

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

OCTOBER 15, 2002

RE: Docket No. 020868-TL - Petition by BellSouth Telecommunications, Inc. for investigation of wireless carriers' request for BellSouth to provide telecommunications service outside BellSouth's exchange.

ISSUE 1: Should Nextel and Sprint's Requests for Oral Argument on their Motions to Dismiss be granted?

RECOMMENDATION: Yes. Nextel and Sprint should be granted oral argument, because it may aid the Commission in its consideration of the jurisdictional issues to be addressed.

APPROVED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures in majority column]

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLFRK

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(Continued from previous page)

ISSUE 2: Should the Commission deny Nextel and Sprint's Motions to Dismiss and, in the alternative, hold BellSouth's petition in abeyance?

RECOMMENDATION: Yes. The Commission should deny Nextel and Sprint's Motions to Dismiss and, in the alternative, hold BellSouth's petition in abeyance pending resolution by the Federal Communications Commission (FCC) of Sprint's Petition for Declaratory Ruling. Pursuant to the applicable standard of review for a Motion to Dismiss, BellSouth's petition states a cause of action upon which relief may be granted; furthermore, the petition raises questions of mixed jurisdiction. However, the issues raised in BellSouth's petition are the same underlying issues raised in Sprint's Petition for Declaratory Ruling currently pending before the FCC. Therefore, in the interest of judicial comity and efficiency, the Commission should hold BellSouth's petition in abeyance pending resolution of the FCC proceeding.

MODIFIED

Approved with the modification that the docket is held in abeyance pending a ruling by the FCC and that no ruling is made on the motions to dismiss.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. If the Commission approves staff's recommendation in Issue 2, this docket should remain open. If, however, the Commission does not approve staff's recommendation in Issue 2, this docket should be closed.

APPROVED