



ATTORNEYS AT LAW

1200 ONE NASHVILLE PLACE
150 FOURTH AVENUE, NORTH
NASHVILLE, TENNESSEE 37219-2433
(615) 244-9270
FAX (615) 256-8197 OR (615) 744-8466

RECEIVED

2010 APR 13 PM 6:05

Melvin J. Malone

T.R.A. COLLECTED
Direct Dial (615) 744-8572
Direct Fax (615) 744-8871
mmalone@millermartin.com

April 13, 2010

VIA HAND DELIVERY

Honorable Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

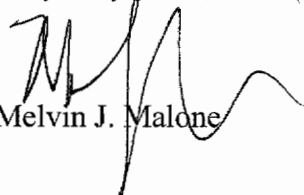
RE: *Petition for Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee and Sprint Spectrum L.P., Nextel South Corp., and NPCR, Inc. d/b/a Nextel Partners, Docket No. 10-00042*
and
Petition for Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee and Sprint Communications Company L.P., Docket No. 10-00043

Dear Chairman Kyle:

Enclosed please find the original and thirteen (13) copies of *Motion of Sprint Spectrum L.P., Nextel South Corp., NPCR, Inc. d/b/a Nextel Partners and Sprint Communications Company L.P. to Consolidate Arbitration Petitions* in the above-captioned dockets. One (1) additional copy of the *Motion* is enclosed to be filed-stamped for our records.

If you have any questions or require additional information, please let us know.

Very truly yours,



Melvin J. Malone

clw
Enclosures

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

In Re:

**PETITION FOR ARBITRATION OF)
INTERCONNECTION AGREEMENT BETWEEN)
BELLSOUTH TELECOMMUNICATIONS, INC.) Docket No. 10-00042
D/B/A AT&T TENNESSEE AND SPRINT)
SPECTRUM L.P., NEXTEL SOUTH CORP.,)
AND NPCR, INC. D/B/A NEXTEL PARTNERS)**

And

**PETITION FOR ARBITRATION OF)
INTERCONNECTION AGREEMENT BETWEEN)
BELLSOUTH TELECOMMUNICATIONS, INC.) Docket No. 10-00043
D/B/A AT&T TENNESSEE AND SPRINT)
COMMUNICATIONS COMPANY L.P.)**

**MOTION OF SPRINT SPECTRUM L.P., NEXTEL SOUTH CORP., NPCR, INC.
D/B/A NEXTEL PARTNERS AND SPRINT COMMUNICATIONS COMPANY L.P.
TO CONSOLIDATE ARBITRATION PETITIONS**

Pursuant to Section 252(g) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 ("the Act"), Sprint Spectrum L.P., on behalf of itself and as agent and General Partner of WirelessCo, L.P., and SprintCom, Inc., jointly d/b/a Sprint PCS ("Sprint PCS"), Nextel South Corp. ("Nextel"), NPCR, Inc. d/b/a Nextel Partners ("Nextel Partners"), and Sprint Communications Company L.P. (collectively "Sprint") respectfully move the Tennessee Regulatory Authority ("TRA" or "Authority") to consolidate the two above-captioned arbitration petitions filed by BellSouth Telecommunications, Inc., d/b/a AT&T

Tennessee (“AT&T” or “AT&T Tennessee”) on March 19, 2010. In support of its Motion, Sprint respectfully sets forth the arguments below.

I.

BACKGROUND AND SUPPORT

On March 19, 2010, AT&T filed a petition for arbitration against Sprint Spectrum, L.P., Nextel South Corp., and NPCR, Inc. d/b/a Nextel Partners, which was assigned Docket No. 10-00042. On that same date, AT&T filed a petition for arbitration against Sprint Communications Company L.P., which was assigned Docket No. 10-00043. For ease of reference, the petition for arbitration in Docket No. 10-00042 will be informally referred to herein as the *Wireless Petition*, and the petition for arbitration in Docket No. 10-00043 will be referred to herein as the *Wireline Petition*. It cannot be credibly disputed that the *Wireless Petition* and the *Wireline Petition* involve both substantially overlapping subject matter and substantially overlapping disputed issues.¹

