

Dorothy Menasco

From: Slaughter, Brenda [bs3843@att.com]
Sent: Tuesday, September 09, 2008 4:22 PM
To: Filings@psc.state.fl.us
Cc: Tyler, John; Woods, Vickie; Holland, Robyn P; Fennell, Kelly A (Attsi)
Subject: Docket Nos. 070368-TP and 070369-TP
Attachments: 070368-TP 070369-TP Expedited Motion to Stay Effectiveness of Commission Vote.pdf

A. Brenda Slaughter
 Legal Secretary to J. Phillip Carver, Robert A. Culpepper, and John T. Tyler
 BellSouth Telecommunications, Inc. d/b/a AT&T Florida
 150 South Monroe Street
 Suite 400
 Tallahassee, Florida 32301
 (404) 335-0714
brenda.slaughter@att.com

B. Re: Docket No. 070368-TP: Notice of the Adoption by NPCR, Inc. d/b/a Nextel Partners of the Existing "Interconnection Agreement By and Between BellSouth Telecommunications, Inc. and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P." dated January 1, 2001

Re: Docket No. 070369-TP: Notice of the Adoption by Nextel South Corp. and Nextel West Corp. (collectively "Nextel") of the Existing "Interconnection Agreement By and Between BellSouth Telecommunications, Inc. and Sprint Communications Company Limited Partnership, Sprint Communications Company L.P., Sprint Spectrum L.P." dated January 1, 2001

C. BellSouth Telecommunications, Inc. d/b/a AT&T Florida
 on behalf of John T. Tyler

D. 6 pages total (includes letter, certificate of service and pleading)

E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Expedited Motion to Stay Effectiveness of Commission Vote

<<070368-TP 070369-TP Expedited Motion to Stay Effectiveness of Commission Vote.pdf>>

DOCUMENT NUMBER-DATE

08384 SEP-9 8

FPSC-COMMISSION CLERK



John T. Tyler
General Attorney
Legal Department

AT&T Florida
150 South Monroe Street
Suite 400
Tallahassee, FL 32301

T: (404) 335-0757
F: (404) 927-3618
john.tyler@att.com

September 9, 2008

Ms. Ann Cole
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

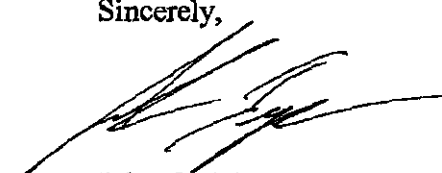
Re: Docket No. 070368-TP (Nextel Partners)
Docket No. 070369-TP (Nextel)

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Expedited Motion to Stay Effectiveness of Commission Vote, which we ask that you file in the captioned dockets.

Copies have been served to the parties shown on the attached Certificate of Service on this day.

Sincerely,



John T. Tyler

cc: All Parties of Record
Gregory Follensbee
E. Earl Edenfield, Jr.
Lisa S. Foshee

DOCUMENT NUMBER-DATE

08384 SEP-9 8

FPSC-COMMISSION CLERK

Notice of the Adoption by NPCR, Inc. d/b/a)
Nextel Partners of the Existing "Interconnection) Docket No. 070368-TP
Agreement By and Between BellSouth)
Telecommunications, Inc. and Sprint)
Communications Company Limited Partnership,)
Sprint Communications Company L.P.,)
Sprint Spectrum L.P." dated January 1, 2001)

Notice of the Adoption by Nextel South Corp.)
And Nextel West Corp. (collectively "Nextel")) Docket No. 070369-TP
Of the Existing "Interconnection Agreement)
By and Between BellSouth)
Telecommunications, Inc. and Sprint)
Communications Company Limited Partnership,)
Sprint Communications Company L.P.,)
Sprint Spectrum L.P." dated January 1, 2001)

Filed: September 09, 2008

**EXPEDITED MOTION OF AT&T FLORIDA TO STAY
EFFECTIVENESS OF COMMISSION VOTE**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T") hereby respectfully requests that the Florida Public Service Commission ("Commission") expeditiously stay the effectiveness of the Commission's September 4, 2008 vote on the Commission Staff's Recommendations in Docket Nos. 070368-TP and 070369-TP ("Expedited Motion to Stay"). As is established below, unless expeditiously stayed, the Commission's approval of the Staff Recommendation on Issue 4, could effectively render AT&T's affirmative right to reconsideration, pursuant to Rule 25-22.060, null and void and thereby violate AT&T's due process rights. In support of this Motion AT&T states the following:

1. During the Commission's Agenda Meeting held on September 4, 2008, the Commission voted on Staff Recommendations in Dockets Nos. 070368-TP and 070369-TP.

2. Staff Recommendations in these Dockets included the following Recommendation on **Issue 4**: Should this docket be closed?

