

State of Florida



Public Service Commission
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COMMISSION CLERK
OCT-2 PM 1:52

DATE: OCTOBER 3, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: OFFICE OF THE GENERAL COUNSEL (TEITZMAN, FORDHAM) *AK*
DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (BARRETT, ILERI) *McB*

RE: DOCKET NO. 020868-TL - PETITION BY BELLSOUTH TELECOMMUNICATIONS, INC. FOR INVESTIGATION OF WIRELESS CARRIERS' REQUEST FOR BELLSOUTH TO PROVIDE TELECOMMUNICATIONS SERVICE OUTSIDE BELLSOUTH'S EXCHANGE.

AGENDA: 10/15/02 - REGULAR AGENDA - MOTION TO DISMISS - ORAL ARGUMENT REQUESTED/ARGUMENT AT COMMISSION'S DISCRETION

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\020868.RCM
Electronic copy does not contain Attachment.

CASE BACKGROUND

On August 6, 2002, BellSouth Telecommunications, Inc. (BellSouth) filed a Petition for Investigation and Establishment of Generic Proceeding in which it asked the Commission to establish a generic proceeding to determine whether the provision of telecommunications service by BellSouth to wireless carriers, as requested by wireless carriers, when said service is not in BellSouth's exchange service, violates BellSouth's General Subscriber Service Tariff (GSST) for the State of Florida. BellSouth claims it is concerned that satisfying such a request could violate BellSouth's GSST, Section A35, because it would result in BellSouth providing virtual designated exchange service outside of a BellSouth exchange.

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PSC CLERK

On August 22, 2002, Nextel Communications, Inc. (Nextel) filed a Petition to Intervene, Request for Oral Argument and a Motion to Dismiss, or in the alternative, Hold in Abeyance. Nextel moved to dismiss the petition on the grounds that the Commission lacks jurisdiction over the subject matter of the petition. Nextel asserts that the subject matter of BellSouth's petition raises issues regarding its interconnection policies that would deprive commercial mobile radio service (CMRS) carriers of their unfettered right to interconnect with BellSouth at any technically feasible point within a LATA pursuant to FCC rule and policy. BellSouth filed its response to Nextel's Motion to Dismiss on August 29, 2002.

On August 26, 2002, Sprint Corporation, on behalf of its wireless division, Sprint Spectrum L.P., d/b/a Sprint PCS (Sprint) also filed a Petition to Intervene, Request for Oral Argument and a Motion to Dismiss. Like Nextel, Sprint claims that the Commission lacks jurisdiction over the subject matter of the petition. Sprint asserts BellSouth's petition raises questions of federal law over which the FCC has exclusive jurisdiction. BellSouth filed its response to Sprint's Motion to Dismiss on September 6, 2002.

DISCUSSION OF ISSUES

ISSUE 1: Should Nextel and Sprint's Requests for Oral Argument on their Motions to Dismiss be granted?

RECOMMENDATION: Yes. Nextel and Sprint should be granted oral argument, because it may aid the Commission in its consideration of the jurisdictional issues to be addressed. (TEITZMAN, FORDHAM)

STAFF ANALYSIS: Pursuant to Rule 25-22.058, Florida Administrative Code, Nextel and Sprint have both requested Oral Argument on their Motions to Dismiss. In support of the requests, both parties have stated oral argument will aid the Commission in understanding the jurisdictional issues raised in the Motions to Dismiss.

Staff notes that Rule 25-22.058, Florida Administrative Code, applies to post-hearing motions, and therefore, is not directly applicable in this instance. Nevertheless, staff believes in light of the complexity of the issues involved, it would be helpful to this Commission to grant Nextel and Sprint's Requests for Oral Argument. Accordingly, staff recommends that the Commission grant Nextel and Sprint's Requests for Oral Argument.

ISSUE 2: Should the Commission deny Nextel and Sprint's Motions to Dismiss and, in the alternative, hold BellSouth's petition in abeyance.

