

State of Florida



Public Service Commission
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TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: OFFICE OF THE GENERAL COUNSEL (BROWN) *MCB*
DIVISION OF COMPETITIVE MARKETS AND ENFORCEMENT (BARRETT, *MCB*
ILERI) *ri*

RE: DOCKET NO. 020415-TL - PETITION OF BELLSOUTH
TELECOMMUNICATIONS, INC. FOR DECLARATORY STATEMENT
CONCERNING WHETHER REQUESTED PROVISION OF
TELECOMMUNICATIONS SERVICE TO SPRINT PCS IN MACCLENNY,
FLORIDA, WHICH IS NOT IN BELLSOUTH'S EXCHANGE SERVICE,
VIOLATES BELLSOUTH'S GENERAL SUBSCRIBER SERVICE TARIFF FOR
THE STATE OF FLORIDA.

AGENDA: 08/06/02 - REGULAR AGENDA - DECISION ON DECLARATORY
STATEMENT - PARTIES MAY PARTICIPATE AT THE COMMISSION'S
DISCRETION - MOTIONS TO DISMISS - PARTIES DID NOT REQUEST
ORAL ARGUMENT

CRITICAL DATES: 8/08/02 - BY STATUTE, ORDER MUST BE ISSUED BY
THIS DATE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\020415.RCM

CASE BACKGROUND

On May 10, 2002, BellSouth Telecommunications, Inc. (BellSouth) filed a Petition for Declaratory Statement in which it asked the Commission to decide whether activating certain of Sprint PCS' assigned NXXs violates Section A35 of BellSouth's General Subscriber Service Tariff. Sprint PCS has routed the NXXs at BellSouth's Jacksonville tandem, where Sprint PCS has established its point of interconnection in the Jacksonville LATA, but rated the NXXs based on the Macclenny, Florida exchange, which is located

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in Northeast Florida Telephone Company's (Northeast) service territory. BellSouth claims that it is concerned that the practice of establishing rating and routing points that differ violates its tariff, because it would result in BellSouth providing "virtual designated exchange service" outside of BellSouth's exchange territory. The Commission published notice of BellSouth's petition in the May 31, 2002, issue of the Florida Administrative Weekly.

On June 4, 2002, Sprint Corporation (Sprint), on behalf of its wireless division, Sprint Spectrum, L.P., d/b/a Sprint PCS (Sprint PCS), filed a Petition to Intervene along with a Motion to Dismiss and Opposition to Petition for Declaratory Statement. Sprint moved to dismiss the petition on the grounds that the Commission does not have jurisdiction over the underlying subject matter of the petition, which, Sprint contends, involves numbering matters, intercarrier compensation issues, and indirect regulation of CMRS (Commercial Mobile Radio Service) providers. BellSouth responded to Sprint's motion to dismiss on June 17, 2002. BellSouth did not oppose Sprint's petition to intervene, which was granted on June 24, 2002.

On July 3, 2002, Nextel Communications, Inc. (Nextel) also filed a Petition to Intervene and a Motion to Dismiss. Like Sprint, Nextel claims that the Commission lacks jurisdiction over the subject matter of the petition, because the case concerns matters of Federal law and policy that preempt state commission regulatory authority. BellSouth filed an unopposed motion for extension of time to respond to Nextel's motion to dismiss on July 9, 2002. BellSouth filed its response on July 17, 2002. BellSouth did not oppose Nextel's petition to intervene, which was granted on July 25, 2002.

This recommendation addresses BellSouth's Petition for Declaratory Statement, as well as the pleadings filed by Sprint and Nextel.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission deny BellSouth's Petition for Declaratory Statement?

RECOMMENDATION: Yes. BellSouth's declaratory statement petition does not meet the threshold requirements for a declaratory statement prescribed in Section 120.565, Florida Statutes, Rule 28-105, Florida Administrative Code, and implementing case law. In addition, a proceeding that addresses the same underlying issues is pending before the Federal Communications Commission. (BROWN, BARRETT, ILERI)

STAFF ANALYSIS:

Facts and Circumstances

The facts and circumstances that give rise to this declaratory statement proceeding are derived from BellSouth's petition, the intervenors' motions to dismiss, and BellSouth's responses to the motions. The facts demonstrate the complexity that underlies the question BellSouth has presented in its petition.

