition Bureau, FCC (filed Aug. 19, 2008) (NTS Aug. 19 Letter); Reply Comments of Network Telephone Services Inc., WC Docket No. 08-116, Comp. Pol. File No. 871 (filed Oct. 14, 2008) (NTS Response); *but see* Comments of Sprint Communications Company L.P., WC Docket No. 08-116, Comp. Pol. File No. 871 (filed Aug. 6, 2008) (Sprint Further Comments) (suggesting that Sprint plans to return all but one of the blocks of 900 numbers it has been allocated by the NANPA, but that it also would be willing to directly transfer the blocks containing 900 numbers currently used by its remaining customers to another qualified 900 service provider as early as September 30th in order to help avoid any disruption in service); Letter from Michael B. Fingerhut, Director–Government Affairs, Sprint Nextel, to Marlene H. Dortch, Secretary, FCC (filed Aug. 12, 2008) (Sprint (continued....)

5. Section 214(a) of the Communications Act, as amended, states that "[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby."[15] The primary purpose of this requirement is to reduce the harm to consumers caused by discontinuances of service, which is an important aspect of the Commission's general obligation under the Communications Act to protect and promote the public interest.[16] As the Commission has stated, "we have retained the right to delay grant of a discontinuance authorization if we believe an unreasonable degree of customer hardship would result,"[17] and will review each application to determine whether proper notice has been given, whether customers or other end users are able to receive service or a reasonable substitute from another carrier, and whether the public convenience and necessity is otherwise adversely affected.[18]

6. The Commission has considerable discretion in determining whether to grant a carrier authority to discontinue service pursuant to section 214.[19] Balancing the interests of the carrier and the affected user community, the Commission considers a number of factors including: (1) the financial impact on the common carrier of continuing to provide the service; (2) the need for the service in general; (3) the need for the particular facilities in question; (4) the existence, availability, and adequacy of alternatives; and (5) increased charges for alternative services, although this factor may be outweighed by other considerations.[20]

III. DISCUSSION

7. We find that the record supports granting Sprint's request to discontinue service in accordance with Sprint's representations and subject to certain conditions. Specifically, and as stated above, Sprint indicates that it has been willing to assist in the transfer of blocks containing 900 numbers currently used by its remaining customers to another qualified 900 service provider in order to help avoid

(Continued from previous page)
Aug. 12 Letter); Letter from Michael B. Fingerhut, Director–Government Affairs, Sprint Nextel, to Marlene H. Dortch, Secretary, FCC (filed Oct. 3, 2008) (Sprint Oct. 3 Letter); Letter from Michael B. Fingerhut, Director–Government Affairs, Sprint Nextel, to Marlene H. Dortch, Secretary, FCC (filed Oct. 27, 2008) (Sprint Oct. 27 Letter).

[15] 47 U.S.C. § 214(a).

[16] *See* 47 U.S.C. § 201.

[17] *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, First Report and Order, CC Docket No. 79-252, 85 FCC 2d 1, 49 (1980) (*Competitive Carrier First Report and Order*).

[18] *See* 47 C.F.R. § 63.71(a); *see, e.g.*, *AT&T Application to Discontinue Interstate Sent-Paid Coin Service Not Automatically Granted*, Public Notice, NSD File No. W-P-D-497 (Aug. 3, 2001) (requiring AT&T to show how it will minimize the negative impact on the affected customers).

[19] *FCC v. RCA Communications, Inc.*, 73 S. Ct. 998, 1002 (1953); *see also Verizon Telephone Companies, Section 63.71 Application to Discontinue Expanded Interconnection Service Through Physical Collocation*, Order, WC Docket No. 02-237, FCC 03-256 (rel. Oct. 22, 2003) (*Verizon Expanded Interconnection Discontinuance Order*).

