

**BEFORE THE
MISSOURI PUBLIC UTILITY COMMISSION**

Sprint Communications Company L.P.,)
Sprint Spectrum L.P., Nextel West Corp)
and NPCR, Inc.,)
 Complainants,)
)
vs,)
)
Southwestern Bell Telephone Company)
d/b/a AT&T Missouri,)
 Respondent.)

Case No. TC-2008-_____

COMPLAINT

Pursuant to 4 CSR 240-2.070, Sprint Communications Company L.P., Sprint Spectrum L.P., and Nextel West Corp. (collectively "Sprint") bring this Complaint against Southwestern Bell Telephone Company d/b/a AT&T Missouri ("AT&T Missouri"). This Complaint arises out of the Commission-approved Agreement for Interconnection by and between Sprint and AT&T Missouri and AT&T Missouri's violation of the conditions imposed by the Federal Communications Commission ("FCC") on the merger between AT&T and BellSouth. Specifically, Sprint petitions the Commission to direct AT&T to execute an adoption amendment to port in and adopt the interconnection agreement between BellSouth Telecommunications Inc. d/b/a AT&T Southeast and Sprint Communications Company L.P. and Sprint Spectrum L.P., as extended and approved in Kentucky (the "Kentucky ICA"), in accordance with merger commitments made by AT&T. Sprint alleges the following:

1. The Sprint entities filing this Complaint and who are requesting interconnection are indirect wholly-owned subsidiaries of Sprint Nextel Corporation that primarily provide competitive local exchange and wireless services. Sprint Communications Company L.P. ("Sprint CLEC"), a Delaware limited partnership, is a competitive local exchange carrier under the Act, and an interexchange carrier, and is

certified by the Commission to provide telecommunications service in Missouri.¹ Sprint Spectrum L.P., a Delaware limited partnership, as agent and General Partner for WirelessCo, L.P., a Delaware limited partnership, and SprintCom, Inc., a Kansas corporation, all the foregoing entities jointly d/b/a Sprint PCS ("Sprint PCS"), provides commercial mobile radio service ("CMRS") in Missouri under licenses issued by the Federal Communications Commission ("FCC"). Nextel West Corp., a Delaware corporation, provides CMRS in Missouri under licenses issued by the FCC. The Sprint entities are "telecommunications carriers" under the Communications Act of 1934, as amended (the "Act").

2. Sprint's principal place of business is 6200 Sprint Parkway, Overland Park, Kansas 66251. The Sprint representatives involved in this dispute are:

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3. AT&T is a Missouri corporation having an office at One Bell Center, St. Louis, Missouri, 63101. AT&T is an incumbent local exchange carrier as defined by 47 U.S.C. § 252(h). AT&T is subject to the Commission's jurisdiction. AT&T, Sprint CLEC and Sprint PCS have been operating in Missouri under various interconnection agreements, with the latest version of the agreements effective in August, 2005. Nextel West Corp and AT&T entered into an interconnection agreement in August, 1998. The

¹ Sprint Communications Company L.P. was certified in Missouri in Case No. TA-97-269.

interconnection agreements have been subject to various amendments subsequent to their initial execution.

4. On March 4, 2006, AT&T's parent corporation, AT&T Inc., entered into an agreement to merge with BellSouth Corporation, the parent company of BellSouth Telecommunications, Inc. On March 31, 2006, AT&T Inc. and BellSouth Corporation filed a series of applications seeking FCC approval of the transaction.² During the resulting FCC proceeding, AT&T Inc. made a number of promises in the form of commitments in order to elicit FCC approval. The FCC ordered compliance with these commitments, and included such commitments as Conditions of its approval of the AT&T Inc./BellSouth Corporation merger.³ Appendix F of the FCC Order is attached to this Complaint as Exhibit A.

5. In the FCC Order approving the AT&T Inc./BellSouth Corporation merger, the interconnection-related Merger Commitments Nos. 1 and 2 (under the heading "**Reducing Transaction Costs Associated with Interconnection Agreements**") (collectively, the "Merger Commitments") obligate AT&T as follows:

Merger Commitment No. 1:

The AT&T/BellSouth ILECs shall make available to any requesting telecommunications carrier any entire effective interconnection agreement, whether negotiated or arbitrated that an AT&T/BellSouth ILEC entered into in any state in the AT&T/BellSouth 22-state ILEC operating territory, subject to state-specific pricing and performance plans and technical feasibility, and provided, further, than an AT&T/BellSouth ILEC shall not be obligated to provide pursuant to

² In the Matter of AT&T Inc. and BellSouth Corporation Application for Transfer of Control, Memorandum Opinion and Order, FCC 06-189, paragraphs 14, 17 (released March 26, 2007).

³ Id. at para. 227. ("IT IS FURTHER ORDERED that as a condition of this grant AT&T and BellSouth shall comply with the conditions set forth in Appendix F of this Order.").

*this commitment any interconnection arrangement or UNE unless it is feasible to provide, given the technical, network, and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made.*⁴

Merger Commitment No. 2:

*The AT&T/BellSouth ILECs shall not refuse a request by a telecommunications carrier to opt into an agreement on the ground that the agreement has not been amended to reflect changes of law, provided the requesting telecommunications carrier agrees to negotiate in good faith an amendment regarding such change of law immediately after it has opted into the agreement.*⁵

6. Sprint CLEC and Sprint PCS entered into an interconnection agreement with BellSouth Telecommunications, Inc. effective January 1, 2001 for the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, and Tennessee (the "BellSouth ICA"). By Order dated November 7, 2007, the Kentucky Public Service Commission extended the interconnection agreement between Sprint and AT&T for three years from December 29, 2006. The Kentucky Order is attached hereto as Exhibit B.