On March 25, 2001, NeuStar, the North American Numbering Plan Administrator, assigned the 904-408 NXX code to Sprint PCS. Sprint intended to use the code to provide cellular telephone service in Macclenny, Florida. Macclenny is located in the Jacksonville LATA and subtended by BellSouth's Jacksonville tandem, but it is within Northeast Telephone Company's (Northeast) service territory. Sprint PCS' point of interconnection with the public switched network in the Jacksonville LATA is located in Jacksonville, at BellSouth's Jacksonville LATA tandem switch, in BellSouth's service territory.

Sprint PCS asked BellSouth to activate the new NPA-NXX in the Jacksonville LATA by routing telecommunications traffic through BellSouth's Jacksonville tandem to its point of interconnection in Jacksonville, but rating the traffic based on the Macclenny exchange. Federal telephone numbering guidelines -- the Central Office Code (NXX) Assignment Guidelines -- are authorized by the Federal Communications Commission (FCC) and implemented by NeuStar. They provide that telecommunications carriers may request the assignment of NXXs that have different rating and routing designations. They state that "[e]ach switching center, each rate

center and each POI [Point of Interconnection] may have unique V&H coordinates."¹ NeuStar authorized the new NXX code with the different rating and routing points described above.

According to Sprint and Nextel, this practice is longstanding and common for wireless providers throughout the country. Wireless providers are permitted by the FCC to provide service in geographic areas - Major Trading Areas - that do not correspond with, and are often larger than, the service areas of local exchange telephone companies. The assignment of different rating and routing points in a LATA allows wireless providers to minimize the physical points of interconnection with landline telecommunications providers and creates efficiency in the configuration of their networks.

BellSouth initially refused to activate Sprint PCS' new NXX code, because the rating point was located in an exchange outside BellSouth's territory. According to Sprint and Nextel, this conflict between BellSouth and wireless providers has recently arisen in other areas of BellSouth's region and was the subject of an objection by Nextel and another wireless provider to BellSouth's 271 filings in Georgia and Louisiana. The intervenors assert that although BellSouth has now activated these codes, it intends to contest the practice at state commissions in its region, as this petition for declaratory statement shows.

In response to this challenge, Sprint filed a Petition for Declaratory Ruling with the FCC on May 9, 2002, one day before BellSouth filed its petition here. Sprint has asked the FCC to confirm that the practice of having different rating and routing points for NXX codes assigned to wireless providers, whether or not those points are in the same landline company's service territory, is consistent with federal law and regulations.² Nextel has submitted a filing in that docket in support of Sprint's position. However, BellSouth filed its Opposition to the Sprint PCS' petition for Declaratory Ruling with the FCC. In this filing, BellSouth

¹ Central Office Code (NXX) Assignment Guidelines, INC 95-0407-008, § 6.2.2.

² In the Matter of Sprint Petition for Declaratory Ruling - Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnection Carriers.

states that all of Sprint PCS' NPA-NXXs have now been loaded regardless of rating and routing points, and that it will not unilaterally stop routing Sprint PCS calls on June 8, 2002 or on any other date. A copy of the FCC's July 18, 2002, Notice seeking comments on Sprint's petition in CC Docket No. 01-92 is attached to this recommendation (Attachment A). The notice shows that the facts and the issues that Sprint has raised in the FCC docket are the same as the facts and the issues that underlie BellSouth's petition before this Commission. The FCC intends to address Sprint's petition in its intercarrier compensation docket.

Staff also notes that the FCC has exclusive jurisdiction over CMRS providers and their local service areas. In its Local Competition Order (FCC 96-325), at ¶ 1036, the FCC states:

On the other hand, in the light of this Commission's exclusive authority to define the authorized license areas of wireless carriers, we will define the local service area for all calls to or from a CMRS network for the purposes of applying reciprocal compensation obligations under section 251(b)(5).

In its Petition for Declaratory Statement, BellSouth requests an interpretation of its General Subscriber Service Tariff, specifically section A35, "Interconnection Services for Mobile Service Providers," as it applies to the activation of Sprint PCS's NXXs with different rating and routing points. Section A35.1.1.R provides:

R. Assignment of Numbers and NXX Codes

1. When a new dedicated NXX is assigned, if the NXX will reside at the MSP's Point of Presence (POP), at least one number from that NXX must terminate in a milliwatt test line (Technical Reference: ANSI T1.207-1989), to be used for text purposes. When a dedicated NXX is assigned for BellSouth CMRS Type 1 service, and BellSouth CMRS Local Loop Trunks, then the NXX resides in the Company end office, in which case the Company will terminate a MSP selected number in a milliwatt test line.