[20] *Application for Authority Pursuant to Section 214 of the Communications Act of 1934 to Cease Providing Dark Fiber Service*, File Nos. W-P-C-6670 and W-P-D-364, 8 FCC Rcd 2589, 2600, para. 54 (1993) (*Dark Fiber Order*), *remanded on other grounds*, *Southwestern Bell v. FCC*, 19 F.3d 1475 (D.C. Cir. 1994); *see Verizon Expanded Interconnection Discontinuance Order*.

any disruption in service.[21] On the basis of the representations in the record and considering the five factors identified by the Commission for evaluating applications to discontinue service, we find that the proposed discontinuance as amended should not result in an unreasonable degree of customer hardship, and, therefore, that there should be no adverse effect on the public convenience and necessity.[22]

8. Applying the first of the Commission's factors—the financial impact of continuing to provide the service for the carrier seeking to discontinue—we note that, in its reply, Sprint states that it is extremely expensive for Sprint to maintain a network of switches and transport facilities for the few customers that remain and generate so little traffic.[23] We note that commenters have questioned whether there would be an incremental increase in cost for Sprint to continue service to its few remaining 900 transport service customers in light of Sprint's plans to discontinue this common carrier service while continuing to self-provision dedicated access facilities to transport 900 traffic for the benefit of Sprint's Telecommunications Relay Service.[24] However, Sprint also asserts that maintaining 900 transport service requires Sprint to expend limited resources to provide few customers with this service instead of expanding its offering of wireless and wireline broadband services.[25] We find that requiring Sprint to maintain service for an extended period could have a financial impact on Sprint that is in conflict with Sprint's overall business plan, but the record related to this factor does not clearly indicate how much more it would cost Sprint to maintain service for its few remaining customers.

9. Applying factors two and three—the need for the services in general and for the particular services in question—Sprint explains that its 900 Transport Service is an inward calling service that allows the subscriber, an information provider, to offer information to customers that call in to the service via a 900 telephone number.[26] Sprint states that it has very few remaining customers of 900 Transport Service and that the usage generated by these customers is de minimis.[27] Specifically, Sprint indicates that it provided 900 Transport Service on a common carrier basis to a total of six customers at the time of the original filing of its application, and that there were only three remaining customers as of its filing on October 27, 2008.[28] Both Jartel and NTS maintain that Sprint has contributed to the declines in customers and call volumes over the years.[29] These commenters further submit that the use of alternative providers is not a fully satisfactory solution without provisions for the continued use of

[21] *See* Sprint Further Comments at 5; Sprint Oct. 3 Letter at 1; Sprint Oct. 27 Letter at 1.

[22] We find that this is also consistent with our evaluation in a prior order regarding a similar discontinuance of certain 900 services by AT&T Communications. *See AT&T Communications' Application to Discontinue Domestic Telecommunications Services*, Memorandum Opinion and Order, 18 FCC Rcd 24376 (Wireline Comp. Bur. 2003) (*AT&T Order*) (applying the five factors to find reasonable an extension of AT&T's proposed discontinuance date).

[23] Sprint Reply at 3.

[24] Jartel July 30 Letter at 3; Jartel Further Comments at 5; NTS Further Comments at 3.

[25] Sprint Reply at 2-3; *see also* Sprint Further Comments at 1 (indicating that Sprint's continued provision of these circuit-switched narrow-band services is no longer compatible with Sprint's overall strategy for competing in a broadband Internet Protocol ("IP")–based telecommunications marketplace).

[26] Sprint June 27 Amendment at 1.

[27] Sprint Application at 2; Sprint Reply at 2-3.

[28] Sprint Application at 2; Sprint Reply at 2-3; Sprint Oct. 27 Letter at 1.

[29] Jartel Further Comments at 3; NTS Further Comments at 1.

certain 900 numbers, but they acknowledge that limited alternatives are available.[30]

10. Finally, considering factor four—the existence, availability, and adequacy of alternatives—we note that Sprint asserts that there are a number of alternative providers that have 900 numbering resources.[31] As indicated above, both Jartel and NTS acknowledge that certain alternative providers are available, but they suggest that these alternatives are not adequate substitutes for the service and specific 900 numbers they have been able to access and use through Sprint.[32] Sprint, however, states that it has been willing to return to NANPA, or directly transfer to another qualified 900 service provider, all 10,000 numbers within each of the 900-NPA codes it has been assigned with the exception of the 10,000 numbers in the 900-230 code.[33] Thus we find that the existence and availability of alternatives has been established in the record, and the main concerns raised by commenters regarding the adequacy of alternatives would be addressed by Sprint's agreement to transfer blocks of numbers to qualified alternative 900 service providers. Although Sprint suggests that it will have to significantly raise its rates for its 900 Transport Services if it is required to continue its provision of these services after December 31, 2008, the fifth factor— increased charges for alternative services— was not raised by any commenter in this proceeding, and we are persuaded that alternative services are available at reasonable cost.[34]

