

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P., by NPCR, Inc. d/b/a Nextel Partners.

DOCKET NO. 070368-TP
ORDER NO. PSC-08-0242-PCO-TP
ISSUED: April 15, 2008

ORDER GRANTING MOTION FOR LEAVE TO FILE REPLY TO AT&T'S RESPONSE
IN OPPOSITION TO MOTION FOR SUMMARY FINAL ORDER
AND SUPPLEMENTARY SUBMISSIONS THERETO

I. Case Background

On June 8, 2007, NPCR, Inc. d/b/a Nextel Partners, Nextel South Corp. and Nextel West Corp. (collectively "Nextel") filed their Notice of Adoption of existing interconnection agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T) and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P.

On December 26, 2007, Nextel filed its Motion for Summary Final Order, Motion to Quash Notice of Deposition and For Protective Order and Request For Oral Argument. On January 22, 2008, AT&T filed its Response in Opposition to Nextel's Motion for Summary Final Order. On February 7, 2008, AT&T filed its Supplemental Submission in Support of AT&T's Response in Opposition to Motion for Summary Final Order, and on February 13, 2008, its Submission of Additional Supplemental Authority by letter. On February 18, 2008, Nextel filed its Motion for Leave to File Reply to AT&T's Response in Opposition to Motion for Summary Final Order and Supplementary Submissions Thereto.

II. Nextel's Motion for Leave to File Reply to AT&T's Response in Opposition to Motion for Summary Final Order and Supplementary Submissions Thereto

In its Motion for Leave to File Reply to AT&T's Response in Opposition to Motion for Summary Final Order and Supplementary Submissions Thereto, Nextel asserts that AT&T's supplemental submissions fail to qualify as supplemental authority and thus are unauthorized addenda to AT&T's Response. Specifically, AT&T's Supplemental Submission filed February 7, 2008, addresses a petition filed by AT&T at the Federal Communications Commission. It provides additional argument, and by requesting the Commission to defer ruling on the matter while the petition is pending, seeks additional affirmative relief not addressed in its Initial Response. AT&T's Submission of Additional Supplemental Authority by letter dated February 13, 2008, likewise includes additional argument regarding Commission action.

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Nextel asserts that it is well within the Commission's discretion to grant its Motion for Leave to File Reply and cites to several prior Commission orders granting leave. Nextel also asserts that its Reply will assist the Commission in addressing Nextel's Motion for Summary Final Order. Nextel argues that the Commission should have the benefit of all relevant information on the issues before it, and that having the information in writing will better enable the Commission and its staff to evaluate the parties' arguments and authorities upon which they rely. Further, Nextel asserts that granting the Motion will not unduly delay the proceedings or prejudice AT&T. The Commission has yet to set a schedule, and on two separate occasions, AT&T has already supplemented its original response and may have another opportunity to address the Commission if oral argument is granted.

Nextel has conferred with counsel for AT&T, and AT&T states that it opposes this motion.


III. Decision

Upon consideration, I find it reasonable and appropriate to grant Nextel's Motion for Leave to File Reply to AT&T's Motion for Summary Final Order and Supplementary Submissions Thereto. Nextel's Reply will provide relevant information on issues before the Commission and allow a better evaluation of the parties' arguments and authorities upon which they rely. Furthermore, I do not find that allowing Nextel to file its Reply will unduly delay the proceeding or prejudice AT&T.

Based upon the foregoing, it is

ORDERED by Commissioner Lisa Polak Edgar, as Prehearing Officer, that NPCR, Inc. d/b/a Nextel Partners, Nextel South Corp. and Nextel West Corp.'s Motion for Leave to File Reply to AT&T's Response in Opposition to Motion for Summary Final Order and Supplementary Submissions Thereto is hereby granted.

By ORDER of Commissioner Lisa Polak Edgar, as Prehearing Officer, this 15th day of
April, 2008.


LISA POLAK EDGAR
Commissioner and Prehearing Officer

(S E A L)

CCP

NOTICE OF FURTHER PROCEEDINGS OR 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) 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. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.