

Ruth Nettles

From: Woods, Vickie [vf1979@att.com]
Sent: Monday, November 26, 2007 3:26 PM
To: Filings@psc.state.fl.us
Subject: 070249-TP AT&T's Ltr. to Ann Cole notifying the Commission and clarifying its position for the Extension of Interconnection Agreements
Attachments: 070249-T.pdf

- A. Vickie Woods
Assistant to E. Earl Edenfield, Jr., Tracy W. Hatch,
and Manuel A. Gurdian,
AT&T Florida
150 South Monroe Street
Suite 400
Tallahassee, Florida 32301
(305) 347-5560
vf1979@att.com
- B. Docket No. 070249-TP
Petition of Sprint Communications Company Limited Partnership and Sprint Spectrum
Limited Partnership d/b/a Sprint PCS for arbitration of rates, terms and conditions of
interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T
Southeast
- C. BellSouth Telecommunications, Inc.
on behalf of E. Earl Edenfield, Jr.
- D. 5 pages total (includes letter, certificate of service and attachment)
- E. BellSouth Telecommunications, Inc. d/b/a AT&T Florida's Ltr. to Ann Cole notifying the Commission and clarifying its
position concerning the date to which Interconnection Agreements may be extended
- .pdf
<<070249-T.pdf>>

11/26/2007

DOCUMENT NUMBER-DATE

10514 NOV 26 5

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E. Earl Edenfield, Jr.
General Counsel - Florida
Legal Department

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

T: (305) 347-5558
F: (305) 577-4491
kip.edenfield@att.com

November 26, 2007

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

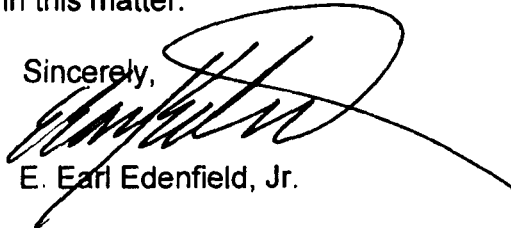
Re: Docket No. 070249-TP (Sprint Arbitration)

Dear Ms. Cole:

This correspondence serves to notify the Florida Public Service Commission ("Commission") that, since the filing of this matter, AT&T Florida has clarified its position concerning the date from which interconnection agreements may be extended and posted a letter to its interconnection website on November 16, 2007 notifying its wholesale customers of this clarification.¹ AT&T Florida submits this notice subject to, and without waiving, any of its rights. To the extent that AT&T Florida's clarified position may impact this Docket, the Commission may wish to consider allowing the parties some reasonable time period to review and discuss the issues pending further activity in this Docket.

Thank you for your assistance in this matter.

Sincerely,



E. Earl Edenfield, Jr.

Enclosure

cc: All Parties of record
Jerry Hendrix
Greg R. Follensbee
Lisa S. Foshee

¹ The November 16, 2007 letter is enclosed for your convenience.

CERTIFICATE OF SERVICE
Docket No. 070249-TP

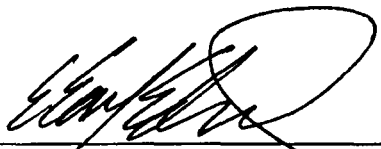
I HEREBY CERTIFY that a true and correct copy was served via Electronic Mail
and First Class U. S. Mail this 26th day of November, 2007 to the following:

Florida Public Service Commission
Adam Teitzman, Staff Counsel
Rick Mann, Staff Counsel
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(850) 413-6212
ateitzma@psc.state.fl.us
rmann@psc.state.fl.us

Marsha E. Rule
Rutledge Law Firm
215 S. 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



E. Earl Edenfield, Jr.



Accessible

Date:	November 16, 2007	Number:	CLECSE07-055
Effective Date:	November 16, 2007	Category:	Other
Subject:	(Interconnection Agreements) Clarification of BellSouth Merger Commitments		
Related Letters:	NA	Attachment:	NA
States Impacted:	Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee		
Issuing ILECS:	AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina and AT&T Tennessee		
Response Deadline:	January 15, 2008	Contact:	AT&T Negotiator
Conference Call/Meeting:	NA		

The purpose of this Accessible Letter is to clarify AT&T's implementation of two merger commitments adopted and approved by the Federal Communications Commission ("FCC") in its BellSouth/AT&T "Merger Order".¹ The commitments discussed herein concern porting and extending interconnection agreements ("ICAs").

