

OVERVIEW OF COMPLAINT

1. This Complaint arises out of the Illinois Commerce Commission (“Commission”) approved Agreement for Interconnection by and between Sprint and AT&T Illinois and AT&T Illinois’ violation of the conditions imposed by the Federal Communications Commission (“FCC”) on the merger between AT&T, Inc. and BellSouth Corporation.¹

2. Specifically, Sprint petitions the Commission to direct AT&T Illinois to execute an adoption amendment to port in and adopt the Interconnection Agreement between BellSouth Telecommunications Inc. d/b/a AT&T Southeast and Sprint Communications Company L.P. and Sprint Spectrum L.P., as extended and approved in Kentucky (the “Kentucky ICA”), in accordance with *Merger Commitments* made by AT&T, attached hereto as Exhibit A.

PARTIES

3. The Sprint entities filing this Complaint and who are requesting interconnection are Sprint Communications L.P. d/b/a Sprint Communications Company L.P., SprintCom, Inc., WirelessCo, L.P., through their agent, Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc.

4. The Sprint entities are each indirect wholly-owned subsidiaries of Sprint Nextel Corporation.

5. Sprint Communications L.P. d/b/a Sprint Communications Company L.P. (“Sprint CLEC”), is a Delaware limited partnership, authorized to transact business in Illinois. Sprint CLEC holds certificates, as an Interexchange Carrier; as a Local Exchange Carrier approved by this Commission in Docket No. 96-0141 on July 31, 1996; and as a Prepaid Calling Service Provider approved by this Commission in Docket No. 05-0720 on January 4, 2006.

¹ *In the Matter of AT&T Inc. and BellSouth Corporation Application for Transfer of Control, Memorandum Opinion and Order*, FCC 06-189, (released March 26, 2007) (“*Merger Commitments*”). Attached hereto as Exhibit B.

6. Sprint Spectrum L.P. is a Delaware limited partnership, authorized to transact business in Illinois. Sprint Spectrum L.P. is the agent for SprintCom, Inc., whose certificate was approved by the Commission in Docket No. 97-0263 on September 10, 1997, and for WirelessCo, L.P., whose certificate was approved by the Commission in Docket No. 97-0186 on July 30, 1997.

7. Nextel West Corp. is a Delaware Company, authorized to transact business in Illinois. Nextel West's Illinois Certification was approved by the Commission in Docket No. 96-0308 on August 7, 1996.

8. NPCR, Inc. is a Delaware Corporation, authorized to transact business in Illinois. NPCR's Illinois Certification was approved by the Commission in Docket No. 05-0440 on February 8, 2006.

9. Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. are providers of Personal Communications Services ("PCS") and/or Commercial Mobile Radio Services ("CMRS") under licenses issued by the FCC to provide wireless telecommunications services.

10. Sprint's principal place of business is 6200 Sprint Parkway, Overland Park, Kansas 66251.

11. The Sprint representatives involved in this dispute are:

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12. Illinois Bell Telephone Company d/b/a AT&T Illinois is an Illinois Corporation.

13. According to the Commission's List of Public Utilities, AT&T Illinois has an office at 225 W. Randolph, Chicago, Illinois 60606.

14. AT&T Illinois is an incumbent local exchange carrier as defined by 47 U.S.C. § 252(h).

JURISDICTION

15. Sprint and AT&T Illinois are subject to the jurisdiction of the Commission with respect to the matters raised in this Complaint. The Commission further has jurisdiction over this proceeding under Sections 13-514, 13-515, 13-801, and 10-108 of the Illinois Public Utility Act.

16. The Commission also has jurisdiction under Sections 251 and 252 of the Federal Telecommunications Act of 1996 (the "Act"), 47 U.S.C. §§ 251 and 252, and specifically under Section 251(d)(3) of the Act, 47 U.S.C. § 251(d)(3) (conferring authority to State Commissions to enforce any regulation, order, or policy that is consistent with the requirements of Section 251 of the Act).

