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March 9, 2010

RECEIVED

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

MAR 09 2010

PUBLIC SERVICE
COMMISSION

RE: *Petition for Arbitration of Interconnection Agreement between BellSouth Telecommunications Inc. d/b/a AT&T Kentucky and Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. d/b/a Nextel Partners*
Case No. 2010-00061
And
Petition for Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky and Sprint Communications L.P.
Case No. 2010-00062

Dear Mr. DeRouen:

Enclosed please find the following:

1. Ten copies of the Motion Of Sprint Spectrum L.P., Nextel West Corp., NPCR, Inc. d/b/a Nextel Partners and Sprint Communications Company L.P. (collectively, "Sprint") to Consolidate Arbitration Petitions. Five paper copies are to be filed in each case; and
2. Two copies of Sprint's Response to the referenced Petitions for Arbitration. One paper copy (including the 261 page exhibit) is to be filed in each case.
3. Ten CDs, each containing electronic copies of Sprint's Motion to Consolidate and Response to the Petitions for Arbitration. Each CD is appended to a copy of this letter.

Should the Commission require any additional copies of any of the materials we are filing today please do not hesitate to let me know.

Mr. Jeff DeRouen
March 9, 2010
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Please indicate receipt of this filing by placing your file stamp on the extra copy and returning to me via our runner.

Very truly yours,

STOLL KEENON OGDEN PLLC

A handwritten signature in black ink, appearing to read 'DFB', with a long horizontal stroke extending to the right.

Douglas F. Brent

DFB:jms

Enclosures

cc: Service List

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

MAR 09 2010

PUBLIC SERVICE
COMMISSION

In the Matters of:

PETITION FOR ARBITRATION OF)
INTERCONNECTION AGREEMENT BETWEEN)
BELLSOUTH TELECOMMUNICATIONS, INC.) Case No. 2010-00061
D/B/A AT&T KENTUCKY AND SPRINT)
SPECTRUM L.P., NEXTEL WEST CORP.,)
AND NPCR, INC. D/B/A NEXTEL PARTNERS)

And

PETITION FOR ARBITRATION OF)
INTERCONNECTION AGREEMENT BETWEEN)
BELLSOUTH TELECOMMUNICATIONS, INC.) Case No. 2010-00062
D/B/A AT&T KENTUCKY AND SPRINT)
COMMUNICATIONS COMPANY L.P.)

**MOTION OF SPRINT SPECTRUM L.P., NEXTEL WEST CORP., NPCR, INC. D/B/A
NEXTEL PARTNERS AND SPRINT COMMUNICATIONS COMPANY L.P. TO
TO CONSOLIDATE ARBITRATION PETITIONS**

Pursuant to the Section 252(g) of the Communications Act of 1934 as amended by the Telecommunications Act of 1996, ("the Act"), Sprint Spectrum L.P. on behalf of itself and as agent and General Partner of WirelessCo, L.P., and SprintCom, Inc., jointly d/b/a Sprint PCS ("Sprint PCS"), Nextel West Corp. ("Nextel"), NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners"), and Sprint Communications Company L.P. (collectively "Sprint") respectfully move to consolidate the two arbitration petitions filed by BellSouth Telecommunications, Inc., d/b/a AT&T Kentucky ("AT&T") on February 12, 2010, in the above-styled matters. In support of its Motion, Sprint respectfully shows as follows:

1. Section 252(g) of the Telecommunications Act of 1996 ("Act") allows the Commission to consolidate arbitration proceedings "in order to reduce administrative burdens on

telecommunications carriers, other parties to the proceeding and the State commission in carrying out its responsibilities under the Act.”¹ As discussed below, such consolidation is clearly appropriate in this instance.

2. On February 12, 2010, AT&T filed two, substantially overlapping arbitrations with the Commission against the Sprint wireline and wireless entities identified above.² The Wireless Petition was assigned Case No. 2010-00061, and the Wireline Petition was assigned Case No. 2010-00062.