2. The MSP will provide the Company with both the name of the desired designated exchange and the V&H coordinates for each dedicated NXX established with a

BellSouth CMRS type 2A/Type 2A-SS7 interconnection. If the desired designated exchange for the dedicated NXX is different than the exchange where the MSP's BellSouth CMRS Type 2A/Type 2A-SS7 interconnection exists, it is called a virtual designated exchange. A virtual designated exchange is only allowed when the chosen designated exchange meets the following criteria:

- a. Is a Company exchange
- b. Is in the same LATA as the MSP's point of interconnection
- c. Is billed from the same Regional Accounting Office (RAO) as MSP's interconnection
- d. Is located within the NPA's geographic area
- e. Is in a different local calling area than the exchange where the MSP's interconnection exists

Once ordered, the chosen designated exchange cannot be changed for six months after implementation.

3. The MSP may move an existing dedicated NXX that resides in a Company end office to the MSP's Point of Presence (POP) within the same LATA. A BellSouth CMRS Type 2A/Type 2A-SS7 interconnection must exist at the POP. Both locations must be served by the same access tandem.

BellSouth states that the language of its tariff only allows "virtual designated service" when the chosen exchange is a "Company" (BellSouth) exchange. According to BellSouth the effect of Sprint PCS' designation of its NXXs here is that traffic is routed to Sprint PCS' customers over BellSouth's network for termination, excluding Northeast from the opportunity to route the Macclenny calls over its network. BellSouth alleges that this arrangement also results in inaccurate rating of landline end user local and toll option calls. In the Affidavit of Robert E. James, attached to BellSouth's petition, Mr. James describes what he calls the "pitfalls" of activating Sprint PCS' NPA/NXXs with different rating and routing points:

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These Pitfalls include but are not limited to (1) rendering all compensation between the involved parties inaccurate; (2) preventing BST (BellSouth) and NFTC (Northeast Florida Telephone Company) from receiving accurate compensation for the use of their networks; (3) rendering inaccurate settlements between BST and NFTC and inaccurate billings between the parties; and (4) billing BST and NFTC end users in a manner that is inconsistent with the actual routing/delivery of the calls. In addition, the above scenario results in NFTC being unable to provide interconnection with its network by Sprint, and Sprint using BST's network to compete with NFTC on a local basis rather than interconnecting with NFTC and appropriately compensating NFTC for such interconnection.

Affidavit of Robert E. James, pps. 3-4.

The intervenors, in their petitions to intervene and in their motions to dismiss, assert that there are no disputes of material fact presented by this case, but they then proceed to dispute all or most of BellSouth's factual allegations. They contend that their configuration of their networks by use of different rating and routing designations for NXXs is not "virtual designated exchange service," and thus BellSouth's tariff does not apply. They assert that intercarrier compensation will not be rendered inaccurate by routing and rating NXX codes separately. They dispute BellSouth's allegation that it would be providing services in non-BellSouth exchanges if it activated Sprint PCS' NXX codes as requested. They dispute BellSouth's allegations that other ILECs are being deprived of compensation for use of their networks. They contest BellSouth's claim that Sprint PCS is using BellSouth's network to compete with Northeast Telephone. They contest BellSouth's allegation that it would be forced to rate calls based on another ILEC's tariffs if it activated the codes in the manner requested.

For its part, BellSouth disputes the intervenors' assertion that this practice is a longstanding one in the wireless industry, one in which BellSouth has participated for several years. BellSouth responds that it was not aware of the practice until recently. As mentioned above, these facts demonstrate the complexity and controversy surrounding BellSouth's declaratory statement petition.

Threshold Requirements for Issuance of a Declaratory Statement

Section 120.565, Florida Statutes, governs the issuance of a declaratory statement. In pertinent part, it provides:

(1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.

(2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

Florida's Uniform Rule of Administrative Procedure, Rule 28-105.001, Florida Administrative Code, further explains that:

A declaratory statement is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency. A petition for declaratory statement must describe the potential impact of statutes, rules or orders upon the petitioner's interests.

