

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Sprint
Communications Company, Limited
Partnership d/b/a Sprint and
Sprint Metropolitan Networks,
Inc. against BellSouth
Telecommunications, Inc.
regarding breach of
interconnection agreement.

DOCKET NO. 971314-TP
ORDER NO. PSC-98-0404-PHO-TP
ISSUED: March 18, 1998

Pursuant to Notice, a Prehearing Conference was held on March 16, 1998, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

C. Everett Boyd, Jr., Esquire, Ervin, Varn, Jacobs, & Ervin, 350 South Gadsden Street, Tallahassee, Florida 32301; Benjamin Fincher, Esquire, 3100 Cumberland Circle, Atlanta, Georgia 30339.

On behalf of Sprint Communications Company Limited Partnership.

Nancy White, Esquire, 150 South Monroe Street, Suite 400, Tallahassee, Florida 32301.

On behalf of BellSouth Telecommunications, Inc.

William P. Cox, Esquire, Florida Public Service Commission, and John R. Bowman, Esquire, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Commission Staff.

PREHEARING ORDER

I. CASE BACKGROUND

On October 10, 1997, Sprint Communications Company Limited Partnership (Sprint) and Sprint Metropolitan Networks, Inc. (SMNI), collectively Sprint/SMNI, filed a Complaint against BellSouth Telecommunications, Inc. (BellSouth) with the Commission.

DOCUMENT NUMBER-DATE

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FPSC RECORDS/REPORTING

BellSouth received a copy of the Complaint on October 14, 1997, and filed a timely Answer and Response on November 3, 1997. This matter has been set for an administrative hearing to be handled on an expedited basis.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting confidential files.

Post-hearing procedures

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in

conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

III. PREFILED TESTIMONY AND EXHIBITS

Testimony of all witnesses to be sponsored by the parties (and Staff) has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

IV. ORDER OF WITNESSES

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUE NO.</u>
<u>DIRECT/REBUTTAL*</u>		
Melissa L. Cloz	Sprint	1 - 5
Mildred A. Graham	Sprint	1, 2, 4 & 5
Richard A. Warner	Sprint	1 - 4
William Stacy	BellSouth	1 and 3

<u>WITNESS</u>	<u>APPEARING FOR</u>	<u>ISSUE NO.</u>
W. Keith Milner	BellSouth	2, 4, and 5

* **Direct and Rebuttal testimony will be combined at the hearing.**

V. BASIC POSITIONS

SPRINT:

BellSouth has failed to comply with the terms of its Interconnection Agreement with SMNI. Such failures have negatively impacted the quality of service that Sprint is able to provide to its customers, consequently damaging Sprint's reputation and credibility in the marketplace. The problems caused by BellSouth's failure to perform have significantly increased Sprint's operational and acquisition costs, impairing its ability to enter the local exchange market in Florida.

BELLSOUTH:

BellSouth has made a good faith effort to comply with all the requirements and obligations of the Sprint/BellSouth Interconnection Agreement. While there have been start-up problems, BellSouth believes that the problems alleged by Sprint have been or are in the process of being resolved and that no action is necessary by this Commission. BellSouth is fully committed to continued, cooperative efforts.

STAFF:

None pending completion of hearing.

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VI. ISSUES AND POSITIONS

ISSUE 1: Has BellSouth provided Firm Order Confirmation in a timely and accurate manner as agreed to by BellSouth and SMNI? (Count I)

A. If not, what relief, if any is appropriate?

POSITION:

SPRINT:

No. BellSouth does not provide Firm Order Confirmation in a timely and accurate manner as agreed to by BellSouth and SMNI.

Sprint requests the Commission to order BellSouth to honor its commitment to provide FOCs in a timely and accurate manner, through whatever resource additions, process improvements, or other actions deemed necessary. Sprint also requests that the Commission open a generic docket to establish performance measurements and service quality standards governing the provisioning of wholesale services.

BELLSOUTH:

Yes. While there were some problems early in the process, BellSouth has added service representatives and improved operating systems to properly handle this function.

A. No relief is necessary.

STAFF:

Staff has no position at this time.

ISSUE 2: Has BellSouth identified provisioning problems in a timely manner to enable SMNI to meet customer due dates at parity with the service provided by BellSouth to its retail customers? (Count II)

A. If not, what relief, if any, is appropriate?

POSITION:

SPRINT:

No. BellSouth has repeatedly failed to notify Sprint in a timely manner of facilities issues which prevent Sprint from meeting the customer's desired due date.

Sprint requests the Commission to Order BellSouth to notify Sprint, within 48 hours of order of receipt, of facilities limitations and/or provisioning problems in connection with Sprint's service requests. Sprint also requests that the Commission order BellSouth to establish an expedite procedure and an escalation procedure for loop order processing.

BELLSOUTH:

Yes. BellSouth has used its best efforts to identify such problems and resolve them in a timely manner.

A. No relief is necessary.

STAFF:

Staff has no position at this time.

ISSUE 3: Has BellSouth provided installation intervals for service established via unbundled loops in accordance with the interconnection agreement between BellSouth and SMNI? (Count II)

A. If not, what relief, if any, is appropriate?

POSITION:

SPRINT:

No. BellSouth has failed to provide installation intervals for service established via unbundled loops in accordance with the interconnection agreement between BellSouth and SMNI.

Sprint believes that the Commission should institute an investigation into BellSouth's retail operations to determine

BellSouth's current provisioning intervals for BellSouth retail customers and require BellSouth to demonstrate that services are provisioned for SMNI at parity with services BellSouth provides to its own end users.

Sprint requests that the Commission order BellSouth to file periodic reports which reflect its current provisioning intervals to its end users as compared to its actual performance in providing services to ALECs.

