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01 JUN -4 PM 4:44

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RECORDS AND
REPORTING

June 4, 2001

Mrs. Blanca S. Bayó
Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 000828-TP (Sprint Arbitration)

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Memorandum in Opposition to Sprint's Motion for Reconsideration, which we ask that you file in the captioned docket.

A copy of this letter is enclosed. Please mark it to indicate that the original was filed and return the copy to me. Copies have been served to the parties shown on the attached Certificate of Service.

Sincerely,

James Meza III
James Meza III (KA)

cc: All Parties of Record
Marshall M. Criser III
R. Douglas Lackey
Nancy B. White

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CERTIFICATE OF SERVICE
Docket No. 000828-TP


I HEREBY CERTIFY that a true and correct copy of the foregoing was served via

U.S. Mail this 4th day of June, 2001 to the following:

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James Meza III (KA)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:) Docket No. 000828-TP
)
Petition of Sprint Communications Company L.P. for)
Arbitration with BellSouth Telecommunications, Inc.)
Pursuant to Section 252(b) of the Telecommunications)
Act of 1996.)
_____) Filed: June 4, 2001

**BELLSOUTH'S MEMORANDUM IN OPPOSITION TO
SPRINT'S MOTION FOR RECONSIDERATION**

BellSouth Telecommunications, Inc. ("BellSouth") submits this Memorandum in Opposition to the Motion for Reconsideration or Clarification of Order No. PSC-01-1095-FOF-TP filed by Sprint Communications Company Limited Partnership ("Sprint"). For the reasons set forth below, Sprint's motion should be denied.

ARGUMENT

The standard of review for a motion for reconsideration is whether the motion identifies a point of fact or law which was overlooked or which the Florida Public Service Commission ("Commission") failed to consider in rendering an order. See Diamond Cab Co. v. King, 146 So. 2d 889, 891 (Fla. 1962). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. See Sherwood v. State, 111 So. 2d 96, 97 (Fla. 3rd DCA 1959) (citing State ex. Rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958)). Moreover, a motion for reconsideration is not intended to be "a procedure for re-arguing the whole case merely because the losing party

disagrees with the judgment or the order.” Diamond Cab Co., 394 So. 2d at 891. Indeed, a motion for reconsideration should not be granted “based upon an arbitrary feeling that a mistake may have been made, but should be based on specific factual matter set forth in the record and susceptible to review.” Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315, 317 (Fla. 1974).

In its motion, Sprint requests the Commission revisit its ruling on Issue 28(a), regarding whether BellSouth is required to provide Sprint with two-way trunks. Sprint offers no legitimate basis for the Commission to review its decision on this issue.

ISSUE 28(a): Should BellSouth be required to provide Sprint with two-way trunks?

In Order No. PSC0-1-1095-FOF-TP, the Commission found that BellSouth was required to provide two-way trunks at Sprint’s request, subject only to technical feasibility. Order at 45. In its Motion for Reconsideration, Sprint asks that the Commission reconsider and/or clarify its ruling to address whether BellSouth is required to provide a particular type of trunk, a SuperGroup trunk, to Sprint. The Commission correctly found, however, that the type of trunk BellSouth is required to provide Sprint is “beyond the scope of the issue as framed.” *Id.*

The only issue arbitrated was whether BellSouth was required to provide two-way trunks to Sprint. As evidenced by the clear wording of the issue statement, the type of trunk BellSouth was required to provide was never the subject of arbitration. BellSouth adequately set forth the scope of the issue in its

post-hearing brief: "The issue to be decided by the Commission is whether BellSouth is obligated to use two-way trunks in every instance where Sprint requests two-way trunking." BellSouth Brief at 22. Indeed, BellSouth did not even address what type of trunk BellSouth was required to provide in its post-hearing brief. Therefore, the Commission did not err or fail to consider any facts or law in finding that a decision involving a specific type of trunk was beyond the scope of the issue. In fact, just the opposite is true, by reaching this conclusion, the Commission correctly reviewed the facts and evidence relating to Issue 28(a) as framed.

In any event, Sprint's Motion is moot because, as stated by Mr. Ruscilli, BellSouth "offers SuperGroups in this interconnection agreement and it is included in the proposed agreement." (Tr. 522).

WHEREFORE, for the foregoing reasons, BellSouth respectfully requests that the Commission deny Sprint's Motion for Reconsideration or Clarification of Order No. PSC-01-1095-FOF-TP.

Respectfully submitted this 4th day of June, 2001.

BELLSOUTH TELECOMMUNICATIONS, INC.

Nancy B. White

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