

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 26, 2007

IN RE:	)	
	)	
PETITION REGARDING NOTICE OF	)	DOCKET NO.
ELECTION OF INTERCONNECTION	)	07-00162
AGREEMENT BY NEXTEL PARTNERS	)	

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ORDER HOLDING DOCKET IN ABEYANCE

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This matter came before Director Pat Miller, Director Sara Kyle, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 24, 2007 for consideration of the *Petition Regarding Notice of Election of Interconnection Agreement by Nextel Partners* ("Petition") filed on June 22, 2007.

**BACKGROUND**

In its *Petition*, Nextel Partners ("Nextel") states that it is exercising its right pursuant to Merger Commitments Nos. 1 and 2 in the Federal Communication Commission's ("FCC") order approving the merger of BellSouth Corporation and AT&T, Inc.<sup>1</sup> and 47 U.S.C. § 252(i) to adopt the interconnection agreement ("Sprint ICA") between BellSouth Telecommunications, Inc.<sup>2</sup> and Sprint Communications Company Limited Partnership, Sprint Communications Company, L.P., and Sprint Spectrum L.P. (collectively "Sprint") dated January 1, 2001 and as amended. Nextel specifically requests

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<sup>1</sup>*In the Matter of AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, WC Docket No. 06-74 (Adopted December 29, 2006, Released: March 26, 2007) ("*Merger Order*").

<sup>2</sup>BellSouth Telecommunications, Inc. does business in Tennessee as "AT&T Tennessee" and will be hereinafter referred to as such.

that the Authority issue an order acknowledging Nextel's adoption of the Sprint ICA, approving the adoption and making the Sprint ICA effective between the parties as of the date of the filing of the *Petition*, and requiring AT&T Tennessee to execute the adoption agreement included in the *Petition* as Exhibit B.

On July 17, 2007, AT&T Tennessee filed *BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee's Motion to Dismiss* ("Motion"). AT&T Tennessee requests that the Authority dismiss Nextel's *Petition* on the following bases: 1) the requested adoption is premature because Nextel failed to rely on the contractually required dispute resolution process that exists in the existing interconnection agreement between AT&T Tennessee and Nextel; 2) Nextel is attempting to adopt an expired agreement and therefore the adoption does not meet the timing requirement under the Telecommunications Act of 1996 ("Act"); and 3) the Authority does not have the authority to interpret and enforce the *Merger Order's* merger commitments.

#### **FINDINGS AND CONCLUSIONS**

A majority of the panel found that the interconnection agreement between AT&T Tennessee and Sprint that the Petitioner seeks to adopt is in dispute in Docket No. 07-00132, and that the Authority has accepted the issues raised by the parties in that docket for arbitration.<sup>3</sup> The majority further found that one of the issues in Docket No. 07-00132 concerns the start and end date of the interconnection agreement and consequently whether the agreement is in force or has expired. Because the status of the interconnection agreement is in dispute, the majority voted to hold the instant docket, Docket No. 07-

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<sup>3</sup>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, Order Denying Motions To Dismiss, Accepting Matter For Arbitration, And Appointing Pre-Arbitration Officer (October 5, 2007).

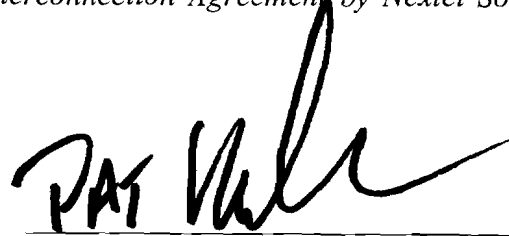
00162 in abeyance until a decision is reached in the arbitration docket, Docket No. 07-00132. A majority of the panel further found that there was a significant overlap of both factual and legal issues in this docket, the aforementioned Docket No. 07-00132, and Docket No. 07-00161, *In re: Petition Regarding Notice of Election of Interconnection Agreement by Nextel South Corporation* and found that judicial economy would be served by having the dockets administratively consolidated by the Chairman. Therefore, a majority of the panel voted to hold Docket No. 07-00162 in abeyance pending a decision in Docket No. 07-00132. The majority further voted to request the Chairman to administratively consolidate Docket Nos. 07-00132, 07-00161, and 07-00162 in the interest of judicial economy.

**IT IS THEREFORE ORDERED THAT:**

1. Docket No. 07-00162, *In re: Petition Regarding Notice of Election of Interconnection Agreement by Nextel Partners*, is hereby held in abeyance pending a decision in Docket No. 07-00132, *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 Southeast*.

2. In the interest of judicial economy, the Chair is requested to administratively consolidate Docket No. 07-00162, *In re: Petition Regarding Notice of Election of Interconnection Agreement by Nextel Partners*; Docket No. 07-00132, *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 Southeast; and Docket No. 07-00161, In re: Petition Regarding Notice of Election of Interconnection Agreement by Nextel South Corporation.*

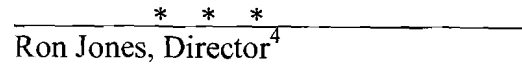
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Pat Miller, Director

A handwritten signature in black ink, appearing to read "Sara Kyle", written over a horizontal line.

Sara Kyle, Director

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Ron Jones, Director<sup>4</sup>

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<sup>4</sup> Director Jones voted in opposition to the motion and filed a separate dissenting opinion explaining his vote.