A declaratory statement is also an inappropriate means to resolve a dispute between parties where material factual issues exist. According to Rule 28-105.003, Florida Administrative Code, no Section 120.57(1) hearing involving disputed issues of material fact may be held when considering a declaratory statement. When a formal administrative hearing is required to resolve the factual disputes, a declaratory statement petition should be denied. See, Order No. PSC-99-2439-FOF-TP, issued December 13, 1999, in Docket No. 991414-TP, In re: Petition by GTE Florida Incorporated for a Declaratory Ruling Concerning Order No. PSC-99-1477-FOF-TP. Nor is a declaratory statement appropriate where another proceeding is pending that addresses the same subject matter. Couch v. State Department of Health and Rehabilitative Services, 377 So.2d 32 (Fla. 1979); Novick v. Department of Health, Board of Medicine, 2002 Fla. App. LEXIS 7616 (Fla. 5th DCA 2002) (a declaratory statement is not an appropriate remedy where there is related pending litigation); Fox v. State Board of Medical Examiners, 395

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So. 2d 192, (Fla. 1st DCA 1981) (Couch "is dispositive on the point that declaratory statement proceedings, by analogy to Chapter 86, Florida Statutes, are not properly filed on issues simultaneously litigated in judicial or other administrative proceedings of the character here involved.")

Recommended Decision

In its Petition for Declaratory Statement, BellSouth has asked an apparently simple question -- whether loading Sprint PCS' NXXs will violate BellSouth's General Subscriber Services tariff -- but the question belies the real complexity of the issues surrounding it, and a simple answer to the question resolves very little, if anything. As described in the recitation of the facts above, there are several material factual disputes between BellSouth and the intervenors over whether the NXXs in question are "virtual NXXs," whether inequities of compensation will occur if this practice continues, whether mobile carriers will be required to interconnect with all local companies in a LATA to serve the exchanges in their territory and at what cost, and whether local and toll charges will be accurately assessed. At the very least there is uncertainty about the scope and effect of the question BellSouth has asked, and a simple answer to BellSouth's question does not address whether section A35 of BellSouth's General Subscriber Services tariff complies with applicable federal and state law. The federal law implications of Sprint's request to activate its NXX codes with different rating and routing points is currently before the FCC. When the FCC resolves those issues before it, the status and effect of BellSouth's tariff will be more apparent.

It is clear that a declaratory statement is not appropriate where the question presented involves disputed issues of material fact, or where another proceeding is pending that addresses the same subject. Both circumstances exist in this case, and therefore, staff recommends that BellSouth's petition should be denied.

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ISSUE 2: Should the Commission grant BellSouth's Motion for Extension of Time to file a response to Nextel's motion to dismiss?

RECOMMENDATION: Yes. (BROWN)

STAFF ANALYSIS: On July 9, 2002, BellSouth filed a Motion for Extension of Time to file its response to Nextel's July 3, 2002, motion to dismiss. BellSouth's response was due July 10, but BellSouth stated that it needed an additional week to file it because of the intervening Fourth of July holiday and other commitments. Nextel did not object to the motion. BellSouth filed its response on July 17, 2002.

As Nextel has not been harmed by the week's delay, staff recommends that the Commission grant BellSouth's motion.

ISSUE 3: Should the Commission address Sprint's and Nextel's motions to dismiss?

RECOMMENDATION: No. If the Commission determines that a declaratory statement is not appropriate here and denies BellSouth's petition on that basis, it will not be necessary to address the motions to dismiss. If the Commission determines that it is appropriate to address the issues raised by BellSouth's petition, it should deny Sprint's and Nextel's motions to dismiss. BellSouth's petition raises questions of mixed jurisdiction, and the Commission has jurisdiction to determine the correct application of BellSouth's state tariffs. (BROWN)

STAFF ANALYSIS: As noted in the case background above, both Sprint and Nextel filed motions to dismiss BellSouth's declaratory statement petition on the ground that the Commission does not have jurisdiction to address the subject matter of the petition. The intervenors assert that federal law preempts state commission authority over administration of numbering resources and determination of appropriate intercarrier compensation mechanisms. They state that the FCC alone has authority to address these matters, and is currently doing so in Sprint's declaratory statement petition. They also note that the Commission has no regulatory authority over CMRS providers.