Section 252(g) of the Act grants the TRA the express authority to consolidate arbitration proceedings “in order to reduce administrative burdens on telecommunications carriers, other

¹ See and cf. *Petition For Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee and Sprint Spectrum L.P., Nextel South Corp., and NPCR, Inc. d/b/a Nextel Partners*, TRA Docket No. 10-00042 (“*Wireless Petition*”) and *Petition For Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee and Sprint Communications Company L.P.*, TRA Docket No. 10-00043 (“*Wireline Petition*”). See also *Joint Response of Sprint Spectrum L.P., Nextel South Corp., NPCR, Inc. d/b/a Nextel Partners and Sprint Communications Company L.P. to BellSouth Telecommunications, Inc.’s d/b/a AT&T Tennessee’s Duplicative Petitions for Section 252(b) Arbitration*, TRA Docket Nos. 10-00042 and 10-00043 (April 13, 2010); *In Re: Petition for Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky and Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. d/b/a Nextel Partners*, AT&T Kentucky’s Response to Motion to Consolidate and to Procedural Proposals in Sprint CMRS’s Response to Petition for Arbitration, Kentucky Pub. Serv. Commission Case No. 2010-00061, p. 6 (Mar. 29, 2010) (“AT&T Kentucky hopes to be able to agree to consolidation after the parties’ renewed negotiations have run their course.”); and *In Re: Petition for Arbitration of Interconnection Agreement Between BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky and Sprint Communications Company L.P.*, AT&T Kentucky’s Response to Motion to Consolidate and to Procedural Proposals in Sprint CLEC’s Petition for Arbitration, Kentucky Pub. Serv. Commission Case No. 2010-00062, p. 6 (Mar. 29, 2010) (“AT&T Kentucky hopes to be able to agree to consolidation after the parties’ renewed negotiations have run their course.”).

parties to the proceeding and the State commission in carrying out its responsibilities under the Act.”² The Authority has long-recognized, and often employed, this authority.³ Given the materially overlapping nature of the *Wireless Petition* and the *Wireline Petition*, consolidating these petitions into one proceeding will, among other things, dramatically preserve the TRA’s valuable resources, allow for immeasurable efficiencies and lessen the likelihood of unintended regulatory inconsistencies.⁴ The resources of the Authority and the parties that would be expended to litigate and resolve two separate and potentially massive — overlapping — arbitrations are extensive, to say the least, and the Authority’s and parties’ investment in substantially duplicative efforts is simply unwarranted under the circumstances presented.⁵

For the purposes of this Motion, it would seem unnecessary and inefficient for Sprint to expend the resources to outline each and every overlapping disputed issue, and inconsistent treatment by AT&T, present in the *Wireless Petition* and the *Wireline Petition*. Still, by way of example, Sprint notes that when each Sprint issue is mapped/traced to its respective location in

² 47 U.S.C. § 252 (g) (“Where not inconsistent with the requirements of this Act, a State Authority may, to the extent practical, consolidate proceedings under sections 214(e), 251(f), 253, and this section in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the State Authority in carrying out its responsibilities under this Act.”).

³ See, e.g., *In Re: Petition for Arbitration of Cellco Partnership d/b/a Verizon Wireless*, TRA Consolidated Docket No. 03-00585, p. 2 (Mar. 4, 2004) (The agency consolidated 5 petitions for arbitration “to reduce administrative burdens on telecommunications carriers and conserve the resources of the TRA.”). The Authority consolidated the 5 petitions for arbitration involving multiple ILECs. Here, only a single ILEC is involved. In sum, the arguments for consolidating the *Wireless Petition* and the *Wireline Petition* are no less compelling than the arguments for consolidating the 5 petitions in TRA Consolidated Docket No. 03-00585.

⁴ See, e.g., *In Re: Petition Regarding Notice of Election of Interconnection Agreement by Nextel South Corporation*, Order Consolidating Dockets and Appointing Hearing Officer, TRA Consolidated Docket No. 07-00161, p.2 (Mar. 20, 2008) (consolidated with Docket No. 07-00162) (Authority consolidated two dockets regarding interconnection disputes since, among other things, the two matters involved “substantially identical filings” in each docket and in order to gain “judicial efficiencies”).

