

**Dorothy Menasco**

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**From:** Slaughter, Brenda [bs3843@att.com]  
**Sent:** Monday, October 13, 2008 3:47 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Woods, Vickie; Holland, Robyn P; Tyler, John  
**Subject:** Docket Nos. 070368-TP and 070369-TP  
**Attachments:** 070368-TP 070369-TP AT&T FL Objection to Relief Request of Nextel.pdf

A. Brenda Slaughter

Legal Secretary to Robert A. Culpepper and John T. Tyler  
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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. 4 pages total (includes letter, certificate of service and pleading)

E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Objection to Relief Requested by Nextel

<<070368-TP 070369-TP AT&T FL Objection to Relief Request of Nextel.pdf>>

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October 13, 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:

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida") is in receipt of Nextel South Corp. and NPCR, Inc.'s (collectively "Nextel") letter dated October 10, 2008. As is further explained below, AT&T Florida objects to the relief requested by Nextel in its letter.

On June 8, 2007, Nextel filed its Notice of Adoption putatively adopting "in its entirety" the 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 ("Sprint ICA"). AT&T Florida objected to Nextel's adoption of the Sprint ICA on various grounds. On or about September 10, 2008, the Florida Public Service Commission ("Commission") ordered that Nextel's adoption of the Sprint ICA was valid pursuant to 47 U.S.C. § 252(i) and 47 C.F.R. § 51.809, that the effective date of Nextel's adoption of the Sprint ICA should be June 8, 2007, and that the parties were to file a signed adoption agreement. Pursuant to the Commission's Order, on September 11, 2008, the parties filed a signed adoption agreement in which "Nextel adopts in its entirety the 2001 AT&T Florida/Sprint Agreement and all amendments to said agreement executed and approved by the Florida Public Service Commission as of the Effective date of this Agreement."

On September 17, 2008, AT&T Florida filed its Motion for Reconsideration requesting that the Commission reconsider a portion of Order No. PSC-08-0584-FOF-TP allowing the adoption by Nextel of the AT&T-Sprint interconnection agreement with a retroactive effective date of June 8, 2007. In its Motion for Reconsideration, AT&T

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Florida argues that the effective date of the adoption should properly be no earlier than the date upon which the Commission approved the adoption--September 11, 2008.

In its letter dated October 10, 2008, Nextel states that if the Commission denies AT&T Florida's Motion for Reconsideration, then Nextel requests that the Commission require the parties to execute and file a revised adoption agreement that would allow Nextel to somehow also adopt, effective on June 8, 2007, an amendment to the Sprint ICA that did not become effective until January 29, 2008 upon order of the Commission. Such an action would be legally impermissible under Section 252(i) of the Act.

As indicated above, in its June 8, 2007 Notice of Adoption, Nextel requested adoption of the Sprint ICA "in its entirety". In the Commission's Order, the Commission granted Nextel's adoption of this Agreement effective June 8, 2007. The parties' executed adoption, filed on September 11, 2008, provides that "Nextel adopts in its entirety the 2001 AT&T Florida/Sprint Agreement and all amendments to said agreement executed and approved by the Florida Public Service Commission as of the Effective Date of this Agreement." (emphasis added). Pursuant to the Commission's Order, the effective date of Nextel's adoption of the 2001 AT&T Florida/Sprint Agreement was June 8, 2007 and, at that time, the amendment to the 2001 AT&T Florida/Sprint Agreement approved by the Commission in Docket No. 070249-TP on January 29, 2008 was obviously not in effect.

Thus, Nextel, per its own request and per the Commission's Order, adopted the 2001 AT&T Florida/Sprint Agreement and all amendments thereto that were filed and approved by the Commission as of June 8, 2007. If the adoption is in fact effective as of June 8, 2007, by law the adopted agreement cannot include the AT&T Florida/Sprint amendment to extend the 2001 ICA that was not approved until January 29, 2008 per Commission Order in Docket No. 070249-TP. Nextel's new found predicament further illustrates problems created by the Commission's ordering a retroactive June 8, 2007 effective date for Nextel's adoption of the AT&T Florida/Sprint Agreement, and further supports AT&T Florida's Motion for Reconsideration requesting that the Commission revoke the June 8, 2007 effective date, and establish an effective date no earlier than the date upon which the Commission approved the adoption.<sup>1</sup>

Nextel's late request for new relief is procedurally flawed, illogical and legally untenable. At this stage of the proceedings, long after Nextel filed its Notice of Adoption of the expired 2001 Agreement, after the Commission approved Nextel's adoption of the expired 2001 Agreement, and after the parties have executed a signed Adoption of the expired 2001 Agreement, Nextel now wants to argue that it did not intend to adopt the expired 2001 Agreement, and instead it intended to adopt the AT&T Florida/Sprint

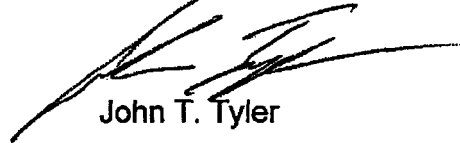
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<sup>1</sup> If the Commission grants AT&T Florida's Motion for Reconsideration and orders the effective date of the adoption as of the Commission's approval of Nextel's adoption agreement, the adopted agreement would include the amendment Nextel seeks.

Agreement that was not amended until January 29, 2008.<sup>2</sup> This is highly improper and, if Nextel's request is granted, would violate 47 U.S.C. § 252(i).

Accordingly, based upon the foregoing, the Commission should grant AT&T Florida's pending Motion for Reconsideration of the effective date of Nextel's adoption (establish an effective date no earlier than the date upon which the Commission approved the adoption) and deny Nextel the relief it seeks in its October 10, 2008 letter to the Commission.

Sincerely,



John T. Tyler

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

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<sup>2</sup> In simpler terms, Nextel asked to adopt Agreement "A" on June 8, 2007. The Commission, via its September 10, 2008 Order, allowed Nextel to adopt Agreement "A" as of June 8, 2007, and the parties executed a September 11, 2008 Adoption of Agreement "A" making Nextel's adoption effective as of June 8, 2007. Now, after the fact, Nextel wants to adopt a different agreement, Agreement "B", which was not in effect on June 8, 2007, as Agreement "B" did not become effective until January 29, 2008.

**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 13th day of October, 2008 to the following:

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