LEGAL FRAMEWORK

17. Section 13-514 of the Illinois Public Utility Act provides, in relevant part, as follows:

Sec. 13-514. Prohibited Actions of Telecommunications Carriers. A telecommunications carrier shall not knowingly impede the development of competition in any telecommunications service market. The following prohibited actions are considered per se impediments to the development of competition; however, the Commission is not limited in any manner to these enumerated impediments and may consider other actions which impede competition to be prohibited:

(1) unreasonably refusing or delaying interconnections or collocation or providing inferior connections to another telecommunications carrier;

* * * *

(8) violating the terms of or unreasonably delaying implementation of an Interconnection Agreement entered into pursuant to Section 252 of the Federal Telecommunications Act of 1996 in a manner that unreasonably delays, increases the cost, or impedes the availability of telecommunications services to consumers;

* * * *

(10) unreasonably failing to offer network elements that the Commission or the Federal Communications Commission has determined must be offered on an unbundled basis to another telecommunications carrier in a manner consistent with the Commission's or Federal Communications Commission's orders or rules requiring such offerings;

(11) violating the obligations of Section 13-801; . . . ²

18. Section 13-801 of the Illinois Public Utility Act provides, in relevant part, as follows:

Sec. 13-801. (a) This Section provides additional State requirements contemplated by, but not inconsistent with, Section 261(c) of the Federal Telecommunications Act of 1996, and not preempted by orders of the Federal Communications Commission. A telecommunications carrier not subject to regulation under an alternative regulation plan pursuant to Section 13-506.1 of this Act shall not be subject to the provisions of this Section, to the extent that this Section imposes requirements or obligations upon the telecommunications carrier that exceed or are more stringent than those obligations imposed by Section 251 of the Federal Telecommunications Act of 1996 and regulations promulgated thereunder.

An incumbent local exchange carrier shall provide a requesting telecommunications carrier with interconnection, collocation, network elements, and access to operations support systems on just, reasonable, and nondiscriminatory rates, terms, and conditions to enable the provision of any and all existing and new

² 220 ILCS 5/13-514.

telecommunications services within the LATA, including, but not limited to, local exchange and exchange access. The Commission shall require the incumbent local exchange carrier to provide interconnection, collocation, and network elements in any manner technically feasible to the fullest extent possible to implement the maximum development of competitive telecommunications services offerings. As used in this Section, to the extent that interconnection, collocation, or network elements have been deployed for or by the incumbent local exchange carrier or one of its wireline local exchange affiliates in any jurisdiction, it shall be presumed that such is technically feasible in Illinois.

(b) Interconnection.

(1) An incumbent local exchange carrier shall provide for the facilities and equipment of any requesting telecommunications carrier's interconnection with the incumbent local exchange carrier's network on just, reasonable, and nondiscriminatory rates, terms, and conditions:

* * * * *

(C) that is at least equal in quality and functionality to that provided by the incumbent local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the incumbent local exchange carrier provides interconnection.

(2) An incumbent local exchange carrier shall make available to any requesting telecommunications carrier, to the extent technically feasible, those services, facilities, or Interconnection Agreements or arrangements that the incumbent local exchange carrier or any of its incumbent local exchange subsidiaries or affiliates offers in another state under the terms and conditions, but not the stated rates, negotiated pursuant to Section 252 of the Federal Telecommunications Act of 1996. Rates shall be established in accordance with the requirements of subsection (g) of this Section. An incumbent local exchange carrier shall also make available to any requesting telecommunications carrier, to the extent technically feasible, and subject to the unbundling provisions of Section 251(d)(2) of the Federal Telecommunications Act of 1996, those unbundled network element or Interconnection Agreements or arrangements that a local exchange carrier affiliate of the incumbent local exchange carrier obtains in another state from the incumbent local exchange carrier in that state, under the terms and conditions, but not the stated rates, obtained through negotiation, or through an arbitration initiated by the affiliate, pursuant to Section 252 of the Federal

Telecommunications Act of 1996. Rates shall be established in accordance with the requirements of subsection (g) of this Section.

