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RECEIVED

AUG 17 2007

PUBLIC SERVICE  
COMMISSION

August 16, 2007

Ms. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602

Re: Petition of Sprint Communications Company L.P. and Sprint Spectrum L.P. d/b/a Sprint PCS for Arbitration of Rates, Terms and Conditions of Interconnection Agreement with BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky d/b/a AT&T Southeast  
PSC 2007-00180

Dear Ms. O'Donnell:

An informal conference was held in the above-referenced matter on August 1, 2007. During the conference AT&T Kentucky agreed to provide the Commission with supplemental information bearing on the issues in this Docket. Accordingly, AT&T Kentucky is hereby notifying the Commission that on August 10, 2007, in a matter substantively identical to the matter before this Commission, the Louisiana Public Service Commission Staff filed a Motion to Hold Proceeding in Abeyance.<sup>1</sup>

In its Motion to Hold Proceeding in Abeyance, the Louisiana Staff noted that it reviewed all of the relevant filings "as well as action taken in other jurisdictions on this matter, and determined the best course of action would entail the Commission asking the FCC to clarify when the 'three-year period' was intended to commence." This conclusion was based in part on the Louisiana Commission's "prior experience in addressing issues that have arisen as the result of ambiguities and uncertainties contained in FCC Orders." The Louisiana Commission also noted that "on at least three prior occasions, the Commission has issued decisions on such matters, only to have them challenged in federal court and/or before the FCC by the non-prevailing party."

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<sup>1</sup> Staff's Motion To Hold Proceeding In Abeyance, In re: Petition of Sprint Communications Company, LP and Sprint Spectrum LP d/b/a Sprint PCS for Arbitration of Rates, Term and Conditions of Interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Louisiana d/b/a AT&T Southeast, Docket No. U-30179 (attached hereto as "Exhibit A"). AT&T Kentucky will submit a copy of the Louisiana Commission's written order as soon as it becomes available.

Ms. Beth O'Donnell  
August 16, 2007  
Page 2

Furthermore, as AT&T Kentucky previously notified the Commission, on July 31, 2007, in a matter that is also substantively identical to the matter before the Commission in this docket, the Florida Public Service Commission ("Florida PSC") voted unanimously to approve its Staff's recommendation to grant AT&T's Motion to Dismiss.<sup>2</sup> The Florida PSC determined that Sprint's Petition seeks enforcement of an alleged right under the AT&T/BellSouth merger commitments, as opposed to an open issue concerning Section 251. The Florida PSC also voted unanimously to adopt the Florida Staff's recommendation to close the docket.

Therefore, in the interest of administrative and judicial economy, AT&T Kentucky respectfully requests the Commission grant AT&T Kentucky's Motion to Dismiss, or in the alternative hold this Docket in abeyance pending resolution before the FCC. Taking such action will preserve resources, and will avoid the possibility of conflicting orders and piece meal litigation.

The original and five (5) copies of this letter are enclosed for filing.

Sincerely,



Mary K. Keyer

cc: Party of record

Enclosure

687755

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<sup>2</sup> In the Matter of: Petition of Sprint Communications Company L.P. and Sprint Spectrum L.P., d/b/a Sprint PCS for Arbitration of Rates, Terms, and Conditions of Interconnection With BellSouth Telecommunications, Inc., d/b/a AT&T Florida, d/b/a AT&T Southeast, Docket No. 070249-TP (a copy of the vote sheet is attached hereto as "Exhibit B"). AT&T Kentucky will submit a copy of the Florida Commission's written order as soon as it becomes available.

**BEFORE THE  
LOUISIANA PUBLIC SERVICE COMMISSION**

2007 AUG 10 PM 2:46  
LA PUBLIC SERVICE  
COMMISSION

**SPRINT COMMUNICATIONS COMPANY LP  
AND SPRINT SPECTRUM LP  
D/B/A SPRINT PCS, EX PARTE**

**DOCKET NO. U-30179**

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*In re: Petition of Sprint Communications Company, LP and Sprint Spectrum LP d/b/a Sprint PCS for Arbitration of Rates, Term and Conditions of Interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Louisiana d/b/a AT&T Southeast.*

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**STAFF'S MOTION TO HOLD PROCEEDING IN ABEYANCE**

NOW COMES STAFF, of the Louisiana Public Service Commission ("Staff"), who for the foregoing reasons respectfully moves this matter be held in abeyance. The above captioned docket was instituted by Sprint Communications Company LP and Sprint Spectrum LP ("Sprint") on June 21, 2007. As set forth in the filing, Sprint filed this matter pursuant to Section 252(b) of the Telecommunications Act of 1996 in order to arbitrate certain terms and conditions of interconnection with BellSouth Telecommunications d/b/a AT&T Louisiana ("AT&T"). At specific issue in this matter is the interpretation of a "Merger Commitment" agreed to by AT&T, Inc. and BellSouth Corporation in the AT&T/BellSouth merger proceeding before the FCC. As contained in Appendix F to the FCC Order<sup>1</sup> at page 150,

The AT&T/BellSouth ILECs shall permit a requesting telecommunications carrier to extend its current interconnection agreement, regardless of whether its initial term has expired, for a period of up to three years, subject to amendment to reflect prior and future changes of law. During this period, the interconnection

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<sup>1</sup> *In the Matter of AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74 (Adopted: December 29, 2006, Released March 26, 2007).

agreement may be terminated only via the carrier's request unless terminated pursuant to the agreement's 'default provisions.'