BellSouth disagrees with these assertions, contending that the Commission has state law authority to interpret and enforce telecommunications companies' state tariffs, and authority also to address issues involving interconnection and intercarrier compensation under the Telecommunications Act of 1996, including interconnection agreements and reciprocal compensation agreements between local exchange companies and mobile service providers.

Staff recommends that it is not necessary for the Commission to address the intervenors' motions to dismiss, because BellSouth's petition fails to meet the threshold requirements for issuance of a declaratory statement and should be denied on that basis. If the Commission decides to address BellSouth's petition, staff recommends that the motions to dismiss should be denied. The jurisdictional authority over these questions is mixed. The Commission clearly has authority to implement and interpret BellSouth's tariff, and to determine whether the tariff complies with federal and state law. As these motions to dismiss should be considered in the light most favorable to BellSouth, staff recommends that if the Commission decides to consider them, they should be denied.

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ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission votes to dispose of the petition for declaratory statement, the docket should be closed.

(BROWN)

STAFF ANALYSIS: A declaratory statement is issued as a final order, and the docket may be closed.



PUBLIC NOTICE

Federal Communications Commission
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DA 02-1740

Released July 18, 2002

**COMMENT SOUGHT ON SPRINT PETITION FOR DECLARATORY RULING
REGARDING THE ROUTING AND RATING OF TRAFFIC BY ILECs**

Pleading Cycle Established

CC Docket No. 01-92

Comments Due: August 8, 2002

Reply Comments Due: August 19, 2002

On May 9, 2002, Sprint Corporation (Sprint), on behalf of its wireless division, filed a petition for declaratory ruling seeking confirmation that: (1) an incumbent local exchange carrier (ILEC) may not refuse to load telephone numbering resources of an interconnecting carrier, and (2) an ILEC may not refuse to honor the routing and rating points designated by that interconnecting carrier.¹

According to Sprint, when it applies for a new NPA-NXX code² from the North American Numbering Plan Administrator (NANPA), Sprint is required to provide all relevant call rating and routing information for that NPA-NXX code. This call routing information includes not only the mobile switching center (MSC), but also includes the local access and transport area (LATA) tandem switch. The LATA tandem switch information is particularly important because few carriers interconnect directly with each other; rather, they connect to the public switched telephone network (PSTN) at a LATA tandem switch. According to Sprint, when a call is placed, the originating carrier routes the call to an end-user via the LATA tandem switch, which is generally operated by a regional Bell operating company (RBOC). The LATA

¹ *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of Traffic by ILECs*, CC Docket No. 01-92, Petition of Sprint (filed May 9, 2002) (Sprint Petition).

² The term NPA-NXX (numbering plan area code and central office code) refers to the first three digits (NPA) and the second three digits (NXX) of a ten-digit telephone number in the form NXX-NXX-XXXX, where N represents any one of the numbers 2 through 9 and X represents any one of the numbers 0 through 9. See 47 C.F.R. §§ 52.7(a) and (c).

tandem switch then forwards the call to the subtending MSC operated by the mobile carrier so that the call can terminate at the called party's mobile phone.³

The source of Sprint's concern is its contention that, in certain circumstances, BellSouth has signaled its intention to refuse to program its LATA tandem switches with Sprint's NPA-NXXs. In particular, where Sprint wishes to associate an NPA-NXX with a rate center of an ILEC other than BellSouth, and the rating and routing points are different (*e.g.*, the routing point could be Sprint's MSC, but the rating point would be an independent ILEC's rate center), Sprint contends that BellSouth's position is to refuse to load its LATA tandem switch with Sprint's call routing and rating information.⁴

According to Sprint, BellSouth effectively would require Sprint to interconnect directly with the independent ILEC, whose rate center Sprint wishes to be associated with, rather than directly with the BellSouth LATA tandem switch serving the independent ILEC's end office.⁵ Sprint asserts that it cannot economically justify the costs of a direct connection with the independent ILEC.⁶ The Sprint Petition also raises the obligation of the BellSouth to route calls to *existing* CMRS NPA-NXX codes that meet these same criteria.

