

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 21, 2007

IN RE: PETITION REGARDING NOTICE OF )  
ELECTION OF INTERCONNECTION )  
AGREEMENT BY NEXTEL SOUTH )  
CORPORATION )

DOCKET NO.  
07-00161

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ORDER HOLDING DOCKET IN ABEYANCE

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This matter came before Chairman Eddie Roberson, Director Pat Miller, and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 24, 2007 for consideration of the *Petition Regarding Notice of Election of Interconnection Agreement by Nextel South Corp.* ("Petition") filed on June 22, 2007.

**BACKGROUND**

In its *Petition*, Nextel states that it is exercising its right pursuant to Merger Commitments No. 1 and 2 in the Federal Communication Commission's ("FCC") order approving the merger of BellSouth Corporation and AT&T, Inc.<sup>1</sup> and 47 U.S.C. § 252(i), to adopt the interconnection agreement ("Sprint ICA") between BellSouth Telecommunications, Inc.<sup>2</sup> and Sprint Communications Company Limited Partnership, Sprint Communications Company, L.P., and Sprint Spectrum L.P. (collectively "Sprint") dated January 1, 2001 and as amended. Nextel specifically requests that the Authority

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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) ("*Merger Order*").

<sup>2</sup>BellSouth Telecommunications, Inc. does business in Tennessee as "AT&T Tennessee" and will be hereinafter referred to as such.

issue an order acknowledging Nextel's adoption of the Sprint ICA, approving the adoption and making the Sprint ICA effective between the parties as of the date of the filing of the *Petition*, and requiring AT&T Tennessee to execute the adoption agreement included in the *Petition* as Exhibit B.

On July 17, 2007, AT&T Tennessee filed *BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee's Motion to Dismiss ("Motion")*. AT&T Tennessee requests that the Authority dismiss Nextel's *Petition* for the following reasons: 1) the requested adoption is premature because Nextel failed to rely on the contractually required dispute resolution process that exists in the existing interconnection agreement between AT&T Tennessee and Nextel; 2) Nextel is attempting to adopt an expired agreement and therefore the adoption does not meet the timing requirement under the Telecommunications Act of 1996 ("Act"); and 3) the Authority does not have the authority to interpret and enforce the *Merger Order's* merger commitments.

#### **FINDINGS AND CONCLUSIONS**

The panel found that the interconnection agreement between AT&T Tennessee and Sprint, which the Petitioner seeks to adopt, is in dispute in Docket No. 07-00132, and that the Authority has accepted the issues raised by the parties in that docket for arbitration.<sup>3</sup> The panel found that one of the issues in Docket No. 07-00132 concerns the start and end date of the interconnection agreement and consequently whether the agreement is in force or has expired. Because the status of the interconnection agreement is in dispute, the panel voted unanimously to hold the instant docket, Docket No. 07-00161, in abeyance until a decision is reached in the arbitration docket, Docket No. 07-00132.

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<sup>3</sup>*In re: Petition for Sprint Communications Company L.P. and Sprint Spectrum L.P. d/b/a Sprint PCS for Arbitration of the Rates, Terms and Conditions of Interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee d/b/a AT&T Southeast, Docket No. 07-00132, Order Denying Motions To Dismiss, Accepting Matter For Arbitration, And Appointing Pre-Arbitration Officer (October 5, 2007).*

**IT IS THEREFORE ORDERED THAT:**

Docket No. 07-00161, *In re: Petition Regarding Notice of Election of Interconnection Agreement by Nextel South Corporation*, is hereby held in abeyance pending a decision in Docket No. 07-00132, *In re: Petition for Sprint Communications Company L.P. and Sprint Spectrum L.P. d//b/a Sprint PCS for Arbitration of the Rates, Terms and Conditions of Interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee Southeast.*

  
Eddie Roberson, Chairman

  
Pat Miller, Director

  
Sara Kyle, Director