DOCUMENT NUMBER- DATE

08384 SEP-9 8

FPSC-COMMISSION CLERK

Recommendation: If the Commission approves Nextel's adoption of the Sprint ICA in Issue 1 or Issue 2B, Docket Nos. 070368-TP and 070369-TP should remain open pending the *filing of the signed adoption between the parties, which should occur no later than 7 days following the Commission's vote.* These dockets should be closed administratively upon issuance of a memo by staff acknowledging the Adoption of the Sprint – AT&T Interconnection Agreement.

If the Commission denies Nextel's adoption of the Sprint ICA in Issue 1 and Issue 2B, Docket Nos. 070368-TP and 070369-TP should be closed upon issuance of the Final Order. (Emphasis added).

3. The Commission approved Nextel's adoption of the Sprint ICA and approved Staff's Recommendation on Issue 4--thereby requiring the parties to submit signed adoption documents "no later than 7 days following the Commission's [September 4, 2008] vote." See Staff Recommendation on Issue 4 above; emphasis added.

4. Compliance with the language contained in the approved Issue 4 Recommendation, would require filing signed adoption documents with the Commission on or before September 11, 2008.

5. To date, the Commission has not entered a written Order in these Dockets.

6. Commission Rule 25-22.060(3) provides in pertinent part: "A motion for reconsideration of a final order shall be filed within 15 days after issuance of the order." Thus, AT&T cannot seek reconsideration until such time as the Commission issues a written order.

7. The salient issue in these Dockets is whether, and under what circumstances, AT&T must allow Nextel to adopt the Sprint – AT&T interconnection agreement.

8. Any reconsideration that AT&T might desire to seek on a final order in these Dockets would effectively be prematurely and improperly mooted by operation of the

Commission's approval of the Staff Recommendation on Issue 4. That is so because, to comply with the Commission approval of Staff's Recommendation on Issue 4, AT&T would be forced to execute and file with the Commission the adoption documents prior to ever having been allowed to exercise its affirmative statutory right to seek reconsideration on issues involving the underlying adoptions.

9. Requiring that AT&T execute and file the adoption documents prior to the expiration of the 15-day time period (subsequent to a final written order) that it would otherwise have to seek reconsideration, would effectively render that statutory right null and void, and thereby improperly deny AT&T its clearly-established due process right.

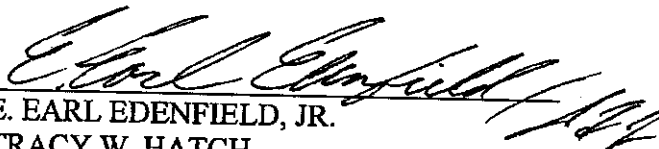
10. Expeditiously granting this Motion is necessary to ensure that there is no violation of AT&T's due process rights.

11. Staying operation of Commission approval of Staff's Recommendation on Issue 4 does not harm Nextel. Expeditiously granting AT&T's Motion would serve the public interest by preserving AT&T's due process rights while maintaining the status quo until such time as a Final Order is issued, AT&T's statutory right to reconsideration has expired, or a timely-filed Motion for Reconsideration has been resolved.

WHEREFORE, for the foregoing reasons, AT&T requests that the Commission grant its Expedited Motion to Stay.

Respectfully submitted, this 9th day of September, 2008.

BELLSOUTH TELECOMMUNICATIONS, INC.
d/b/a AT&T FLORIDA



E. EARL EDENFIELD, JR.
TRACY W. HATCH
MANUEL A. GURDIAN
c/o Gregory R. Follensbee
150 South Monroe Street, Suite 400
Tallahassee, FL 32301
(305) 347-5558



LISA S. FOSHEE

JOHN T. TYLER
Suite 4300
675 W. Peachtree St., NE
Atlanta, GA 30375
(404) 335-0757

CERTIFICATE OF SERVICE
Docket Nos. 070368-TP and 070369-TP

I HEREBY CERTIFY that a true and correct copy was served via Electronic Mail
and First Class U. S. Mail this 9th day of September, 2008 to the following:

Florida Public Service Commission
Lee Eng Tan, Staff Counsel
Victor McKay, Staff Counsel
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Tel. No. (850) 413-6185
ltan@psc.state.fl.us
vmckay@psc.state.fl.us

Marsha E. Rule
Rutledge Law Firm
215 South Monroe Street,
Suite 420 (32301)
P.O. Box 551
Tallahassee, Florida 32302-0551
Tel. No. (850) 681-6788
Fax. No. (850) 681 -6515
marsha@reuphlaw.com

Douglas C. Nelson
William R. Atkinson
Sprint Communications/Sprint Nextel
233 Peachtree Street, N.E., Suite 2200
Atlanta, GA 30303-1504
Tel. No. (404) 649-0003
Fax. No. (404) 649-0009
douglas.c.nelson@sprint.com
bill.atkinson@sprint.com

Joseph M. Chiarelli
Sprint Nextel
6450 Sprint Parkway
Overland Park, KS 66251
Tel. No. (913) 315-9223
Fax. No. (913) 523-9623
joe.m.chiarelli@sprint.com


John T. Tyler