* * * * *

(k) The Commission shall determine any matters in dispute between the incumbent local exchange carrier and the requesting carrier pursuant to Section 13-515 of this Act.³

19. Section 13-515 of the Illinois Public Utility Act provides, in relevant part, as follows:

Sec. 13-515. (a) The following expedited procedures shall be used to enforce the provisions of Section 13-514 of this Act. However, the Commission, the complainant, and the respondent may mutually agree to adjust the procedures established in this Section.

(b) (Blank).

(c) No complaint may be filed under this Section until the complainant has first notified the respondent of the alleged violation and offered the respondent 48 hours to correct the situation. Provision of notice and the opportunity to correct the situation creates a rebuttable presumption of knowledge under Section 13-514. After the filing of a complaint under this Section, the parties may agree to follow the mediation process under Section 10-101.1 of this Act. The time periods specified in subdivision (d)(7) of this Section shall be tolled during the time spent in mediation under Section 10-101.1.⁴

GENERAL ALLEGATIONS

20. AT&T Illinois and Sprint CLEC have been operating in Illinois under various Interconnection Agreements approved by the Commission.

21. On August 21, 2007, AT&T Illinois notified Sprint CLEC that AT&T Illinois intended to terminate its Interconnection Agreement with Sprint CLEC. See Exhibit D.

³ 220 ILCS 5/13-801.

⁴ 220 ILCS 5/13-515.

22. AT&T Illinois and Sprint Spectrum L.P. have been operating in Illinois under various Interconnection Agreements approved by the Commission.

23. On August 21, 2007, AT&T Illinois notified Sprint Spectrum L.P. that AT&T Illinois intended to terminate its Interconnection Agreement with Sprint Spectrum L.P. See Exhibit E.

24. AT&T Illinois and Nextel West Corp. have been operating in Illinois under various Interconnection Agreements approved by the Commission.

25. On August 21, 2007, AT&T Illinois notified Nextel West Corp. that AT&T Illinois intended to terminate its Interconnection Agreement with Nextel West Corp. See Exhibit F.

26. AT&T Illinois and NPCR, Inc. have been operating in Illinois under various Interconnection Agreements approved by the Commission.

27. On August 21, 2007, AT&T Illinois notified NPCR, Inc. that AT&T Illinois intended to terminate its Interconnection Agreement with NPCR, Inc. See Exhibit G.

28. On August 31, 2007, Sprint sent correspondence to AT&T Illinois acknowledging receipt of AT&T Illinois' notice to terminate the above listed Interconnection Agreements, and reserved its right to enforce any merger commitment, including the right to port an interconnection agreement from another state. See Exhibit H.

29. On March 4, 2006, AT&T's parent corporation, AT&T Inc., entered into an agreement to merge with BellSouth Corporation, the parent company of BellSouth Telecommunications, Inc.

30. On March 31, 2006, AT&T Inc. and BellSouth Corporation filed a series of applications seeking FCC approval of the transaction.⁵

31. During the resulting FCC Merger Approval proceeding, AT&T Inc. made a number of promises in the form of commitments in order to elicit FCC approval.

32. The FCC *Merger Commitments* Order ordered compliance with AT&T's commitments, and included such commitments as Conditions of its approval of the AT&T Inc./BellSouth Corporation merger.⁶

33. In the FCC *Merger Commitments* Order approving the AT&T Inc./BellSouth Corporation merger, the interconnection-related Merger Commitments Nos. 1 and 2 (under the heading "**Reducing Transaction Costs Associated with Interconnection Agreements**") obligate AT&T as follows:

“Reducing Transaction Costs Associated with Interconnection Agreements

1. The AT&T/BellSouth ILECs shall make available to any requesting telecommunications carrier any entire effective Interconnection Agreement, whether negotiated or arbitrated, that an AT&T/BellSouth ILEC entered into in any state in the AT&T/BellSouth 22-state ILEC operating territory, subject to state-specific pricing and performance plans and technical feasibility, and provided, further, that an AT&T/BellSouth ILEC shall not be obligated to provide pursuant to this commitment any interconnection arrangement or UNE unless it is feasible to provide, given the technical, network, and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made.
2. The AT&T/BellSouth ILECs shall not refuse a request by a telecommunications carrier to opt into an agreement on the ground that the agreement has not been amended to reflect

⁵ *Merger Commitments*, ¶¶14 and 17.

