

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by BellSouth Telecommunications, Inc. for investigation of wireless carriers' request for BellSouth to provide telecommunications service outside BellSouth's exchange.

DOCKET NO. 020868-TL  
ORDER NO. PSC-02-1455-PCO-TL  
ISSUED: October 22, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

ORDER HOLDING DOCKET IN ABEYANCE

BY THE COMMISSION:

On August 6, 2002, BellSouth Telecommunications, Inc. (BellSouth) filed a Petition for Investigation and Establishment of Generic Proceeding in which it asked the Commission to establish a generic proceeding to determine whether the provision of telecommunications service by BellSouth to wireless carriers, as requested by wireless carriers, when said service is not in BellSouth's exchange service, violates BellSouth's General Subscriber Service Tariff (GSST) for the State of Florida. BellSouth claims it is concerned that satisfying such a request could violate BellSouth's GSST, Section A35, because it would result in BellSouth providing virtual designated exchange service outside of a BellSouth exchange.

On August 22, 2002, Nextel Communications, Inc. (Nextel) filed a Petition to Intervene, Request for Oral Argument and a Motion to Dismiss, or in the alternative, Hold in Abeyance. Nextel moved to dismiss the petition on the grounds that the Commission lacks jurisdiction over the subject matter of the petition. Nextel asserts that the subject matter of BellSouth's

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petition raises issues regarding its interconnection policies that would deprive commercial mobile radio service (CMRS) carriers of their unfettered right to interconnect with BellSouth at any technically feasible point within a LATA pursuant to FCC rule and policy. BellSouth filed its response to Nextel's Motion to Dismiss on August 29, 2002.

On August 26, 2002, Sprint Corporation, on behalf of its wireless division, Sprint Spectrum L.P., d/b/a Sprint PCS (Sprint) also filed a Petition to Intervene, Request for Oral Argument and a Motion to Dismiss. Like Nextel, Sprint claims that the Commission lacks jurisdiction over the subject matter of the petition. Sprint asserts BellSouth's petition raises questions of federal law over which the FCC has exclusive jurisdiction. BellSouth filed its response to Sprint's Motion to Dismiss on September 6, 2002.

At the October 15, 2002 Agenda Conference, we granted Nextel and Sprint's Request for Oral Argument. During Oral Argument, the parties indicated that through a series of discussions, all parties reached agreement that the docket should be held in abeyance pending the outcome of Sprint's Petition for Declaratory Ruling (Petition) currently pending before the Federal Communications Commission (FCC).<sup>1</sup> Therefore, we find it reasonable and appropriate to hold this docket in abeyance pending resolution by the FCC of Sprint's Petition. We will revisit Nextel and Sprint's Motions to Dismiss and adjudicate the Motions on their merits at a later date.

Based on the foregoing, it is,

ORDERED by the Florida Public Service Commission that Docket No. 020868-TL shall be held in abeyance pending the outcome of Sprint's Petition for Declaratory Ruling currently pending before the Federal Communications Commission.

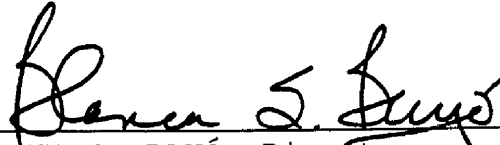
ORDERED that this Docket shall remain open.

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<sup>1</sup>Sprint Petition for Declaratory Ruling, CC Docket No. 01-92, (May 9, 2002)

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By ORDER of the Florida Public Service Commission this 22nd  
day of October, 2002.



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BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida

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Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.