BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition by Sprint Communications Company Limited Partnership d/b/a Sprint for arbitration with BellSouth Telecommunications, Inc. concerning interconnection rates, terms, and conditions, pursuant to the Federal Telecommunications Act of 1996.	DOCKET NO. 961150-TP ORDER NO. PSC-97-0509-FOF-TP ISSUED: May 5, 1997

The following Commissioners participated in the disposition of this matter:

JOE GARCIA
DIANE K. KIESLING

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

CASE BACKGROUND

Part II of the Federal Telecommunications Act of 1996 (Act) provides for the development of competitive markets in the telecommunications industry. Section 251 of the Act addresses interconnection with the incumbent local exchange carrier and Section 252 sets forth the procedures for negotiation, arbitration, and approval of agreements.

Section 252(b) addresses agreements arrived at through compulsory arbitration. Specifically, Section 252(b)(1) states:

> (1) Arbitration. - During the period from the 135th to 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under this section, the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues.

Section 252(b)(4)(C) states that the State commission shall resolve each issue set forth in the petition and response, if any, by imposing the appropriate conditions as required. This section requires this Commission to conclude the resolution of any unresolved issues not later than 9 months after the date on which the local exchange carrier received the request under this section.

On April 15, 1996, Sprint Communications Company, L.P. (Sprint), formally requested negotiations with BellSouth Telecommunications, Inc. (BellSouth), under Section 251 of the Act. On September 20, 1996, Sprint filed a Petition for Arbitration under the Telecommunications Act of 1996.

On August 8, 1996, the Federal Communications Commission (FCC) released its First Report and Order in CC Docket No. 96-98 (Order). The Order established the FCC's rules and requirements for interconnection, unbundling and resale based on its interpretation of the 1996 Act. We appealed certain portions of the FCC's rules and Order, and requested a stay pending that appeal. On October 15, 1996, the Eight Circuit Court of Appeals granted a stay of those portions of the FCC's rules and Order implementing Section 252(i) and the pricing provisions of the Act.

By the date of the hearing, December 3, 1996, Sprint and BellSouth had reached agreement resolving most of the issues in Sprint's arbitration petition. Accordingly, our determinations were limited to those issues the parties were unable to resolve. We voted on those issues at our January 7, 1997, Agenda Conference. Our decisions were memorialized in Order No. PSC-97-0122-FOF-TP, issued on February 3, 1997. BellSouth filed a Motion for Reconsideration of the Order on February 18, 1997. On February 25, 1997, Sprint filed its response to the Motion.

The purpose of a Motion for Reconsideration is to bring to the attention of the Commission some point which it overlooked or failed to consider when it rendered its Order in the First instance. It is not intended to be used to re-argue the whole case merely because the losing party disagrees with the order. Diamond Cab Co. v. King, 146 So.2d 889, 891 (Fla. 1962); Pingree v. Quaintance, 394 So.2d 161 (Fla. 1st DCA 1981).

DECISION

In Order No. PSC-97-0122-FOF-TP, we held that BellSouth shall provide Sprint access to customer service records under a blanket letter of authorization. We approved a blanket letter, over prior written authorization from each customer, for BellSouth to allow access to customer service records. We also required BellSouth to develop a real-time operational interface to deliver customer service records to alternative local exchange companies.

In its Motion for Reconsideration, BellSouth requests that we reconsider our decision regarding the issue of access to customer records. As a general premise, BellSouth states that we must reconsider our decision because we "overlooked or failed to consider evidence affecting the outcome of this proceeding or misapplied the law as it pertains to this case."

Specifically, BellSouth requests reconsideration of our decision to require BellSouth to provide direct, on-line access to the full customer records for preordering purposes before protections against "roaming" are implemented. BellSouth believes that this type of unrestricted access for Sprint jeopardizes the privacy of customers' data. BellSouth argues that this blanket letter of authorization policy for local service will result in slamming problems similar to or worse than those currently facing the interexchange carrier industry. Alternatively, if a blanket letter of authorization is permitted, BellSouth requests that we implement rules governing slamming and unauthorized records access.

Sprint argues that BellSouth's Motion fails to meet the required legal threshold to warrant the Commission's reconsideration of its decision. Sprint believes BellSouth is attempting to reargue an issue and raise new points that it failed to bring out in the hearing on this matter. Sprint contends that BellSouth has provided no legal ground for reconsideration, such as disregard for competent evidence or inadequate or unsubstantiated findings.

Sprint also argues that BellSouth's Motion for Reconsideration presents no factual basis to warrant reconsideration. Sprint believes that the issue BellSouth presents in its Motion was fully discussed and considered by the Commission. Further, Sprint contends that BellSouth through its witness Calhoun and other representations in this proceeding, has either affirmatively taken or silently acquiesced in a position counter to the one taken in its Motion concerning a blanket letter of authorization. Sprint claims that BellSouth never questioned the propriety of a blanket letter of authorization prior to the Commission's decision. Sprint also states that a blanket letter of authorization is not prohibited by either federal or state law.

Upon consideration, we find that BellSouth has failed to meet the standard for reconsideration. We considered at length customer service records at pages 6 - 10 of our Order. With respect to privacy concerns raised by BellSouth, we stated:

> Upon review, we find that Section 222 of the Act and Section 364.24(2), Florida Statutes,

> protect customer proprietary network information. In particular, Section 222(b) imposes on all carriers the obligation to use customer account information responsibly; that is, only for provisioning telecommunications services from which the CPNI is derived. Thus, we believe that the ILECs need not be the sole guardians of the customer's privacy. The ALECs have that duty as well. In addition, Section 222(d)(1) provides for access to CPNI for purposes of initiating telecommunication services without mention of customer approval. Accordingly, we find that the blanket letter of authorization satisfies this section. Order at p. 10.

In addition, we stated:

> We recognize BellSouth's concern that providing direct, on-line access to its customer service records allows Sprint or any other ALEC free access to all BellSouth customer records. We do not believe, however, that on-line access should be denied to Sprint because BellSouth cannot at this time technically devise a way to provide CSR data without also giving access to all other customer records in its data base. We do not believe the alternatives that BellSouth has proposed provide for a level playing field in this competitive market. In order to compete effectively, new entrants must have immediate access to customer information. If BellSouth wants to prevent disclosure of all customer information it should continue to work toward devising a method to prevent access to all customer information.

We note that BellSouth raises argument that the blanket letter of authorization policy will result in slamming problems for the first time on reconsideration. Moreover, we reviewed the transcript and did not find any evidence in the record to support a finding that slamming would or would not be a problem. BellSouth's argument, therefore, does not raise a point of fact which we failed to consider in rendering our Order in the first instance. Also, BellSouth's request to implement rules governing slamming and unauthorized records access does not support a Motion

for Reconsideration. Based on the foregoing, we shall deny BellSouth's Motion for Reconsideration.

It is, therefore,

ORDERED by the Florida Public Service Commission that each and all of the specific findings herein are approved in every respect. It is further

ORDERED that BellSouth Communication, Inc.'s Motion for Reconsideration is denied. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 5th day of May, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

MMB

NOTICE OF JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.