

FLORIDA PUBLIC SERVICE COMMISSION  
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MEMORANDUM

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FPSC - Records/Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (STAVANJA) *wt*  
DIVISION OF LEGAL SERVICES (BARONE) *MB*

RE: DOCKET NO. 961150-TP - PETITION BY SPRINT COMMUNICATIONS COMPANY LIMITED PARTNERSHIP D/B/A SPRINT FOR ARBITRATION WITH BELL SOUTH TELECOMMUNICATIONS, INC. CONCERNING INTERCONNECTION RATES, TERMS, AND CONDITIONS, PURSUANT TO THE FEDERAL TELECOMMUNICATIONS ACT OF 1996

AGENDA: AUGUST 5, 1997 - REGULAR AGENDA - POST HEARING DECISION - APPROVAL OF ARBITRATED AGREEMENT - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\961150TP.RCM

CASE BACKGROUND

Part II of the Federal Telecommunications Act of 1996 (Act) sets forth provisions controlling the development of competitive markets in the telecommunications industry. Section 251 of the Act regards 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

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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. Thereafter, the key procedural events were established by Order No. PSC-96-1282-PCO-TP issued October 15, 1996.

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. The main issues resolved prior to the hearing dealt with pricing and some operational issues such as electronic interfaces. On February 3, 1997, the Commission issued Order No. PSC-97-0122-FOF-TP resolving the remaining issues in the proceeding.

On February 18, 1997, BellSouth requested reconsideration of the portion of Commission Order No. PSC-97-0122-FOF-TP that dealt with the Commission decision on access to customer service records under a blanket letter of authorization. Sprint filed a response to BellSouth's motion on February 26, 1997. In Order No. PSC-97-0509-FOF-TP the Commission denied BellSouth's motion for reconsideration.

On March 3, 1997, Sprint filed a motion seeking an extension of time to file a signed arbitrated agreement. The Commission granted Sprint's motion via issuance of Order No. PSC-97-0382-FOF-TP.

On April 29, 1997, Sprint filed its proposed language and rationale regarding the unresolved and disputed portions of the Sprint and BellSouth arbitrated agreement. On April 30, 1997, BellSouth officially filed the arbitration agreement with its proposed language and rationale regarding unresolved and disputed agreement provisions.

On June 17, 1997, the Commission issued its Order requiring modifications to the disputed portions of the agreement.

On July 1, 1997, BellSouth filed the revised agreement. This recommendation will address the agreement filed by BellSouth on behalf of both parties.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve Sprint and BellSouth's arbitrated agreement?

RECOMMENDATION: Yes. (STAVANJA)

STAFF ANALYSIS: On July 1, 1997, Sprint and BellSouth filed their interconnection agreement as required by Commission Order No. PSC-97-0714-FOF-TP. The agreement is a hybrid of the negotiation and arbitration processes conducted by the parties.

Section 252(e)(2)(B) states that the Commission can only reject an arbitrated agreement if it finds that the agreement does not meet the requirements of Section 251, including the regulations prescribed by the FCC pursuant to Section 251, or the standards set forth in subsection (d) of Section 252 of the Act.

There are several sections in the agreement that are not consistent with the Commission's Order. These sections, which were addressed in staff's May 21, 1997 recommendation, relate to matters not arbitrated by the Commission and, pursuant to the Commission's Order, were to be removed from the agreement. The sections to be removed are identified in Table A.

TABLE A

Part	Section	Description
General Terms and Conditions	12.4	Performance Measurement - Pricing for Higher Level Service Requested by Sprint
General Terms and Conditions	15	Dispute Resolution - Procedures for handling disputes
Part IV	36.1	Pricing - Unbundled Network Elements
Attachment 7	3.1	Usage Data Specifications
Attachment 7	6.4.2	Unbillable Compensation - Definition of Unbillable

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Section 12.4, General Terms and Conditions, was the only section removed as required by the Commission's Order. In addition, the parties removed sections 12.2 and 12.3 from the agreement.

The parties have since negotiated language for the other sections noted in Table A, and have incorporated such language in this agreement for approval. Staff believes the agreement complies with the Act, and the FCC's rules and order. Other than the references made above, staff finds that the agreement complies with the Commission's Order. Therefore, staff believes the Commission should approve Sprint and BellSouth's agreement filed in this proceeding. Staff believes that any modification to this agreement should be filed in a separate docket.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, the agreement between Sprint and BellSouth should be deemed effective, and this docket should be closed. (Barone)