

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Consideration of BellSouth Telecommunication, Inc.'s Entry into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996

Docket No. 960786-TL
Filed: September 23, 1997

**SPRINT COMMUNICATIONS COMPANY LIMITED PARTNERSHIP
AND
SPRINT METROPOLITAN NETWORKS, INC.
POSTHEARING STATEMENT OF ISSUES AND POSITIONS**

COMES NOW Sprint Communications Company Limited Partnership ("Sprint") and Sprint Metropolitan Networks, Inc. ("SMNI") and submits this their Posthearing Statement of the Issues and Positions in the above styled and stated docket.

ISSUES AND POSITIONS

SPRINT AND SMNI'S BASIC POSITION:

The Telecommunications Act of 1996 ("Act") requires state and Federal Communications Commission (FCC) review of Bell Operating Company ("BOC") compliance with a comprehensive checklist before BOCs are allowed to provide in-region interLATA long distance. Whether the Act results in actual local telephone competition will depend in large measure upon whether this checklist is followed and enforced. If the BOCs forthrightly comply with all of the

requirements to open local telephone markets to competition, the promise of competition will be realized.

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ISSUE 1.A: Has BellSouth met the requirements of section 271(c)(1)(A) of the Telecommunications Act of 1996?
(a) Has BellSouth entered into one or more binding agreements approved under Section 252 with

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unaffiliated competing providers of telephone exchange service?

(b) Is BellSouth providing access and interconnection to its network facilities for the network facilities of such competing providers?

6(c) Are such competing providers providing telephone exchange service to residential and business customers either exclusively over their own telephone exchange service facilities or predominantly over their own telephone exchange service facilities?

*** Sprint/SMNI's Position:**

(a) Yes. BellSouth has entered into agreements approved under Section 252 with unaffiliated competing providers of telephone exchange service.

(b) No. BellSouth is not providing access and interconnection to its network facilities for the network facilities of such competing providers. The Act is clear that the BOC must be actually providing access and interconnection to an unaffiliated company. The mere existence of an agreement to provide such is insufficient. Further, if the BOC is actually providing access and interconnection to an unaffiliated company, the Act then sets forth criteria in Section

271(c)(2)(B) outlining the terms and conditions under which such access and interconnection is to be provided.

- (c) Sprint/SMNI is without sufficient knowledge, information or belief to state a position.

ISSUE 1.B: Has BellSouth met the requirements of section 271(c)(1)(B) of the Telecommunications Act of 1996?

(a) Has an unaffiliated competing provider of telephone exchange service requested access and interconnection with BellSouth?

(b) Has a statement of terms and conditions that BellSouth generally offers to provide access and interconnection been approved or permitted to take effect under Section 252(f)?

*** Sprint/SMNI's Position:**

No. BellSouth has not met the requirements of Section 271(c)(1)(B) since (a) it has received requests for interconnection in the State of Florida. The only exception provided in Section 271(c)(1)(B) would require that this Commission certify that the only provider or providers making such requests for interconnection have (i) failed to negotiate in good faith as required by Section 252, or (ii) violated the terms of an agreement approved under Section 252 by the provider's failure to comply, within a reasonable period of time, with the

implementation schedule contained in such agreement. This exception does not apply in this case. (b) The best BellSouth statement of general terms and conditions should not be approved or allowed to take effect under Section 252(f).

ISSUE 1.C: Can BellSouth meet the requirements of section 271(c)(1) through a combination of track A (Section 271(c)(1)(A) and track B (Section 271(c)(1)(B)? If so, has BellSouth met all of the requirements of these sections?

- **Sprint/SMNI's Position:**

No. Subparagraphs (A) and (B) of Section 271(c)(a) are mutually exclusive. Since BellSouth cannot meet the requirements of 271(c)(1)(B) it is clearly precluded from using a combination of Sections 271(c)(1)(A) and 271(c)(1)(B).

ISSUE 2: Has BellSouth provided interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(i) and applicable rules promulgated by the FCC?

- **Sprint/SMNI's Position:**

No. BellSouth has not provided interconnection: (1) at any technically feasible point; (2) at least equal in

quality to that provided by itself; (3) on rates, terms and conditions that are just, reasonable and nondiscriminatory. It should be presumed that interconnection at switching points is technically feasible. BellSouth should have the burden of proof if it believes that a requested interconnection is not technically feasible. Once provided, an interconnection should be presumed to be technically feasible. There should be no discrimination in the interconnection allowed. Prices should be cost-based. There should be no restrictions on how interconnection can be used.

