

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**  
**NASHVILLE, TENNESSEE**

**March 20, 2008**

**IN RE:**

**PETITION REGARDING NOTICE OF ELECTION  
OF INTERCONNECTION AGREEMENT BY  
NEXTEL SOUTH CORPORATION**

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**DOCKET NO.  
07-00161**

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**ORDER CONSOLIDATING DOCKETS  
AND APPOINTING A HEARING OFFICER**

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This matter came before Chairman Eddie Roberson, Director Tre Hargett, and Director Sara Kyle of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on February 25, 2008 for consideration of the *Petition Regarding Notice of Election of Interconnection Agreement by Nextel South Corp.* (“*Petition*”) filed on June 22, 2007.

**BACKGROUND**

At its regularly scheduled Authority Conference held on September 24, 2007, the panel voted to hold the *Petition* in abeyance until the status of the interconnection agreement which Nextel sought to adopt in this docket was clarified in a separate pending docket, Docket No. 07-00132.<sup>1</sup>

On December 7, 2007, AT&T and Sprint Spectrum L.P. d/b/a Sprint PCS (“Sprint”) filed an Amendment to the Interconnection Agreement in Docket No. 07-00132. The parties indicated that the amendment resolved the outstanding issues in Docket No.

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<sup>1</sup>See *In re: Petition for Sprint Communications Company L.P. and Sprint Spectrum L.P. d/b/a Sprint PCS for Arbitration of the Rates, Terms and Conditions of Interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee d/b/a AT&T Southeast*, Docket No. 07-00132.

07-00132. The Authority approved the amendment at its regularly scheduled Authority Conference on January 14, 2008.

On January 31, 2008, the parties were requested to provide an update of their current positions in the instant docket in light of the resolution of Docket No. 07-00132. In response, Nextel filed a motion for summary judgment on February 6, 2008. AT&T filed a *Supplemental Submission in Support of AT&T Tennessee's Motion to Dismiss* on February 8, 2008. AT&T renewed its position that the Authority lacks jurisdiction in the matter and included a copy of its February 5, 2008 petition filed with the Federal Communications Commission ("FCC") in which it seeks a declaratory ruling on the substantive issues involved in this docket. In its filing, AT&T also requested that a status conference be convened to allow the parties to discuss the current procedural posture of the case. On February 13, 2008, AT&T filed *Additional Supplemental Authority* to bolster its position that the Authority should decline from exercising any purported jurisdiction in the docket until the FCC rules on AT&T's pending petition on the same issues.

#### **FINDINGS AND CONCLUSIONS**

At the regularly scheduled Authority Conference held on February 25, 2008, the panel first took notice of the fact that substantially identical filings had been made in this docket and Docket No. 07-00162.<sup>2</sup> After determining from the parties that they were unopposed to consolidation of the cases as long as they retained the right to raise concerns if they arose in the future, the panel found that there were judicial efficiencies to be gained by consolidating the two dockets.

The panel then voted unanimously to consolidate the instant docket with Docket No. 07-00162, with both matters to be heard under Docket No. 07-00161. The panel

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<sup>2</sup> See *In re: Petition Regarding Notice of Election of Interconnection Agreement by Nextel Partners*, Docket No. 07-00162.

further voted to appoint the General Counsel or his designee as Hearing Officer to prepare this matter for hearing, including establishing an issues list, setting a briefing schedule and scheduling oral arguments before the panel on the pending motions.

**IT IS THEREFORE ORDERED THAT:**

1. Docket No. 07-00161, *In re: Petition Regarding Notice of Election of Interconnection Agreement by Nextel South Corporation*, and Docket No. 07-00162, *In re: Petition Regarding Notice of Election of Interconnection Agreement by Nextel Partners* are consolidated with both matters to be heard under Docket No. 07-00161.

2. The General Counsel or his designee is appointed as Hearing Officer to prepare this matter for hearing, including establishing an issues list, setting a briefing schedule and scheduling oral arguments before the panel on the pending motions.



Eddie Roberson, Chairman



Tre Hargett, Director



Sara Kyle, Director