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September 17, 2010

Jeff DeRouen
Executive Director
Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40601

RE: Petition for Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky and Sprint Communications Co. L.P., Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. d/b/a Nextel Partners. Case No. 2010-00061

Dear Mr. DeRouen:

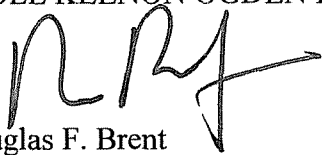
Enclosed please find and accept for filing the original and ten copies each of Sprint's Petition for Confidential Treatment of Sprint Exhibit RGF-4 and the rebuttal testimony of Sprint witnesses Mark G. Felton, Randy G. Farrar and James R. Burt.

Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copy and return to me via our runner

Should you have any questions please contact me at your convenience.

Very truly yours,

STOLL KEENON OGDEN PLLC


Douglas F. Brent

DFB:jms

Enclosures

cc: Service List

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

PETITION OF BELLSOUTH)
TELECOMMUNICATIONS, INC. d/b/a AT&T)
KENTUCKY FOR ARBITRATION OF)
INTERCONNECTION AGREEMENT WITH)
SPRINT COMMUNICATIONS CO. L.P.,) CASE NO. 2010-00061
SPRINT SPECTRUM L.P., NEXTEL WEST)
CORP., and NPCR, INC. d/b/a NEXTEL)
PARTNERS)

SPRINT'S PETITION FOR CONFIDENTIAL TREATMENT
OF SPRINT EXHIBIT RGF-4

Sprint Spectrum L.P., Nextel West Corp., NPCR, Inc., and Sprint Communications Company L.P. ("Sprint"), for their Petition for Confidential Treatment of Sprint Exhibit RGF-4 to the contemporaneously filed Rebuttal Testimony of Randy G. Farrar, pursuant to 807 KAR 5:001, Section 7 state as follows:

BACKGROUND

By this Petition, Sprint requests that the Public Service Commission ("Commission") grant confidential protection to information that is confidential and proprietary and that pertains to fully competitive aspects of Sprint and AT&T's businesses. Specifically, Sprint petitions the Commission to grant confidential protection to confidential and proprietary calculations that describe traffic volumes originated by AT&T Mobility and transited by AT&T to Sprint. Attached herewith is a copy of Sprint Exhibit RGF-4. Sprint Exhibit RGF-4 is confidential in its entirety.¹

¹ AT&T-Kentucky's representatives have entered into a protective agreement with Sprint under which each party will provide to the other material for which confidential treatment is sought. Thus, granting this motion will have no prejudicial effect on any party.

GROUNDS FOR PETITION

1. KRS 61.878(1)(c) protects commercial information, generally recognized as confidential or proprietary, if its public disclosure would cause competitive injury to the disclosing entity. Competitive injury occurs when disclosure of the information would give competitors an unfair business advantage. *Id.* The Commission maintains that the statute and the regulation require the party requesting confidentiality to demonstrate actual competition and the likelihood of competitive injury if the information is disclosed. Both requirements are met here. Actual competition exists because the information in question concerns confidential and proprietary information related to the wireless telecommunications business, which is among the most highly competitive markets. Sprint and AT&T are competitors that provide wireless services in Kentucky. Competitors providing substantially similar services are not required to disclose the types of information filed with the Commission in this case. The confidential business information disclosed to the Commission here would enable competitors to discover, and make use of, confidential information concerning the volume of AT&T and Sprint's transit traffic, resulting in an unfair competitive disadvantage.

2. The Kentucky Open Records Act also excludes from the Act's requirements any public record or information the disclosure of which is prohibited by federal law. KRS 61.878(1)(k). Pertinent here, Congress requires all telecommunications carriers "to protect the confidentiality of proprietary information of, and relating to, other telecommunication carriers." 47 U.S.C. § 222(a) (2006). Here, Sprint possesses proprietary information relating to AT&T.

3. Congress has also precluded the release of any customer proprietary network information ("CPNI") except in limited situations, none of which are applicable here. 47 U.S.C. § 222(c)(1) (2006). Subjecting the Sprint study to public disclosure will violate the federal mandate by releasing CPNI to the general population.