3. As discussed in Sprint’s Joint Response³ to the petitions, filed concurrently herewith, not only is there is substantial overlap in the subject matter and issues contained in the petitions, AT&T has included contradictory position statements in the two petitions with regard to the *same issues*, and in some cases, with regard to the very *same contract language*. If the Commission were to proceed to consider this matter in two separate arbitration proceedings and compile two separate evidentiary records, the Commission could reach inconsistent determinations with regard to the same subject matter or even the same contract language at issue. To avoid this incongruity, and for the reasons of administrative efficiency and judicial

¹ 47 U.S.C. § 252 (g): “[w]here not inconsistent with the requirements of this Act, a State commission may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State commission in carrying out its responsibilities under this Act.”

² See and cf.: *Petition For Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky and Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. d/b/a Nextel Partners*, filed February 12, 2010 and assigned Case No. 2010-00061 (“Wireless Petition”) and *Petition For Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky and Sprint Communications Company L.P.*, filed February 12, 2010 and assigned Case No. 2010-00062 (“Wireline Petition”).

³ KPSC Case Nos. 2010-00061, 2010-00062, Joint Response of Sprint Spectrum L.P., Nextel West Corp., NPCR, Inc. d/b/a Nextel Partners and Sprint Communications Company L.P. to BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky’s Duplicative Petitions for Section 252(b) Arbitration (filed February 12, 2010) (“Joint Response”).

economy as provided for in 47 U.S.C. Section 252(g), the Commission should consolidate AT&T's petitions and issue a procedural schedule as recommended by Sprint in its Prayer for Relief at the conclusion of the Joint Response.

4. By way of example with regard to the substantial overlap and numerous inconsistencies between the two AT&T arbitration petitions and exhibits, Sprint asks the Commission to consider the following. When each Sprint issue is mapped to its respective location in the AT&T Wireline and Wireless DPL, it is clear that almost every Sprint issue is present in both Case No. 2010-00061 and Case No. 2010-00062.⁴ The following is a list of examples of various actions that AT&T appears to have taken/not taken as to Sprint issues, which demonstrates the need for all of Sprint's issues to be addressed in one proceeding to ensure consistency in issue-specific considerations and ultimate resolution:

- AT&T does not acknowledge and include the following three Sprint-identified and unresolved Preliminary Issues in either of AT&T's DPLs:
 1. Have the parties had adequate time to engage in good faith negotiations?
 2. When can AT&T require Sprint Affiliated entities to have different contract provisions regarding the same Issues, or even entirely separate Agreements, based upon the technology used by a given Sprint entity?
 3. Should defined terms not only be consistent with the law, but also consistently used through the entire Agreement?
- As to various definitions and substantive contract provisions, AT&T appears to have accepted Sprint proposed language or deletions, but does not affirmatively note such items as "Resolved" in its DPLs.⁵ Instead, AT&T appears to have simply intended to show such language in plain text in its proposed contract

⁴ See e.g., Sprint Exhibit 1 collective General Terms and Conditions ("GTC") Part B collective definitions Issue 32, such as "911 Service" which cross-reference identifies same definitional dispute to exist in both AT&T Wireless and Wireline DPLs; and substantive issues, such as Sprint Exhibit 1, Attachment 3, Issue 4 regarding "Methods of Interconnection" which cross-reference maps the same Issue to AT&T Wireless Attachment 3 Issues 3 and 4 and AT&T Wireline Attachment 3 Issue 4.

⁵ See e.g., Sprint Exhibit 1 definition of "Affiliate" and Sprint Attachment 3 Issue 15 (this Sprint Issue referred to two items, Dialing Parity and AT&T's "Attachment 3a – Out of Exchange-LEC". AT&T's plain text reflects the Dialing Parity language, but the Attachment 3a issue is still disputed.)

documents. As demonstrated by further categories below that note the existence of inaccuracies in what it may depict in its DPLs as compared to its proposed contract language documents, the problem is that without a clear DPL indication as to what is “Resolved”, ambiguities arise as to whether plain text language truly reflects agreed to “Resolved” language or not.