RECOMMENDATION: Yes. The Commission should deny Nextel and Sprint's Motions to Dismiss and, in the alternative, hold BellSouth's petition in abeyance pending resolution by the Federal Communications Commission (FCC) of Sprint's Petition for Declaratory Ruling. Pursuant to the applicable standard of review for a Motion to Dismiss, BellSouth's petition states a cause of action upon which relief may be granted; furthermore, the petition raises questions of mixed jurisdiction. However, the issues raised in BellSouth's petition are the same underlying issues raised in Sprint's Petition for Declaratory Ruling currently pending before the FCC. Therefore, in the interest of judicial comity and efficiency, the Commission should hold BellSouth's petition in abeyance pending resolution of the FCC proceeding. (TEITZMAN, FORDHAM)

STAFF ANALYSIS:

Facts and Circumstances

On August 6, 2002, BellSouth, pursuant to Rule 25-22.036 and 28-106.201 of the Florida Administrative Code and Chapters 350 and 364, Florida Statutes, filed its Petition for Investigation and Establishment of Generic Proceeding to determine whether the provision of telecommunications service by BellSouth, as requested by wireless carriers, violates BellSouth's General Subscriber Service Tariff (GSST) for the State of Florida. Staff notes that

the Commission previously acknowledged the voluntary withdrawal without prejudice of a BellSouth petition requesting a declaratory statement that involved the same subject matter as BellSouth's current petition.¹

Nextel and Sprint, both filed motions to dismiss the petition or, in the alternative, request that the Commission stay the proceeding pending resolution of Sprint's Petition for Declaratory Ruling currently pending before the Federal Communications Commission. BellSouth filed responses to both parties' motions. The facts and circumstance that give rise to BellSouth's request for a generic proceeding are derived from BellSouth's petition, the intervenors' motions to dismiss, and BellSouth's responses to the motions.

On March 25, 2001, NeuStar, the North American Numbering Plan Administrator, assigned the 904-408 NXX code to Sprint PCS. Sprint intended to use the code to provide cellular telephone service in Macclenny, Florida. Macclenny is located in the Jacksonville LATA and subtended by BellSouth's Jacksonville tandem, but it is within Northeast Telephone Company's (Northeast) service territory. Sprint PCS' point of interconnection with the public switched network in the Jacksonville LATA is located in Jacksonville, at BellSouth's Jacksonville LATA tandem switch, in BellSouth's service territory.

Sprint PCS asked BellSouth to activate the new NPA-NXX in the Jacksonville LATA by routing telecommunications traffic through BellSouth's Jacksonville tandem to its point of interconnection in Jacksonville, but rating the traffic based on the Macclenny exchange. Federal telephone numbering guidelines -- the Central Office Code (NXX) Assignment Guidelines -- are authorized by the Federal Communications Commission (FCC) and implemented by NeuStar. They provide that telecommunications carriers may request the assignment of NXXs that have different rating and routing designations. They state that "[e]ach switching center, each rate center and each POI [Point of Interconnection] may have unique V&H

¹ Order No. PSC-02-1063-FOF-TL, issued August 7, 2002, in Docket No. 020415-TL, In re: Petition of BellSouth Telecommunications, Inc. for declaratory statement concerning whether requested provision of telecommunications service to Sprint PCS in Macclenny, Florida, which is not in BellSouth's exchange service, violates BellSouth's General Subscriber Service Tariff for the State of Florida.

coordinates."² NeuStar authorized the new NXX code with the different rating and routing points described above.

According to Sprint and Nextel, this practice is longstanding and common for wireless providers throughout the country. Wireless providers are permitted by the FCC to provide service in geographic areas - Major Trading Areas - that do not correspond with, and are often larger than, the service areas of local exchange telephone companies. The assignment of different rating and routing points in a LATA allows wireless providers to minimize the physical points of interconnection with landline telecommunications providers and creates efficiency in the configuration of their networks.

BellSouth initially refused to activate Sprint PCS' new NXX code, because the rating point was located in an exchange outside BellSouth's territory. According to Sprint and Nextel, this conflict between BellSouth and wireless providers has recently arisen in other areas of BellSouth's region and was the subject of an objection by Nextel and another wireless provider to BellSouth's 271 filings in Georgia and Louisiana. The intervenors assert that although BellSouth has now activated these codes, it intends to contest the practice at state commissions in its region, as this Petition for Investigation and Establishment of Generic Proceeding shows.