Porting ICAs

Merger Commitment 7.1 allows carriers to port effective interconnection agreements entered into in any state in AT&T's 22-state ILEC operating territory (subject to stated limitations and requirements).² Some carriers have inquired why they are not able to port an agreement when the initial term has expired but the agreement itself has not yet been noticed for termination/renegotiation. This letter clarifies that such agreements are, in fact, eligible for porting under Merger Commitment 7.1, and AT&T has consistently implemented the commitment in this manner. However, carriers should be aware that adopted agreements always carry the same expiration date as the underlying agreement that is being adopted.³ Therefore, if a carrier adopts and ports an ICA whose initial term has expired, subsequent noticing of that ICA for termination and renegotiation will require that the adopted/porting agreement also be renegotiated. Moreover, consistent with federal rules, ICAs that have been noticed for termination/renegotiation are not eligible to be ported because they have already "remain[ed] available for use by telecommunications carriers...for a reasonable period of time."⁴ Accordingly, when porting agreements pursuant to Merger Commitment 7.1, carriers should be mindful of whether the ICA, by its terms, is eligible to be noticed for termination/renegotiation or has already been noticed by either party.

¹ Memorandum Opinion and Order, *In the Matter of AT&T, Inc. and BellSouth Corporation Application for Transfer of Control*, 22 F.C.C.R. 5662 at ¶222, Appendix F (March 26, 2007) ("Merger Order").

² Merger Order at Appendix F, "Reducing Transaction Costs Associated with Interconnection Agreements," ¶ 1.

³ *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Second Report and Order, 19 FCC Rcd 13494 (FCC 2004).

⁴ 47 C.F.R. § 51.809(c).

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Extending ICAs' Terms

Merger Commitment 7.4 allows carriers to extend the terms of their current ICAs for a period of up to three (3) years, subject to amendment to reflect prior and future changes of law.⁵ The question has arisen whether ICAs may be extended for three years from the expiration date of the ICA's initial term (as interpreted and implemented by AT&T) or some other date (e.g., the merger close date of December 29, 2006 or the date of a carrier's extension request). While AT&T believes that its interpretation is supported by the plain language of Merger Commitment 7.4, as well as by the *ex parte* documents submitted to the FCC and the negotiations of the commitment prior to release of the Merger Order, AT&T is modifying its position to allow carriers additional opportunities to extend the terms of their agreements. As such, effective with the date of this Accessible Letter, AT&T will implement Merger Commitment 7.4 as follows:

ICAs Expiring Prior to January 15, 2008 (Option 1): ICAs whose initial terms have already expired, or will expire prior to January 15, 2008, may be extended for up to three years from the date of a carrier's extension request, provided that AT&T receives the carrier's extension request prior to January 15, 2008.⁶ An ICA's term may be extended only once pursuant to Merger Commitment 7.4.⁷ If no request to extend the ICA's term has been received by AT&T prior to January 15, 2008, the ICA's term may not be extended pursuant to the merger commitment.

ICAs Expiring On or After January 15, 2008 (Option 2): ICAs whose initial terms will expire on or after January 15, 2008, may be extended for up to three years from the expiration date of the ICA's initial term, provided that (i) AT&T receives a carrier's extension request prior to the ICA's expiration date of the initial term, and (ii) the ICA's initial term expires before June 29, 2010, the sunset date of the merger commitment. ICAs whose initial term expires after June 29, 2010 are not eligible for extension. An ICA's term may be extended only once pursuant to Merger Commitment 7.4. If no request to extend the ICA's term has been received by AT&T as of the expiration date of the ICA's initial term, the ICA may not be extended pursuant to the merger commitment.