⁵ See, cf., *In Re: BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee vs. dPi Teleconnect, LLC*, AT&T Tennessee’s Motion for Consolidation, TRA Docket No. 10-00007, p. 3 (Jan. 13, 2010) (“Because the facts and law associated with these common issues are substantially similar across all five of these dockets, AT&T Tennessee respectfully requests the Authority consolidate these five dockets for the limited purpose of expeditiously and efficiently resolving these common issues.”).

the AT&T Wireline and AT&T Wireless DPLs, it is clear that almost every Sprint issue is present in both Docket No. 10-00042 and Docket No. 10-00043.⁶ The following is a list of examples of various actions that AT&T appears to have taken/not taken as to Sprint issues, which demonstrates the need for all of Sprint's issues to be addressed in one proceeding to ensure consistency in issue-specific considerations and ultimate resolution:

- AT&T does not acknowledge and include the following Sprint-identified and unresolved Preliminary Issues in either of AT&T's DPLs:
 1. Have the parties had adequate time to engage in good faith negotiations?
 2. When can AT&T require Sprint Affiliated entities to have different contract provisions regarding the same Issues, or even entirely separate Agreements, based upon the technology used by a given Sprint entity?
 3. Should defined terms not only be consistent with the law, but also consistently used through the entire Agreement?
- As to various definitions and contract provisions, AT&T appears to have accepted Sprint's proposed language or deletions, but does not note such items as "Resolved" in its DPLs.⁷ Instead, AT&T appears to have intended to show such language in plain text in its proposed contract documents. The problem is that without a clear DPL indication as to what is "Resolved," ambiguities arise as to whether plain text language truly reflects agreed to "Resolved" language or not, as demonstrated by further categories below.
- There are numerous instances where, if a term may ultimately be determined to be necessary, in light of Sprint's position it is entitled to unified interconnection arrangements, such terms need to be included in the parties' ultimate contract(s) whether one contract or two may be used,

⁶ See, e.g., **SPRINT EXHIBIT 1** (attached to *Joint Response*), General Terms and Conditions ("GTC") Part B collective definitions Issue 32, such as "Interconnected VoIP Service" which cross-reference identifies same definitional dispute to exist in both AT&T Wireless and Wireline DPLs; and substantive issues, such as **SPRINT EXHIBIT 1**, Attachment 3, Issue 4 regarding "Methods of Interconnection" which cross-reference maps the same Issue to AT&T Wireless Attachment 3, Issues 3 and 4, and AT&T Wireline Attachment 3, Issue 4.

⁷ See, e.g., **SPRINT EXHIBIT 1**, definition of "Shared Facility Factor" and Sprint Attachment 3, Issue 15. This Sprint Issue referred to two items, Dialing Parity and AT&T's "Attachment 3a – Out of Exchange-LEC". AT&T's plain text reflects the Dialing Parity language, but the Attachment 3a issue is still disputed.

but AT&T only includes a given provision in either its Wireline or Wireless DPL/proposed language, but not in both.⁸

- AT&T takes inconsistent positions between its two DPLs as to Sprint language.⁹
- AT&T fails to accurately depict Sprint language in one of its DPLs.¹⁰

If the Authority were to proceed to consider and adjudicate two separate arbitration proceedings and compile two separate evidentiary records, the Authority would risk the very real possibility of inadvertently rendering inconsistent determinations with regard to the same subject matter, the same contract language at issue and the same or related parties. To avoid the foregoing, which will only lead to further petitions, motions, hearings and decisions, and for administrative efficiency and judicial economy as provided for in 47 U.S.C. Section 252(g), the Authority should consolidate AT&T's petitions.

II.

CONCLUSION

For the foregoing reasons, and consistent with Section 252(g) of the Act and Authority precedent, Sprint respectfully request that the Authority consolidate Docket No. 10-00042 and Docket No. 10-00042 at the outset and without delay in order to immediately capture the

⁸ See, e.g. **SPRINT EXHIBIT 1** GTC, Part B, collective definitions Issue 32, such as "IntraMTA" or "InterMTA Traffic" as to which AT&T includes the term in its wireless DPL but not in its wireline DPL.