ISSUE 3: Has BellSouth provided nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1) of the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(ii) and applicable rules promulgated by the FCC?

(a) Has BellSouth developed performance standards and measurements? If so, are they being met?

• **Sprint/SMNI's Position:**

No. Loop, switch and transport unbundling is technically feasible. Network elements are not the same as retail services for pricing purposes. BellSouth must prove a requested network element is not technically feasible. There should be no discrimination in the provision of network elements. Once provided, a network element

should be presumed to be technically feasible. Prices for network elements should be cost-based. There should be no restrictions on how network elements can be used.

(a) No. Sprint/SMNI have not been provided any data with respect to BellSouth's performance standards and measurements.

ISSUE 4: Has BellSouth provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates in accordance with the requirements of section 224 of the Communications Act of 1934 as amended by the Telecommunications Act of 1996, pursuant to 271(c)(2)(B)(iii) and applicable rules promulgated by the FCC?

*** Sprint/SMNI's Position:**

No. BellSouth should provide competitors access to poles, ducts, conduits and rights-of-way. Such access should be nondiscriminatory. Prices should be cost-based. Terms and conditions should be set out in tariffs and contracts. Sprint/SMNI are unaware that BellSouth has, in fact, provided nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by BellSouth at just and reasonable rates. Agreements reviewed by Sprint/SMNI appear to contain a number of exculpatory clauses that would permit BellSouth to refuse access to these elements.

ISSUE 5: Has BellSouth unbundled the local loop transmission between the central office and the customer's premises from local switching or other services, pursuant to section 271(c)(2)(B)(iv) and applicable rules promulgated by the FCC?

- **Sprint/SMNI's Position:**

No. BellSouth has failed to provide any cost studies to support the reasonableness of their prices for their unbundled local loops transmission network elements. While the FCC order did not specify what subelements of local loop transmission should be unbundled, the order did encourage states to pursue unbundling the local loop into subelements and stated that the FCC would pursue unbundling the local loop into sub elements in 1997. Prices should be cost-based. There should be no restrictions on how local loop transmission can be used.

ISSUE 6: Has BellSouth unbundled the local transport on the trunk side of a wireline local exchange carrier switch from switching or other services, pursuant to section 271(c)(2)(B)(v) and applicable rules promulgated by the FCC?

- **Sprint/SMNI's Position:**

No. Local transport provides transmission from the trunk side of a switch to any other point. Local transport does not include switching. Tandem switching should be

unbundled from transmission. Prices should be cost-based. There should be no restrictions on how local transport can be used. BellSouth has not met the requirements of this provision of the checklist.

ISSUE 7: Has BellSouth provided unbundled local switching from transport, local loop transmission, or other services, pursuant to section 271(c)(2)(B)(vi) and applicable rules promulgated by the FCC?

*** Sprint/SMNI's Position:**

No. Local switching routes exchange service and exchange access traffic. Prices should be cost-based. There should be no restrictions on how local switching can be used. BellSouth has failed to meet the requirements of this provision of the checklist.

ISSUE 8: Has BellSouth provided nondiscriminatory access to the following, pursuant to section 271(c)(2)(B)(vii) and applicable rules promulgated by the FCC:

- (a) 911 and E911 services;
- (b) directory assistance services to allow the other telecommunications carrier's customers to obtain telephone numbers; and,
- (c) operator call completion services?

*** Sprint/SMNI's Position:**

No. All telecommunications carriers should have access to incumbent LECs 911, E911, directory assistance, and operator call completion capabilities on the same terms and conditions as enjoyed by the ILEC. All telecommunications carriers should be allowed to have their telephone numbers included in directory assistance, line information database ("LIDB"), and other operator services at the same price, terms, and conditions as does the incumbent. Resale prices should include population of the databases and access to the services. Access to these databases should be nondiscriminatory. BellSouth has not complied with this provision of the checklist.

ISSUE 9: Has BellSouth provided white pages directory listings for customers of other telecommunications carrier's telephone exchange service, pursuant to section 271(c)(2)(B)(viii) and applicable rules promulgated by the FCC?

*** Sprint/SMNI's Position:**

No. Incumbent LECs' directories should include other carriers' customers. Listings should be nondiscriminatory. White pages distribution should be nondiscriminatory. Access to yellow pages should be nondiscriminatory. White pages should be included in the wholesale service.

ISSUE 10: Has BellSouth provided nondiscriminatory access to telephone numbers for assignment to the other telecommunications carrier's telephone exchange service customers, pursuant to section 271(c)(2)(B)(ix) and applicable rules promulgated by the FCC?