In response to this challenge, Sprint filed a Petition for Declaratory Ruling with the FCC on May 9, 2002. Sprint has asked the FCC to confirm that the practice of having different rating and routing points for NXX codes assigned to wireless providers, whether or not those points are in the same landline company's service territory, is consistent with federal law and regulations.³ Nextel has submitted a filing in that docket in support of Sprint's position. BellSouth has filed its Opposition to the Sprint Petition for Declaratory Ruling. In its filing with this Commission, BellSouth states that all of Sprint PCS' NPA-NXXs have now been loaded regardless of rating and routing points, and that it will not unilaterally stop routing Sprint PCS calls. A copy of the FCC's July 18, 2002 Notice seeking comments on Sprint's

² Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, § 6.2.2.

³ In the Matter of Sprint Petition for Declaratory Ruling - Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnection Carriers.

petition in CC Docket No. 01-92 is attached to this recommendation (Attachment A). The notice shows that the facts and the issues that Sprint has raised in the FCC docket are the same as the facts and the issues that underlie BellSouth's petition before this Commission. The FCC intends to address Sprint's petition in its intercarrier compensation docket.

Staff also notes that the FCC has exclusive jurisdiction over CMRS providers and their local service areas. In its Local Competition Order (FCC 96-325), at ¶ 1036, the FCC states:

On the other hand, in the light of this Commission's exclusive authority to define the authorized license areas of wireless carriers, we will define the local service area for all calls to or from a CMRS network for the purposes of applying reciprocal compensation obligations under section 251(b)(5).

In its Petition for Investigation and Establishment of Generic Proceeding, BellSouth requests interpretation of its General Subscriber Service Tariff, specifically section A35, "Interconnection Services for Mobile Service Providers (MSPs)," as it applies to the activation of Sprint PCS's NXXs with different rating and routing points. Section A35.1.1.R provides:

R. Assignment of Numbers and NXX Codes

1. When a new dedicated NXX is assigned, if the NXX will reside at the MSP's Point of Presence (POP), at least one number from that NXX must terminate in a milliwatt test line (Technical Reference: ANSI T1.207-1989), to be used for text purposes. When a dedicated NXX is assigned for BellSouth CMRS Type 1 service, and BellSouth CMRS Local Loop Trunks, then the NXX resides in the Company end office, in which case the Company will terminate a MSP selected number in a milliwatt test line.

2. The MSP will provide the Company with both the name of the desired designated exchange and the V&H coordinates for each dedicated NXX established with a BellSouth CMRS type 2A/Type 2A-SS7 interconnection. If the desired designated exchange for the dedicated NXX is different than the exchange where the MSP's BellSouth CMRS Type 2A/Type 2A-SS7 interconnection exists, it is

called a virtual designated exchange. A virtual designated exchange is only allowed when the chosen designated exchange meets the following criteria:

- a. Is a Company exchange
- b. Is in the same LATA as the MSP's point of interconnection
- c. Is billed from the same Regional Accounting Office (RAO) as MSP's interconnection
- d. Is located within the NPA's geographic area
- e. Is in a different local calling area than the exchange where the MSP's interconnection exists

Once ordered, the chosen designated exchange cannot be changed for six months after implementation.

3. The MSP may move an existing dedicated NXX that resides in a Company end office to the MSP's Point of Presence (POP) within the same LATA. A BellSouth CMRS Type 2A/Type 2A-SS7 interconnection must exist at the POP. Both locations must be served by the same access tandem.

BellSouth states that the language of its tariff only allows "virtual designated service" when the chosen exchange is a "Company" (BellSouth) exchange. According to BellSouth the effect of Sprint PCS' designation of its NXXs here is that traffic is routed to Sprint PCS' customers over BellSouth's network for termination, excluding Northeast from the opportunity to route the Macclenny calls over its network. BellSouth alleges that this arrangement also results in inaccurate rating of landline end user local and toll option calls. In the Affidavit of Robert E. James, attached to BellSouth's petition, Mr. James describes what he calls the "pitfalls" of activating Sprint PCS' NPA/NXXs with different rating and routing points:

These Pitfalls include but are not limited to (1) rendering all compensation between the involved parties inaccurate; (2) preventing BST (BellSouth) and NFTC (Northeast Florida Telephone Company) from receiving accurate compensation for the use of their networks; (3)

rendering inaccurate settlements between BST and NFTC and inaccurate billings between the parties; and (4) billing BST and NFTC end users in a manner that is inconsistent with the actual routing/delivery of the calls. In addition, the above scenario results in NFTC being unable to provide interconnection with its network by Sprint, and Sprint using BST's network to compete with NFTC on a local basis rather than interconnecting with NFTC and appropriately compensating NFTC for such interconnection.