- There are numerous instances where, if a term may ultimately be determined to be necessary, in light of Sprint’s position it is entitled to unified interconnection arrangements, such terms need to be included in the parties’ ultimate contract(s) whether one contract or two may be used, but AT&T only includes a given provision in either its Wireline or Wireless DPL/proposed language, but not both.⁶
- AT&T takes inconsistent positions between its two DPLs as to Sprint language, as well as inconsistent positions as between its DPL and proposed contract language.⁷
- AT&T fails to accurately depict Sprint language in one, but not both, of its DPLs.⁸

5. The Commission has consolidated other arbitration proceedings on motions filed by competitive carriers, including the wireless affiliate of AT&T when it responded to multiple arbitration petitions filed by rural ILECs. Specifically, in Case No. 2006-00215, AT&T Wireless (and Sprint Nextel) cited Section 252(g) of the Act and moved the Commission to consolidate 41 arbitration petitions that included identical issues. The Commission chose not to combine all 41 petitions in a single case, because (1) not every ILEC would be interconnecting with every wireless carrier and (2) separate cost studies were required for each ILEC. However, in light of

⁶ See e.g. Sprint Exhibit 1 GTC Part B collective definitions Issue 32, such as “Building”, as to which AT&T includes the term in its Wireline DPL but not in its Wireless DPL.

⁷ See e.g. Sprint Exhibit 1, GTC Part A Issue 29 regarding “Implementation of Agreement” provisions, and *see and cf.* AT&T Wireless Issue 9 and Wireline Issue 13, and corresponding proposed contract sections 33. AT&T inconsistently shows disputed language in wireless DPL as to section 33.1 as compared to its proposed contract (which shows it as plain text), and takes inconsistent positions on what it accepts in 33.2 as between its two DPLs (wireless DPL shows all language disputed, wireline DPL the majority is undisputed) and proposed contracts (wireless contract shows all as plain text, and wireline showing majority as plain text undisputed).

⁸ Sprint Exhibit 1, Attachment 3, Issues 16 and 17 regarding whether there need to be two or more “Authorized Service traffic categories” and, depending on the answer to that question, how to describe the necessary categories, and *see and cf.* AT&T Wireless Attachment 3 Issue 14 and Wireline Attachment 3 Issue 14, but the Wireline DPL Issue 14 does not accurately depict Sprint’s language.

those factors the Commission still determined to consolidate every petition related to each ILEC, to permit the parties to “enjoy many of the benefits of consolidation while minimizing participation in matters not relevant to any given party.” *Duo County Telephone*, Case No. 2006-00215, Order (July 25, 2006). Such issues are not even a concern here, because only one ILEC is involved and Sprint’s representatives will be participating in every matter before the Commission.

6. The Commission has relied on the consolidation option under Section 252(g) even in a case where four un-affiliated CLECs filed jointly to arbitrate agreements with AT&T that included a common set of issues. *See Joint Petition for Arbitration of NewSouth Communications Corp., NuVox Communications, Inc., KMC Telecom and Xspedius Communications*, Case No. 2004-00044, Order (June 2, 2004) (denying BellSouth’s motion to “sever” proceedings when only 10 of 107 arbitration issues were not common to all parties). The Commission addressed BellSouth’s due process concerns by requiring the petitioners to coordinate their cross-examination so that each witness would be cross-examined only once.

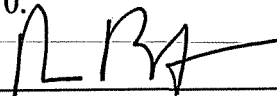
7. Consolidation here will remove the possibility of potentially inconsistent orders in separate cases that otherwise raise the same issues. The resources of the Commission and the parties that would be necessary in order to litigate two separate and (judging from AT&T’s Decision Points Lists⁹, or DPLs, attached to its Petitions) potentially massive arbitrations are staggering, and the Commission’s and parties’ investment in the substantially duplicative effort is simply not necessary.

⁹ The Commission generally uses the term “Issues Matrix” to refer to what AT&T has described as a “DPL.”

WHEREFORE, for the reasons set forth above, Sprint respectfully requests:

- a) that the two AT&T arbitration petitions identified above and filed with the Commission in Case Nos. 2010-00061 and 2010-00062 be consolidated into Case No. 2010-00061 for all purposes;
- b) in accord with the Prayer for Relief included in Sprint's Joint Response to the AT&T Petitions, filed concurrently herewith, that the Commission adopt Sprint's proposed procedural schedule for the consolidated arbitration proceeding; and
- c) that the Commission grant such other and further relief as it deems just and proper.

Respectfully submitted this 9th day of March, 2010.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served by First Class Mail on those persons whose names appear below this 9th day of March, 2010.

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