On May 22, 2002, BellSouth filed an opposition to the Sprint Petition.⁷ According to BellSouth, it is currently loading NPA-NXXs that Sprint acquires. BellSouth also contends that it is not currently adversely affecting the routing of any Sprint traffic. In its opposition BellSouth states that it believes that the rating and routing arrangements described above result in inappropriate intercarrier compensation, claiming that "[v]arious forms of intercarrier compensation, including reciprocal compensation, access charges, and inter-company settlements could apply to this traffic."⁸ According to BellSouth, when a CMRS carrier does not interconnect directly with the independent ILEC and BellSouth transits calls with rate centers within the independent ILEC's calling area, but with routing points within BellSouth's calling area, the following questions need to be resolved: (1) does BellSouth provide Sprint with the equivalent of a virtual NPA-NXX,⁹ (2) does BellSouth have to modify its tariff, or (3) does a

³ Sprint Petition at 4-5

⁴ Sprint Petition at 2, 6-7.

⁵ Sprint Petition at 2, 7, 15-16.

⁶ Sprint Petition at 11.

⁷ The opposition was filed by BellSouth Corporation and BellSouth Telecommunications, Inc. (BellSouth). On June 6, 2002, Nextel Communications, Inc. and Triton PCS License Company, L.L.C. filed replies to the BellSouth opposition, and ALLTEL Communications, Inc. filed comments in support of Sprint's request.

⁸ BellSouth Opposition at 2.

⁹ Virtual NPA-NXX codes are central office codes that correspond with a particular geographic area that are assigned to a customer located in a different geographic area. *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610, para. 155 n.188 (2001).

new interconnection arrangement need to be defined and the appropriate charges be associated therewith.¹⁰ BellSouth contends that the issue underlying these questions is whether, in routing traffic outside of its exchange area, BellSouth is acting in a manner that is inconsistent with its state certificate of authority.¹¹ According to BellSouth, all of these questions are appropriate matters for state commissions to resolve.¹²

We seek comment on the practices and issues raised in Sprint's petition and BellSouth's opposition, including the appropriate intercarrier compensation applicable to the traffic described above, both under our existing rules and prospectively.

Sprint's Petition and BellSouth's Opposition raise interconnection and intercarrier compensation issues under consideration in CC Docket No. 01-92, *Developing a Unified Intercarrier Compensation Regime*.¹³ Accordingly, we ask that parties file their pleadings in CC Docket No. 01-92. The petition and other pleadings will be incorporated into CC Docket No. 01-92.

Pursuant to sections 1.415 and 1.419 of the Commission's rules,¹⁴ interested parties may file comments on or before August 8, 2002, and reply comments on or before August 19, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.¹⁵

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the filing to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic copy by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message: "get form <your email address>." A sample form and directions will be sent in reply. Commenters also may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/e-file/email.html>.

¹⁰ BellSouth Opposition at 2, 3.

¹¹ BellSouth Opposition at 3 n.2.

¹² BellSouth Opposition at 3.

¹³ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001).

¹⁴ 47 C.F.R. §§ 1.415, 1.419.

¹⁵ See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322, 11326, para. 8 (1998).

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals II, 445 12th Street S.W., CY-B402, Washington, D.C. 20554 (telephone 202-863-2893; facsimile 202-863-2898) or via e-mail at qualexint@aol.com. In addition, one copy of each submission must be filed with the Chief, Pricing Policy Division, Wireline Competition Bureau, and Chief, Policy Division, Wireless Telecommunications Bureau, 445 12th Street, S.W., Washington, D.C. 20554. Documents filed in this proceeding will be available for public inspection during regular business hours in the Commission's Reference Information Center, 445 12th Street, S.W., Washington, D.C. 20554, and will be placed on the Commission's Internet site.

This proceeding will be governed by "permit-but-disclose" *ex parte* procedures that are applicable to non-restricted proceedings under section 1.1206 of the Commission's rules.¹⁶ Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required.¹⁷ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well. In addition, interested parties are to file any written *ex parte* presentations in this proceeding with the Commission's Secretary, Marlene H. Dortch, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, and serve with three copies each: Pricing Policy Division, Wireline Competition Bureau, Attn: Victoria Schlesinger, and Policy Division, Wireless Telecommunications Bureau, Attn: Gregory Vadas, 445 12th Street, S.W., Washington, D.C. 20554. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (202) 863-2893.

¹⁶ 47 C.F.R. § 1.1206.

¹⁷ See 47 C.F.R. § 1.1206(b)(2).

For further information, contact Steve Morris or Victoria Schlesinger, Pricing Policy Division, Wireline Competition Bureau, (202) 418-1530, or Gregory Vadas, Policy Division, Wireless Telecommunications Bureau, (202) 418-1798.

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