Sprint also requests that the Commission order BellSouth to immediately devote adequate resources to the operation of its Local Carrier Service Center to ensure that orders received from SMNI can be processed on a timely basis.

BELLSOUTH:

Yes. BellSouth has fulfilled the requirements of its interconnection agreement with Sprint with the installation intervals BellSouth has offered.

A. No relief is necessary.

STAFF:

Staff has no position at this time.

ISSUE 4: Has BellSouth disconnected customers seeking to migrate to SMNI service prior to the designated cut over date? (Count III)

A. If so, what relief, if any, is appropriate?

POSITION:

SPRINT:

Yes. SMNI customers have been subjected to untimely disconnections associated with the service conversion process. On numerous occasions, BellSouth has been unable to stop service disconnection orders from being processed when the cutover to SMNI has been delayed.

Sprint believes the Commission should Order BellSouth to immediately modify its methods, procedures and systems for handling migrations so that customers are not inappropriately disconnected in the process.

BELLSOUTH:

Once. On July 8, 1997, a customer incurred a service outage because of a due date change by Sprint. There is no continuing problem.

A. No relief is necessary.

STAFF:

Staff has no position at this time.

ISSUE 5: Has BellSouth caused service interruptions to SMNI customers due to call routing errors, translations problems, or failure to properly implement interim number portability? (Count IV)

A. If so, what relief, if any, is appropriate?

POSITION:

SPRINT:

Yes. SMNI has experienced service interruptions on numerous occasions resulting from BellSouth call routing errors, translations problems and failure to properly provision and implement number portability. As a result, calls have been not been completed to SMNI customers.

Sprint believes that the Commission should order BellSouth to implement a permanent solution that will prevent software instructions for SMNI call routing from being removed or revised in error. The Commission should also order BellSouth to develop procedures to implement, maintain and restore local number portability so that SMNI customer services will not be inappropriately interrupted.

BELLSOUTH:

BellSouth is aware of one incident involving the incorrect settings of the Simulated Facilities Group ("SFG"). This problem was corrected and BellSouth instituted special training for technicians who make change to the SFG.

A. No relief is necessary.

STAFF:

Staff has no position at this time.

VII. EXHIBIT LIST

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NUMBER</u>	<u>DESCRIPTION</u>
Melissa L. Cloz	Sprint	_____ (MLC-1)	4/18/96 Letter/Stipulation
		_____ (MLC-2)	SMNI 10/28/96 Discussion Issues
		_____ (MLC-3)	BST FOC Problems
		_____ (MLC-4)	4/18/97 Letter to C. Jarman from M. Cloz
		_____ (MLC-5)	4/25/97 Letter to M. Cloz from C. Jarman
		_____ (MLC-6)	5/1/97 Letter to J. Baker from G. Head
		_____ (MLC-7)	5/5/97 Letter to G. Head from J. Baker
		_____ (MLC-8)	5/19/97 Letter to C. Jarman from M. Cloz

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NUMBER</u>	<u>DESCRIPTION</u>
Melissa L. Cloz	Sprint	_____ (MLC-9)	6/18/97 Letter to J. Baker from G. Head
		_____ (MLC-10)	BST meeting handout on Sprint Metro Service
		_____ (MLC-11)	7/1/97 Letter to J. Cascio from J. Baker
		_____ (MLC-12)	7/8/97 Letter to M. Cloz from C. Jarman
		_____ (MLC-13)	6/12/97 Letter to M. Cloz from C. Jarman
Mildred A. Graham	Sprint	_____ (MAG-1)	BellSouth FOC Problems
		_____ (MAG-2)	BellSouth Facilities Problems
		_____ (MAG-3)	Affidavit of G. Pegram
		_____ (MAG-4)	Affidavit of B. Pickering
		_____ (MAG-5)	Affidavit of S. Laney
		_____ (MAG-6)	Affidavit of J. Downs and correspondence re: J. Downs

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NUMBER</u>	<u>DESCRIPTION</u>
Mildred A. Graham	Sprint	_____ (MAG-7)	Affidavit of R. Santomissino
		_____ (MAG-8)	January 1998 BellSouth FOC Problems
		_____ (MAG-9)	January 1998 BellSouth Facilities Problems
Richard A. Warner	Sprint	_____ (RAW-1)	4/18/96 Stipulation/Letter
		_____ (RAW-2)	Interconnection Agreement between SMNI and BellSouth
		_____ (RAW-3)	4/18/97 Letter to C. Jarman from M. Closz
		_____ (RAW-4)	4/25/97 Letter M. Closz from C. Jarman
		_____ (RAW-5)	BellSouth FOC problems
		_____ (RAW-6)	5/1/97 Letter to J. Baker from G. Head
		_____ (RAW-7)	7/8/97 Letter to M. Closz from C. Jarman
		_____ (RAW-8)	6/1/97 Letter to All Competitive LECs from J. Baker (BST)

<u>WITNESS</u>	<u>PROFFERED BY</u>	<u>I.D. NUMBER</u>	<u>DESCRIPTION</u>
William Stacy	BellSouth	_____ (WS-1)	Special Study- Return of FOCs to Sprint and Total ALECs
		_____ (WS-2)	Recommended UNE Provisioning Targets

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

VIII. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

IX. PENDING MOTIONS

The are no pending motions at this time.

X. RULINGS


The Prehearing Officer granted BellSouth's Motion to Substitute Witness, filed March 10, 1998. William Stacy will replace witness BellSouth Jerry M. Moore and adopt his testimony accordingly. BellSouth will revise testimony where appropriate regarding Mr. Stacy at the hearing.

It is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

ORDER NO. PSC-98-0404-PHO-TP
DOCKET NO. 971314-TP
PAGE 14

By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 18th day of March, 1998.



SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

WPC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.