Affidavit of Robert E. James, pps. 3-4.

Both Nextel and Sprint request dismissal of the BellSouth petition on the ground that the Commission does not have jurisdiction to address the subject matter of the petition. They each claim that resolution of BellSouth's petition would require the Commission to make interpretations regarding questions of federal law that are preempted by the statutory regime adopted by Congress and implemented by the FCC. Specifically, the intervenors assert that federal law preempts state commission authority over CMRS providers, administration of numbering resources, and determination of appropriate intercarrier compensation mechanisms. Accordingly, they state that the FCC has exclusive authority to address these matters and is currently doing so in Sprint's declaratory statement petition.

In its response, BellSouth disagrees with the intervenors' assertions, arguing that the Commission has state law authority to interpret, enforce, and review BellSouth's intrastate tariffs. Furthermore, BellSouth asserts that the Commission has the authority to address issues involving interconnection and intercarrier compensation between ILECs and CMRS providers. Specifically, BellSouth asserts that Sprint's position is inconsistent with its previous actions before this Commission and points to FPSC Docket No. 000761-TP, In re: Petition by Sprint Spectrum L.P., d/b/a Sprint PCS for arbitration of certain terms and conditions of a proposed agreement with BellSouth Telecommunications, Inc. pursuant to Section 252 of the Telecommunications Act, in which Sprint PCS requested the Commission to exercise subject matter jurisdiction over a Section 252 arbitration proceeding between Sprint and BellSouth which involved issues concerning interconnection and the payment of intercarrier compensation resulting from that interconnection.

Standard for Motion to Dismiss

A motion to dismiss raises as a question of law the sufficiency of the facts alleged in a petition to state a cause of action. Varnes v. Dawkins, 624 So.2d 349, 350 (Fla. 1st DCA 1993). The standard to be applied in disposing of a motion to dismiss is whether, with all allegations in the petition assumed to be true, the petition states a cause of action upon which relief may be granted. *Id.* When making this determination, only the petition can be reviewed, and all reasonable inferences drawn from the petition must be made in favor of the petitioner. *Id.*

Recommendation

As discussed above, both Nextel and Sprint have requested dismissal of the BellSouth petition on the ground that the Commission lacks jurisdiction to address the subject matter of the petition. Staff believes that the jurisdictional authority over the subject matter of BellSouth's petition is mixed. The Commission clearly has authority to implement and interpret BellSouth's tariff, and to determine whether the tariff complies with federal and state law.

Furthermore, under Varnes, BellSouth is only required to state a cause of action for which relief can be granted; it is not required to prove the ultimate issues of fact. Based on this standard, the Commission may not, at this time, address any of the contradictory factual allegations raised by the intervenors in their motions to dismiss. Accordingly, assuming all allegations in BellSouth's petition to be true, staff believes BellSouth has met the standard by stating a cause of action upon which relief may be granted. Therefore, the motions to dismiss should be denied.

Additionally, Nextel and Sprint request that if the Commission denies their motions to dismiss, the Commission should hold the BellSouth petition in abeyance pending resolution by the FCC of Sprint's Petition for Declaratory Ruling. Staff believes that upon resolution of the federal law implications of Sprint's request to activate its NXX codes with different rating and routing points, the status and effect of BellSouth's tariff will become more apparent. Furthermore, this Commission has stayed previous proceedings in which the FCC was conducting a simultaneous

proceeding that addressed similar or identical issues.⁴ Therefore, in the interest of judicial comity and efficiency, staff recommends that the Commission hold BellSouth's petition in abeyance pending resolution by the FCC of Sprint's Petition for Declaratory Ruling.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No, if the Commission approves staff's recommendation in issue 2, this docket should remain open. If, however, the Commission does not approve staff's recommendation in issue 2, this docket should be closed. (TEITZMAN, FORDHAM)

STAFF ANALYSIS: If the Commission approves staff's recommendation in issue 2, this docket should remain open. If, however, the Commission does not approve staff's recommendation in issue 2, this docket should be closed.