4. Specifically, the information provided in Sprint Exhibit RGF-4 includes the results of a study, prepared by Sprint, detailing the traffic volumes originated by AT&T Mobility and transited by AT&T to Sprint.

5. As stated, Sprint and AT&T are competitors under a federal duty to protect the trade secret information of each other and all telecommunications carriers. AT&T would likely believe that publication of the Sprint study will place AT&T at a competitive disadvantage with other carriers. Sprint maintains that it does not wish a competitor to release similar information to the Commission without confidential protection. Likewise, Sprint is compelled to preserve AT&T's proprietary information through this motion.

6. Sprint internally maintains the documents for which confidential treatment is sought. The documents are not on file with the Federal Communications Commission, Securities and Exchange Commission, or other public agency, are not available from any commercial or other source outside of Sprint, and are limited in distribution to those employees who, for a business reason, have access to such information. Sprint does not expect to learn about its competitors' traffic volumes or transiting information by reviewing records at the Commission. Neither should Sprint be expected to furnish information, concerning its own activities or those of other carriers, to competitors by virtue of having supported its claims in this case. Further, the public interest served by disclosure is minimal at best. By imposing unfair competitive injury upon Sprint and AT&T, disclosure in fact harms the public interest.

7. The confidential and proprietary financial and business information for which confidential protection is sought in this case is precisely the sort of information protected by 47 U.S.C. § 222, KRS 61.878(1)(c)1, and KRS 61.878(1)(k).

8. In *SouthEast Telephone, Inc. v. BellSouth Telecommunications, Inc.*, Case No. 2005-00053 (Order dated March 31, 2006), the Commission noted the need to balance the competing interests of privacy and the public's interest in government transparency, citing Kentucky cases stating that questions about "clearly unwarranted" invasions of privacy are "intrinsically situational" and must be determined within a specific context. The context is clear here: the referenced Exhibit would likely be of great interest to competitors and likely of no interest to anyone else. Thus, protection of the data would not undermine the purpose of the Open Records Act, which is primarily to keep the public informed on whether government agencies are properly executing their statutory functions. As the Commission wrote in *SouthEast Telephone*, "this aim is not fostered by disclosure of information about private citizens accumulated in various government files that reveals little or nothing about an agency's own conduct." *Id.* at 4 (citing *Hines v. Com., Dept. of Treasury*, 41 S.W.3d 872 (Ky. App. 2001)).

9. As shown above, disclosure of the traffic volumes originated by AT&T Mobility and transited by AT&T to Sprint would enable competitors to infer or suggest the competitive positions of Sprint and AT&T, all to Sprint and AT&T's unfair competitive disadvantage. Thus, the Commission should protect the confidential information pursuant to 47 U.S.C. § 222, KRS 61.878(1)(c)1, and KRS 61.878(1)(k). If the Commission disagrees, however, it must hold an evidentiary hearing to protect due process rights and supply the Commission with a complete record to enable it to reach a decision with regard to this matter. *Util. Regulatory Comm'n v. Ky. Water Serv. Co., Inc.*, 642 S.W.2d 591, 592-94 (Ky. App. 1982).

10. In accordance with the provisions of 807 KAR 5:001, Section 7, Sprint files herewith one (1) copy of the exhibit in redacted form for filing in the public record.

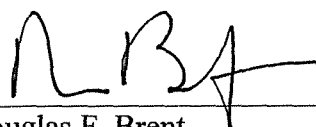
CONCLUSION

For the reasons stated, Sprint respectfully requests that the Commission grant confidential protection for the information at issue, or schedule an evidentiary hearing on all factual issues while maintaining the confidentiality of the information pending the outcome of the hearing.

Dated: September 17, 2010

Respectfully submitted,

By:



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Counsel for Sprint

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing Petition was served upon the following persons by first class United States mail, postage prepaid, on the 17th day of September, 2010:

Mary K. Keyer
General Counsel
BellSouth Telecommunications, Inc.
d/b/a AT&T KY
601 W. Chestnut Street
4th Floor East
Louisville, KY 40203



Counsel for Sprint