Sprint is requesting to implement the three-year extension and apply it to its current interconnection agreement. While Sprint's ability to make such a request appears to be undisputed, there is a disagreement as to when the "three-year period" commenced. Sprint and BellSouth in their pleadings filed herein have suggested at least three separate dates on which the "three-year period" may have commenced.

Prior to the status conference held in this matter, Staff reviewed the filings in the above captioned docket, as well as action taken in other jurisdictions on this matter, and determined the best course of action would entail the Commission asking the FCC to clarify when the "three-year period" was intended to commence. This conclusion was based on the above factors, as well as the Commission's prior experience in addressing issues that have arisen as the result of ambiguities and uncertainties contained in FCC Orders. In fact, on at least three prior occasions, the Commission has issued decisions on such matters, only to have them challenged in federal court and/or before the FCC by the non-prevailing party. Subsequent to reaching this internal decision, the Commission has learned that the Florida Public Service Commission, when dealing with the same issue, found it had no jurisdiction over this issue.<sup>2</sup>

As the interpretation of this "three year" period will impact not only the parties to the current docket, but any other carrier seeking an extension pursuant to the Merger Commitment, the Commission believes it would be beneficial to attempt to have the FCC weigh in with its clarification or interpretation on the matter. Staff's recommended course of action, as outlined

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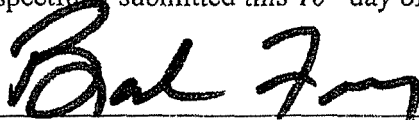
<sup>2</sup> In no way is the LPSC, by taking the above described course of action, asserting it has no jurisdiction over this matter. Any arguments as to whether this matter is jurisdictional to the Commission will be addressed at the appropriate time.

above, was discussed with the parties to this docket prior to the status conference held August 7, 2007.

In light of the above, Staff believes it would be beneficial to hold the current proceeding in abeyance, as the Commission will be seeking clarification from the FCC on the very issue which is the subject of this proceeding. Were this matter to continue to proceed while the Commission awaits clarification, it would result in a misuse of the Commission and the parties resources- the very result the Commission seeks to avoid by attempting to have the FCC weigh in on the issue.

Accordingly, Staff hereby moves that this matter be held in abeyance pending action from the FCC on the Commission's Motion for Clarification. Staff will file a copy of its FCC motion in this proceeding and distribute it to all parties of record.

Respectfully submitted this 10<sup>th</sup> day of August, 2007,



Brandon Frey, Attorney Supervisor  
Louisiana Public Service Commission  
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CERTIFICATE OF SERVICE

This is to certify that a copy of the Staff's Motion to Hold Proceeding was mailed to all parties of record on 10th, day of August, 2007.

A handwritten signature in black ink, appearing to read "Brandon Frey". The signature is written in a cursive style and is positioned above a horizontal line.

Brandon Frey, Supervising Staff Attorney  
Louisiana Public Service Commission

Service List

Docket No.: U-30179

All Commissioners

Brandon Frey - LPSC Supervising Attorney

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BellSouth Telecommunications Inc. d/b/a AT&T Louisiana

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[paul.Guarisco@phelps.com](mailto:paul.Guarisco@phelps.com) on behalf of the Small Company Committee

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

July 31, 2007

Docket No. 070249-TP - Petition by Sprint Communications Company Limited Partnership and Sprint Spectrum Limited Partnership d/b/a Sprint PCS for arbitration of rates, terms and conditions of interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast.

Issue 1: Should the Commission grant AT&T's Motion To Dismiss?

Recommendation: Yes. The Commission should grant AT&T's Motion to Dismiss because Sprint is requesting the Commission enforce an allegedly known right (the Merger Commitments as interpreted by Sprint) under an FCC order as opposed to arbitrating an "open" issue concerning Section 251 obligations.

APPROVED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Handwritten signatures of majority commissioners: Ned A. Dy, Katrina McMurrain, [unclear], H. [unclear], and [unclear].

Empty lines for dissenting signatures and a vertical stamp: DOCUMENT NUMBER - DATE 06555 AUG-1 20

FPSC-COMMISSION CLERK

REMARKS/DISSENTING COMMENTS:

Staff's oral recommendation to deny the motion for oral argument filed by Sprint was approved.



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Vote Sheet

July 31, 2007

Docket No. 070249-TP – Petition by Sprint Communications Company Limited Partnership and Sprint Spectrum Limited Partnership d/b/a Sprint PCS for arbitration of rates, terms and conditions of interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast.

(Continued from previous page)

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed because the matter has been dismissed and no other issues need to be addressed by the Commission.

**APPROVED**