⁹ See, e.g. **SPRINT EXHIBIT 1**, Attachment 3, Issue 3 Section 2.1 language regarding AT&T providing Interconnection at any Technically Feasible point *and cf.* AT&T wireless Attachment 3 Issue 3 which disputes Sprint Section 2.1 language and AT&T wireline Attachment 3 which accepts the same Sprint Attachment 3 Section 2.1 language.

¹⁰ **SPRINT EXHIBIT 1**, Attachment 3, Issues 16 and 17 regarding whether there need to be two or more "Authorized Service traffic categories" and, depending on the answer to that question, how to describe the necessary categories, and *see and cf.* AT&T Wireless Attachment 3 Issue 14 and Wireline Attachment 3 Issue 14, but the Wireline DPL Issue 14 does not accurately depict Sprint's language.

efficiencies and benefits at risk.¹¹ Consolidating these petitions will preserve the TRA's and the parties' resources, allow for immeasurable efficiencies and lessen the likelihood of unintended regulatory inconsistencies.

III.

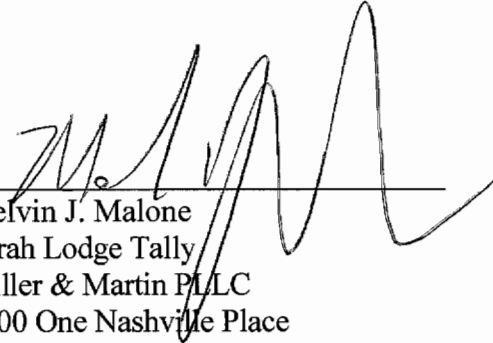
PRAYER FOR RELIEF

WHEREFORE, for the reasons set forth above, Sprint respectfully requests:

- a) that AT&T's arbitration petition in TRA Docket No. 10-00042 and AT&T's arbitration petition in TRA Docket No. 10-00043 be consolidated without delay for all purposes into Docket No. 10-00042; and
- b) that the Authority grant such other and further relief as it deems just and proper.

¹¹ See, e.g., *In Re: Petition for Arbitration of Cellco Partnership d/b/a Verizon Wireless*, TRA Consolidated Docket No. 03-00585 (TRA consolidated arbitration petitions at the outset and without delay).

Respectfully submitted this 13th day of April, 2010.

A handwritten signature in black ink, appearing to read 'M. Malone', is written over a horizontal line.

Melvin J. Malone
Sarah Lodge Tally
Miller & Martin PLLC
1200 One Nashville Place
150 Fourth Avenue, North
Nashville, TN 37219
Phone (615) 744-8572
Fax (615) 256-8197
mmalone@millermartin.com
stally@millermartin.com

William R. Atkinson
Douglas C. Nelson
Sprint Nextel
1233 Peachtree Street NE, Suite 2200
Atlanta, GA 30339-3166
(404) 649-8981
bill.atkinson@sprint.com
douglas.c.nelson@sprint.com

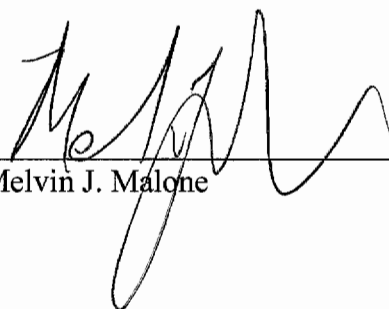
Joseph M. Chiarelli
6450 Sprint Parkway
Mailstop: KSOPHN0214-2A671
Overland Park, KS 66251
(913) 315-9223
joe.m.chiarelli@sprint.com

Attorneys for Sprint

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served by electronic and First Class Mail on those persons whose names appear below this the 13th day of April, 2010.

Guy M. Hicks
Joelle Phillips
BellSouth Telecommunications, Inc.
d/b/a AT&T Tennessee
333 Commerce Street, Suite 2101
Nashville, TN 37201-3300
615-214-6301
jp3881@att.com
gh1402@att.com



Melvin J. Malone