⁴See Order No. PSC-96-0478-PCO-TP, issued April 5, 1996, in Docket 950769-TP, In re: Petition for waiver of required payment method of dial-around compensation to allow implementation of a per-call based method for intrastate calls to non-local exchange company pay telephone (NPAT) providers by Florida Public Telecommunications Association, Inc. ("Further action by the Commission in this docket will only duplicate proceedings at the FCC."); Order No. PSC-01-2309-PCO-TP, issued November 21, 2001, in Docket No. 000475-TP, In re: Complaint by BellSouth Telecommunications, Inc. against Thrifty Call, Inc. regarding practices in the reporting of percent interstate usage for compensation for jurisdictional access services. ("The FCC's determination on the above issue could be persuasive in our application of the intrastate tariff. As such, I find it appropriate and in the interest of judicial economy, to stay this proceeding until the FCC issues a ruling....")



PUBLIC NOTICE

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DA 02-1740

Released July 18, 2002

**COMMENT SOUGHT ON SPRINT PETITION FOR DECLARATORY RULING
REGARDING THE ROUTING AND RATING OF TRAFFIC BY ILECs**

Pleading Cycle Established

CC Docket No. 01-92

Comments Due: August 8, 2002
Reply Comments Due: August 19, 2002

On May 9, 2002, Sprint Corporation (Sprint), on behalf of its wireless division, filed a petition for declaratory ruling seeking confirmation that: (1) an incumbent local exchange carrier (ILEC) may not refuse to load telephone numbering resources of an interconnecting carrier, and (2) an ILEC may not refuse to honor the routing and rating points designated by that interconnecting carrier.¹

According to Sprint, when it applies for a new NPA-NXX code² from the North American Numbering Plan Administrator (NANPA), Sprint is required to provide all relevant call rating and routing information for that NPA-NXX code. This call routing information includes not only the mobile switching center (MSC), but also includes the local access and transport area (LATA) tandem switch. The LATA tandem switch information is particularly important because few carriers interconnect directly with each other; rather, they connect to the public switched telephone network (PSTN) at a LATA tandem switch. According to Sprint, when a call is placed, the originating carrier routes the call to an end-user via the LATA tandem switch, which is generally operated by a regional Bell operating company (RBOC). The LATA

¹ *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, CC Docket No. 01-92, Petition of Sprint (filed May 9, 2002) (Sprint Petition).

² The term NPA-NXX (numbering plan area code and central office code) refers to the first three digits (NPA) and the second three digits (NXX) of a ten-digit telephone number in the form NXX-NXX-XXXX, where N represents any one of the numbers 2 through 9 and X represents any one of the numbers 0 through 9. See 47 C.F.R. §§ 52.7(a) and (c).

tandem switch then forwards the call to the subtending MSC operated by the mobile carrier so that the call can terminate at the called party's mobile phone.³

The source of Sprint's concern is its contention that, in certain circumstances, BellSouth has signaled its intention to refuse to program its LATA tandem switches with Sprint's NPA-NXXs. In particular, where Sprint wishes to associate an NPA-NXX with a rate center of an ILEC other than BellSouth, and the rating and routing points are different (*e.g.*, the routing point could be Sprint's MSC, but the rating point would be an independent ILEC's rate center), Sprint contends that BellSouth's position is to refuse to load its LATA tandem switch with Sprint's call routing and rating information.⁴

According to Sprint, BellSouth effectively would require Sprint to interconnect directly with the independent ILEC, whose rate center Sprint wishes to be associated with, rather than directly with the BellSouth LATA tandem switch serving the independent ILEC's end office.⁵ Sprint asserts that it cannot economically justify the costs of a direct connection with the independent ILEC.⁶ The Sprint Petition also raises the obligation of the BellSouth to route calls to *existing* CMRS NPA-NXX codes that meet these same criteria.

