

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Carrier-to-Carrier)
Complaint and Request for Expedited)
Ruling of Sprint Communications)
Company L.P., Sprint Spectrum L.P.,)
Nextel West Corp., and NPCR, Inc.,)

Complainants,)

v.)

Case No. 07-1136-TP-CSS

The Ohio Bell Telephone Company dba)
AT&T Ohio,)

Respondent.)

Relative to the Adoption of an)
Interconnection Agreement.)

ENTRY

The attorney examiner finds:

- (1) On October 26, 2007, Sprint Communications Company L.P. (Sprint CLEC),¹ Sprint Spectrum L.P.² (Sprint Spectrum), Nextel West Corp.,³ and NPCR, Inc.⁴ (collectively Sprint) filed a complaint against AT&T Ohio (AT&T). In the complaint, Sprint alleged that it wished to adopt the interconnection agreement between, on the one hand, BellSouth Telecommunications, Inc. dba AT&T Kentucky dba AT&T Southeast and, on the other hand, Sprint CLEC and Sprint Spectrum (the BellSouth interconnection agreement).

¹ Sprint CLEC is authorized to provide local and interexchange telecommunication services in Ohio under certificate number 90-9015.

² Sprint Spectrum is an agent and general partner of WirelessCo, L.P. and SprintCom, Inc. The companies provide commercial mobile radio services in Ohio and conduct business under the name Sprint PCS.

³ Sprint states in its application that Nextel West Corp. is authorized by the FCC to provide wireless services in Ohio.

⁴ Sprint states in its application that NPCR, Inc. is authorized by the FCC to provide wireless services in Ohio.

- (2) On February 5, 2008, the Commission issued a finding and order allowing Sprint to port the BellSouth interconnection agreement.
- (3) On March 4, 2008, AT&T filed an application for rehearing.
- (4) On April 2, 2008, the Commission issued an entry on rehearing denying AT&T's application for rehearing.
- (5) On June 25, 2008, Sprint filed a motion for declaratory ruling and a request for an order requiring AT&T to execute the ported interconnection agreement. In its memorandum in support, Sprint pointed to two provisions on which the parties cannot agree. Specifically, Sprint requested that the Commission find that the bill-and-keep arrangement and the shared-facilities pricing arrangement are not state-specific standards. Consequently, Sprint urged the Commission to find that the bill-and-keep and shared-facilities arrangements in the ported agreement were not subject to modification. In addition, Sprint requested that the Commission order AT&T to negotiate minor changes to conform the agreement to Ohio standards.
- (6) On July 1, 2008, AT&T moved to dismiss Sprint's motion for declaratory ruling. In its motion, AT&T emphasized that the parties have numerous disagreements concerning modifications to the BellSouth interconnection agreement. AT&T criticized Sprint for only identifying two disagreements. AT&T believes that the parties' disagreements should be resolved together in order to avoid resolving the disputes in a piecemeal fashion.

AT&T suggested that the Commission schedule a mediated conference so that the parties could discuss the process for resolving pending disputes.

- (7) On July 2, 2009, Sprint filed a motion to amend the complaint. Sprint explains that issues remain unresolved concerning its efforts to obtain an interconnection agreement under two merger commitments issued by the Federal Communications Commission (FCC). The FCC endorsed the merger

commitments as conditions for the approval of the merger of BellSouth Corp. and AT&T Inc.⁵

Sprint no longer seeks to port the Kentucky interconnection agreement that was the subject of the initial complaint. Because of the passage of time, Sprint states that the advantage of porting the Kentucky interconnection agreement has been lost. The Kentucky interconnection agreement expires on December 28, 2009. Sprint foresees that a final conformed interconnection agreement would not be approved before the parties would need to negotiate a successor agreement.

As an alternative, Sprint proposes the renewal of the existing interconnection agreements with AT&T for an additional three-year term.⁶ With this intent, Sprint notified AT&T that it elected to renew its interconnection agreements under the fourth Merger Commitment.⁷ According to Sprint, AT&T unlawfully refused to agree to interconnection under the fourth Merger Commitment. It is Sprint's interpretation that the fourth Merger Commitment is tantamount to a standing offer by AT&T that allows a carrier to extend upon request any existing interconnection agreement.

- (8) Sprint declares that the Commission has resolved whether the Commission has jurisdiction over the FCC's merger commitments. Sprint contends that the issue has been exhaustively briefed and that the Commission affirmatively determined in its February 5, 2008, finding and order that it has concurrent jurisdiction with the FCC to enforce the FCC's merger commitments. To Sprint, the Commission need only determine whether AT&T must renew Sprint's interconnection agreements for three-year terms under the fourth Merger Commitment.

⁵ *In the Matter of AT&T Inc. and BellSouth Corp. Application for Transfer of Control*, Memorandum Opinion and Order, FCC 06-18922 FCC Rcd.5662 (issued March 26, 2007) (FCC Merger Order).

⁶ Sprint refers to interconnection agreements approved by the Commission in Case Nos. 02-2560-TP-NAG, 03-1960-TP-NAG, 99-964-TP-NAG, and 01-2317-TP-NAG.

⁷ Merger Commitment Four reads as follows: The AT&T/BellSouth ILECs shall permit a requesting telecommunications carrier to extend its current interconnection agreement, regardless of whether its initial term has expired, for a period of up to three years, subject to amendment to reflect prior and future changes of law. During this period, the interconnection agreement may be terminated only via the carrier's request unless terminated pursuant to the agreement's "default" provisions.

Sprint is confident that granting its motion will not prejudice AT&T. This case has not been set for hearing, nor is there a procedural schedule that would be delayed by Sprint's motion. Moreover, Sprint deems it unlikely that the parties could submit a conforming agreement without further adjudication by the Commission.

- (9) On July 17, 2009, AT&T filed a letter stating that it does not oppose Sprint's motion to amend its complaint. It is AT&T's understanding that the Commission will establish a date for AT&T to file an answer or other responsive pleading to the amended complaint. AT&T requests that the Commission set, pursuant to Rule 4901-9-01(B), Ohio Administrative Code, a response date that is 20 days from the date of the Commission's entry.
- (10) The attorney examiner finds that Sprint's motion to amend its complaint is reasonable. Moreover, taking into account that AT&T does not object, Sprint's motion should be granted. Pursuant to AT&T's request, AT&T shall be granted until August 26, 2009, to file an answer and any other responsive pleading to Sprint's amended complaint.


It is, therefore,

ORDERED, That Sprint's motion to amend its complaint is granted and that AT&T is granted until August 26, 2009, to file an answer and any other responsive pleading. It is, further,

ORDERED, That copies of this entry be served upon the parties, their counsel, and all interested persons of record.

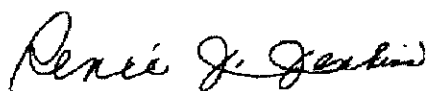
THE PUBLIC UTILITIES COMMISSION OF OHIO


By: L. Douglas Jennings
Attorney Examiner


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Entered in the Journal

AUG 06 2009



Renee J. Jenkins
Secretary