*** Sprint/SMNI's Position:**

No. Access to telephone number should be nondiscriminatory. Competitors to BellSouth should have non-discriminatory access to sufficient blocks of telephone numbers to offer service. Service order procedures should be nondiscriminatory.

ISSUE 11: Has BellSouth provided nondiscriminatory access to databases and associated signaling necessary for call routing and completion, pursuant to section 271(c)(2)(B)(x) and applicable rules promulgated by the FCC?

• Sprint/SMNI's Position:

No. Telecommunications carriers should be allowed to have access to directory assistance, LIDB, Advanced Intelligent Network ("AIN"), 800, and other databases and have access to such resources equal in price, functionality, and quality as do incumbent local exchange carriers. Interconnection should be seamless and equivalent to that of BellSouth. Nondiscriminatory electronic access should

be provided for other databases necessary for local resale. Prices should be cost-based.

ISSUE 12: Has BellSouth provided number portability, pursuant to section 271(c)(2)(B)(xi) and applicable rules promulgated by the FCC?

*** Sprint/SMNI's Position:**

No. BellSouth appears to have offered interim number portability, the terms and conditions attached fail to meet the requirements of this checklist item. The definition of number portability should evolve as technology and markets dictate. Sprint supports the Act's definition of number portability to include service provider only at this time. Location routing number architecture should be used for true number portability. Other portability, including location and service, should be phased in as technology and markets dictate. Remote Call Forwarding should be the method of interim number portability. Interim number portability pricing should encourage the development of true number portability. Interim number portability does not promote competition.

ISSUE 13: Has BellSouth provided nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3) of

the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xii) and applicable rules promulgated by the FCC?

• **Sprint/SMNI's Position:**

No. Interconnection should allow seamless calling. Competing networks should be interconnected so that customers can seamlessly receive calls that originate on another carrier's network and place calls that terminate on another carrier's network without dialing extra digits, paying extra, or doing anything out of the ordinary. Call routing capabilities should be nondiscriminatory. Competitors to BellSouth should have control over the routing of all N11 numbers (except for 911) for their customers. N11 numbers include 411, 611 and 811. Competitors should also have control over the routing of all 0-, 0= local and directory assistance numbers (e.g. 1-555-1212).

ISSUE 14: Has BellSouth provided reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiii) and applicable rules promulgated by the FCC?

* **Sprint/SMNI's Position:**

No. Bill-and keep arrangements are not a permanent solution for reciprocal compensation, but should be used

for an interim period not to exceed two years. This interim period allows carriers to determine traffic patterns for the interexchange of network usage. Bill-and-keep should apply only to end office usage. Permanent solutions should be flat-rated, capacity-based, charges that are cost-based. ILECs prices for the interconnection portion should be based on the interconnection price and cost standards. BellSouth should not use reciprocal compensation arrangements for the exchange of toll traffic. Interconnection and reciprocal compensation should not be used to fund universal service.

ISSUE 15: Has BellSouth provided telecommunications services available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3) of the Telecommunications Act of 1996, pursuant to section 271(c)(2)(B)(xiv) and applicable rules promulgated by the FCC?

• **Sprint/SMNI's Position:**

No. While BellSouth may offer services for resale, the terms and conditions do not meet the requirements of this checklist item. The only restriction should be that residential services cannot be resold to business. Unbundled network elements are not retail services. Avoided costs should be calculated by cost category. Prices for associated network elements should not provide additional contribution. Prices need to be rebalanced.

ISSUE 16: By what date does BellSouth propose to provide interLATA toll dialing parity throughout Florida pursuant to section 271(e)(2)(A) of the Telecommunications Act of 1996.

- **Sprint/SMNI's Position:**

Sprint and SMNI take no position on this issue.

ISSUE 17: If the answer to issues 2-15 is yes, have those requirements been met in a single agreement or through a combination of agreements?

- **Sprint/SMNI's Position:**

Not applicable.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I CERTIFY that a copy of Sprint's Posthearing Statement of Issues and Positions has been hand delivered to Nancy White, c/o Nancy Sims, BellSouth Telecommunications, Inc., 150 South Monroe Street, Tallahassee, FL 32301, and a copy has been furnished by *Hand Delivery or U.S. mail to the following parties, this 230 day of September 1997:

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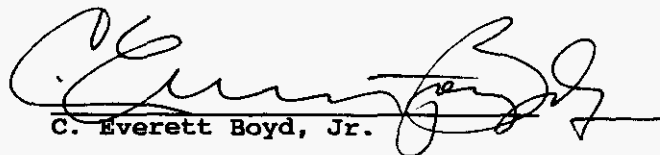
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