

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

AUGUST 6, 2002

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.

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.

The notice of voluntary dismissal of petition without prejudice filed 8/6/02 by Bell South was acknowledged. Issues 2 and 3 are rendered moot by the decision to acknowledge Bell South's notice of voluntary dismissal.

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

Rudy Bradley
[Signature]
[Signature]
[Signature]
[Signature]
Michael A. Palerh

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER - DATE

08237 AUG-6 02

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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.

MOOT

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.

MOOT

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.

APPROVED