7. On August 21, 2007, AT&T notified Sprint that AT&T intended to terminate its existing interconnection agreements with Sprint.⁶ (Exhibit C) On August 31, Sprint replied to AT&T that it had received the notice and agreed to establish an arbitration window that would open on January 12, 2008, but also noted that it reserved its right to enforce any merger commitment, including the right to port an interconnection agreement from another state. (Exhibit D).

⁴ FCC Order at p. 149, APPENDIX F (emphasis added).

⁵ *Id.*

⁶ On August 24, AT&T withdrew its notice of termination regarding Sprint's CLEC entity, noting that the agreement's terms did not allow for notice until October 30, 2007. On November 1, 2007, in conformity with the agreement, AT&T filed its notice of termination regarding Sprint's CLEC entity. The result is that AT&T has terminated all the interconnection agreements with the Sprint Nextel entities in Missouri.

8. On November 20, 2007, Sprint notified AT&T that it intended to exercise its right under the Merger Commitments to port the Kentucky ICA to Missouri. The subject notification is attached hereto as Exhibit E.

9. AT&T has not responded to Sprint's request to port and adopt the Kentucky ICA in Missouri.

10. AT&T has not raised any state-specific pricing issues or technical feasibility issues that preclude the adoption of the BellSouth ICA in Missouri. Sprint has twice requested that AT&T identify any provisions in the BellSouth ICA that would require modification for use in another state.

11. On January 26, 2007, Sprint requested that AT&T "identify any specific provisions of the 2001 ICA [BellSouth ICA] that AT&T would not consider applicable in a given legacy AT&T state, along with an explanation as to why..." Then, on July 10, 2007, Sprint requested to port the Kentucky ICA into Ohio and requested that AT&T "identify any state orders that AT&T believes constitutes 'state-specific pricing and performance plans and technical feasibility such that it effects these state specific sections.'" (See Exhibit F). AT&T's response, dated October 9, 2007, did not identify any state-specific modifications necessary; AT&T only claimed that the Kentucky ICA could not be ported because it had expired. (See Exhibit G).

12. Starting in April, 2007, Sprint commenced a series of proceedings before the state commissions in the legacy BellSouth territory seeking to implement the Merger Commitments. Despite the stated intent of the interconnection-related commitments – Reducing Transaction Costs Associated with Interconnection Agreements – AT&T opposed Sprint's election at each State Commission, forcing Sprint to litigate to implement the commitment. After making Sprint

litigate this matter in every BellSouth state, AT&T conceded Sprint's election and issued an Accessible Letter dated November 16, 2007 recognizing Sprint's right to extend its agreement for three years.

13. On November 16, 2007, AT&T issued an Accessible Letter regarding the FCC Merger Commitments. (Attached as Exhibit H). Under the paragraph titled, "Porting ICAs", it stated, "Merger Commitment 7.1 allows carriers to port effective interconnection agreements entered into in any state in AT&T's 22-state ILEC operating territory (subject to stated limitations and requirements." The Accessible Letter further indicates that agreements that have not been noticed for termination/renegotiation – like the Kentucky ICA – are eligible for porting under Merger Commitment 7.1.

14. While AT&T and Sprint have engaged in negotiations regarding a new interconnection agreement that would include Missouri, those discussions have not resulted in an executed agreement. In lieu of initiating a full-blown arbitration proceeding in Missouri, and unnecessarily utilizing the resources of the Missouri Commission and Sprint, Sprint files this Complaint and exercises its rights under Merger Commitment 1 to port and adopt the Kentucky ICA in Missouri and requests that the Commission acknowledge and implement Sprint's request to adopt the Kentucky ICA and direct AT&T to execute an appropriate adoption amendment.

15. The Commission has jurisdiction over this Complaint. Pursuant to Sections 251 and 252 of the Communications Act of 1934, as amended, the FCC delegated authority over interconnection agreements to the State commissions.

16. Sprint presents only one legal issue to be resolved. There are no disputed factual issues. That single issue is Sprint's right to exercise the porting of the Kentucky ICA into

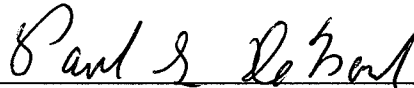
Missouri in accordance with Merger Commitment 1. A version of the AT&T Kentucky ICA can be viewed on AT&T's website at:

http://cpr.bellsouth.com/clec/docs/all_states/800aa291.pdf.

Sprint respectfully requests the Commission, pursuant to Sections 251 and 252, to order AT&T to enter into an agreement adopting the AT&T Kentucky ICA, in Missouri.

WHEREFORE, Sprint respectfully requests that the Commission assert jurisdiction over this Complaint, require AT&T Missouri to honor its commitment by fulfilling its obligation without unnecessary delay or transaction costs, and enter an order directing AT&T to execute an adoption amendment adopting the Kentucky ICA. The Commission should direct the parties to execute the adoption amendment, a copy of which is attached hereto as Exhibit I as expeditiously as possible.

Respectfully submitted,



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SPRINT COMMUNICATIONS COMPANY L.P.
SPRINT SPECTRUM L.P.
NEXTEL WEST CORP.

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Complaint has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 28th day of November, 2007, to:

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