On May 22, 2002, BellSouth filed an opposition to the Sprint Petition.⁷ According to BellSouth, it is currently loading NPA-NXXs that Sprint acquires. BellSouth also contends that it is not currently adversely affecting the routing of any Sprint traffic. In its opposition BellSouth states that it believes that the rating and routing arrangements described above result in inappropriate intercarrier compensation, claiming that "[v]arious forms of intercarrier compensation, including reciprocal compensation, access charges, and inter-company settlements could apply to this traffic."⁸ According to BellSouth, when a CMRS carrier does not interconnect directly with the independent ILEC and BellSouth transits calls with rate centers within the independent ILEC's calling area, but with routing points within BellSouth's calling area, the following questions need to be resolved: (1) does BellSouth provide Sprint with the equivalent of a virtual NPA-NXX,⁹ (2) does BellSouth have to modify its tariff, or (3) does a

³ Sprint Petition at 4-5

⁴ Sprint Petition at 2, 6-7.

⁵ Sprint Petition at 2, 7, 15-16.

⁶ Sprint Petition at 11.

⁷ The opposition was filed by BellSouth Corporation and BellSouth Telecommunications, Inc. (BellSouth). On June 6, 2002, Nextel Communications, Inc. and Triton PCS License Company, L.L.C. filed replies to the BellSouth opposition, and ALLTEL Communications, Inc. filed comments in support of Sprint's request.

⁸ BellSouth Opposition at 2.

⁹ Virtual NPA-NXX codes are central office codes that correspond with a particular geographic area that are assigned to a customer located in a different geographic area. *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610, para. 155 n.188 (2001).

new interconnection arrangement need to be defined and the appropriate charges be associated therewith.¹⁰ BellSouth contends that the issue underlying these questions is whether, in routing traffic outside of its exchange area, BellSouth is acting in a manner that is inconsistent with its state certificate of authority.¹¹ According to BellSouth, all of these questions are appropriate matters for state commissions to resolve.¹²

We seek comment on the practices and issues raised in Sprint's petition and BellSouth's opposition, including the appropriate intercarrier compensation applicable to the traffic described above, both under our existing rules and prospectively.

Sprint's Petition and BellSouth's Opposition raise interconnection and intercarrier compensation issues under consideration in CC Docket No. 01-92, *Developing a Unified Intercarrier Compensation Regime*.¹³ Accordingly, we ask that parties file their pleadings in CC Docket No. 01-92. The petition and other pleadings will be incorporated into CC Docket No. 01-92.

Pursuant to sections 1.415 and 1.419 of the Commission's rules,¹⁴ interested parties may file comments on or before August 8, 2002, and reply comments on or before August 19, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.¹⁵

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the filing to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic copy by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message: "get form <your email address>." A sample form and directions will be sent in reply. Commenters also may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>.

¹⁰ BellSouth Opposition at 2, 3.

¹¹ BellSouth Opposition at 3 n.2.

¹² BellSouth Opposition at 3.

¹³ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001).

¹⁴ 47 C.F.R. §§ 1.415, 1.419.

¹⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322, 11326, para. 8 (1998).

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals II, 445 12th Street S.W., CY-B402, Washington, D.C. 20554 (telephone 202-863-2893; facsimile 202-863-2898) or via e-mail at qualexint@aol.com. In addition, one copy of each submission must be filed with the Chief, Pricing Policy Division, Wireline Competition Bureau, and Chief, Policy Division, Wireless Telecommunications Bureau, 445 12th Street, S.W., Washington, D.C. 20554. Documents filed in this proceeding will be available for public inspection during regular business hours in the Commission's Reference Information Center, 445 12th Street, S.W., Washington, D.C. 20554, and will be placed on the Commission's Internet site.

This proceeding will be governed by "permit-but-disclose" *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.¹⁶ Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.¹⁷ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well. In addition, interested parties are to file any written *ex parte* presentations in this proceeding with the Commission's Secretary, Marlene H. Dortch, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, and serve with three copies each: Pricing Policy Division, Wireline Competition Bureau, Attn: Victoria Schlesinger, and Policy Division, Wireless Telecommunications Bureau, Attn: Gregory Vadas, 445 12th Street, S.W., Washington, D.C. 20554. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893.

¹⁶ 47 C.F.R. § 1.1206.

¹⁷ See 47 C.F.R. § 1.1206(b)(2).

DOCKET NO. 020868-TL
DATE: October 3, 2002

For further information, contact Steve Morris or Victoria Schlesinger, Pricing Policy Division, Wireline Competition Bureau, (202) 418-1530, or Gregory Vadas, Policy Division, Wireless Telecommunications Bureau, (202) 418-1798.

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