11. We therefore find that the record in this proceeding indicates that Sprint has provided sufficient notice and assurances that it is willing to aid in the transition of customers to alternative providers to justify a grant of Sprint's application. We note that most of Sprint's remaining customers did not file comments in opposition to Sprint's originally proposed discontinuance. Only Jartel and NTS filed comments in opposition to Sprint's filing, and raised concerns about Sprint's proposed discontinuance. Commenters are primarily opposed to Sprint discontinuing service because of the potential loss of certain 900 numbers that they may have used for years. Alternatively, if Sprint is permitted to discontinue service, they are opposed to any premature discontinuance before they are able to secure a satisfactory agreement with an alternative provider. Both Jartel and Sprint reference the Bureau's previous decision regarding AT&T's discontinuance of its AT&T MultiQuest 900 Services.[35] We note that, in that proceeding, the Bureau received comments and *ex parte* communications from 19 parties.[36] Accordingly, AT&T's application was removed from streamlined treatment, but AT&T was eventually allowed to discontinue its service on February 14, 2004, approximately ten months after it first notified customers of the proposed discontinuance. The two commenters in the present case raised sufficient concerns regarding the availability of reasonable alternatives to justify the removal of Sprint's application from streamlined treatment. However, we note that the Bureau's action in removing Sprint's discontinuance application from streamlined processing has already granted all customers almost four

[30] Jartel Further Comments at 4; NTS Further Comments at 2-3.

[31] Sprint Further Comments at 4.

[32] Jartel Further Comments at 4 (stating that there are not any true substitutes because the telephone numbers are not portable); NTS Further Comments at 2-3 (stating that many of the 900 exchanges listed on the NANPA website are not available for use by customers and that it takes time to negotiate suitable agreements).

[33] Sprint Further Comments at 5; Sprint Aug. 12 Letter.

[34] *See* Sprint Oct. 27 Letter at 2.

[35] Jartel Opposition at 3; Sprint Oct. 3 Letter at 2; Sprint Oct. 27 Letter at 1; *see AT&T Order*, 18 FCC Rcd 24376.

[36] *AT&T Order*, 18 FCC Rcd at 24377.

additional months to finalize new arrangements, and a total of nearly seven months from the date Sprint first informed its customers of the proposed discontinuance. NTS states that it immediately began to promote its services on available alternative 900 numbers upon receiving notice from Sprint, indicating the availability of alternative providers.[37] In addition, commenters have been encouraged to inform Sprint of any alternative provider to whom Sprint could transfer the appropriate block(s) of 900 numbers in order to allow for the possible continued use of existing numbers, and to avoid any disruption in service.[38] Given the circumstances and after balancing all of the relevant factors, we find it reasonable to grant Sprint authority to discontinue service on December 19, 2008, and thus to allow its remaining customers more than three additional weeks to complete their transition to alternative providers. During this period the Bureau will take steps to help facilitate the transfer of all blocks of 10,000 numbers within relevant 900-NPA code(s) from Sprint to any qualified alternative 900 service provider that the remaining customers request.

IV. ORDERING CLAUSE

12. Accordingly, pursuant to sections 1, 4(i), and 214 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 214, and sections 0.91, 0.291, and 63.71 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 63.71, IT IS ORDERED that the application of Sprint Communications Company L.P. to discontinue domestic telecommunications IS GRANTED to the extent declared herein.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Deputy Chief
Wireline Competition Bureau

[37] NTS Further Comments at 2.

[38] Sprint states that, as of October 27, 2008, it has not been contacted regarding any remaining customer's plans to receive service from an alternative provider. Sprint Oct. 27 Letter at 2.