Important Note for Both Options Above: The expiration date of an agreement's initial term may be either express (e.g., "January 15, 2008") or a date that requires calculation (e.g., "three years from the Effective Date"). Initial terms may also be a date established by a filed and approved amendment (e.g., an ICA's initial term expired on January 15, 2001, but an amendment extended the expiration date until January 15, 2003, in which case the latter is still considered the expiration date of the ICA's initial term). For purposes of implementing Merger Commitment 7.4, the expiration date of an agreement's **initial term** will in all cases be used, as described above, to calculate whether the agreement is eligible for extension. Any evergreen term, renewal term or default term (e.g., month-to-month or year-to-year) or any other term that continues the agreement beyond the expiration of its initial term will have no bearing on whether and how the agreement may be extended. This has important implications for the options discussed above, including without limitation:

⁵ Merger Order at Appendix F, "Reducing Transaction Costs Associated with Interconnection Agreements," ¶ 4. Merger Commitment 7.4 applies to ICAs in effect as of the date of the Merger Order, December 29, 2006.

⁶ Compare with *Order of the Kentucky Public Service Commission*, Petition of Sprint Communications Company L.P. et al. For Arbitration of Rates, Terms and Conditions of Interconnection with BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky d/b/a AT&T Southeast, Case No. 2007-00180 (Sept. 18, 2007) (holding that Merger Commitment 7.4 gives carriers the right to extend ICAs for three years from the merger close date of December 29, 2006, or until December 29, 2009).

⁷ Carriers that extended or requested to extend the initial term of an ICA that has already expired pursuant to AT&T's prior policy (i.e., for up to three years from the initial expiration date) may re-submit a request to extend the ICA pursuant to this Accessible Letter. For such carriers, the ICA may be extended under Option 1 for up to three years from the date of carrier's **initial, prior** request, as long as carrier sends the required notice discussed herein by January 15, 2008.

- For Option 1, the initial term of an ICA may have already expired but the ICA may still be in effect (e.g., the ICA expired on June 1, 2007 and it is presently in effect on a month-to-month basis). The required extension notice under Option 1 must be received by AT&T prior to January 15, 2008, regardless of the fact that the ICA remains in effect on a month-to-month or other basis. On January 15, 2008, unless a carrier has submitted the required notice to extend the term, it will be deemed to have waived any extension rights with respect to that ICA.
- For Option 2, the required term extension notice must be received by AT&T prior to the expiration date of the ICA's initial term, regardless of whether the ICA continues in effect beyond the expiration date of the initial term. Upon the expiration date of an ICA's initial term, a carrier will be deemed to have waived any extension rights with respect to that ICA.

The options under Merger Commitment 7.4 as described in this Accessible Letter are available to carriers regardless of whether they have already submitted an extension request, and regardless of the disposition of that prior request. However, carriers desiring to extend the terms of their ICAs as stated herein must submit another extension request, as AT&T is unable to decide unilaterally what any carrier may want to avail itself of at this point in time. **Carriers may not rely on prior extension requests to avail themselves of the options discussed in this Accessible Letter. Carriers who do not submit an extension request, by the time periods indicated above, may not extend their ICAs pursuant to Merger Commitment 7.4 as described herein.** Extension Request Forms can be found by CLECs on AT&T's CLEC Online website at <https://clec.att.com/clec>⁸ and by paging/wireless carriers at <https://primeaccess.att.com/>.⁹

Conclusion

Any questions regarding this Accessible Letter should be directed to your Lead Negotiator.

⁸ From the HOME page of CLEC Online, click on the sub-heading Interconnection Agreements located on the left-hand side of the page and follow your cursor to the BLS Merger Commitment Request Forms link. A new window will appear. On the page AT&T/BLS Merger Commitments under Reducing Transaction Costs Associated with Interconnection Agreements, you will see a list of four commitments. The fourth contains an Extension Request Form to be completed and submitted to AT&T Wholesale Contract Management, via fax or email. The fax number and email address are provided on this page.

⁹ From the HOME page of Prime Access, click on the subheading BLS-Merger Request Forms located on the left-hand side of the page. An AT&T CLEC Online Disclaimer will appear, click OK. A page containing the BLS Merger Commitment Request Forms will be displayed. Under Reducing Transaction Costs Associated with Interconnection Agreements, you will see a list of four commitments. The fourth contains an Extension Request Form to be completed and submitted to AT&T Wholesale Contract Management, via fax or email. The fax number and email address are provided on this page.