⁶ *Id.*, ¶227. (“IT IS FURTHER ORDERED that as a condition of this grant AT&T and BellSouth shall comply with the conditions set forth in Appendix F of this Order.”).

changes of law, provided the requesting telecommunications carrier agrees to negotiate in good faith an amendment regarding such change of law immediately after it has opted into the agreement.”⁷

34. Sprint CLEC and Sprint Spectrum L.P. entered into an Interconnection Agreement with BellSouth Telecommunications, Inc. effective January 1, 2001 for the States of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee (the "BellSouth ICA").

35. By Order dated November 7, 2007, the Kentucky Public Service Commission extended the Interconnection Agreement between Sprint and AT&T for three years from December 29, 2006.⁸

36. On November 20, 2007, Sprint notified AT&T Illinois that it intended to exercise its right under the Merger Commitments to port and adopt the Kentucky ICA to Illinois. See Exhibit I.

37. AT&T Illinois has not honored Sprint’s request to port and adopt the Kentucky ICA to Illinois for all of the Sprint entities.

38. AT&T Illinois has not raised any state-specific pricing issues or technical feasibility issues that preclude the adoption of the Kentucky ICA in Illinois.

39. Sprint has twice requested that AT&T Illinois identify any provisions in the Kentucky ICA that would require modification for use in another state.

40. On January 26, 2007, Sprint requested that AT&T Illinois identify any specific provisions of the Kentucky ICA that AT&T Illinois would not consider applicable in a given legacy AT&T Illinois state, along with an explanation as to why.

⁷ *Merger Commitments*, Appendix F, p 149.

⁸ *In Re: Petition of Sprint*, Kentucky Public Service Commission Case No. 2007-00180, Order Dated Nov. 7, 2007, attached hereto as Exhibit J.

41. On July 10, 2007, Sprint requested to port the Kentucky ICA into Ohio and requested that AT&T and/or Ohio Bell Telephone Company d/b/a AT&T Ohio “identify any state orders that AT&T believes constitutes ‘state-specific pricing and performance plans and technical feasibility such that it effects these state specific sections.’”

42. AT&T’s response to Sprint’s request to port the Kentucky Agreement into Ohio, dated October 9, 2007, did not identify any state-specific modifications necessary to port the Kentucky Agreement into Ohio.

43. AT&T’s response to Sprint’s request to port the Kentucky Agreement into Ohio, dated October 9, 2007, only claimed that the Kentucky ICA could not be ported because it had expired.

44. Starting in April, 2007, Sprint commenced a series of proceedings before the state commissions in the legacy BellSouth territory seeking to implement the *Merger Commitments*.

45. Despite the stated intent of the interconnection-related commitments – Reducing Transaction Costs Associated with Interconnection Agreements – AT&T opposed Sprint’s election at each legacy BellSouth territory State Commission, forcing Sprint to litigate to implement the commitment.

46. After making Sprint litigate the *Merger Commitments* in every BellSouth state, AT&T conceded Sprint’s rights under the *Merger Commitments* and issued an Accessible Letter dated November 16, 2007 recognizing Sprint’s right to extend its agreement for three years.

47. On November 16, 2007, AT&T issued an Accessible Letter regarding the FCC *Merger Commitments*. Attached hereto as Exhibit C.

48. In the November 16, 2007 AT&T Accessible Letter, under the paragraph titled, “Porting ICAs”, AT&T stated, “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.)”

49. The November 16, 2007 AT&T Accessible Letter further indicates that agreements that have not been noticed for termination/renegotiation – like the Kentucky ICA – are eligible for porting under Merger Commitment 7.1.

50. On December 13, 2007, AT&T further responded to Sprint's request to port the Kentucky ICA and asserted that the Merger Commitment permitted only one CMRS carrier per state to port the Kentucky ICA. The restriction to one CMRS carrier per state does not exist in the *Merger Commitments*. AT&T's correspondence dated December 13, 2007 is attached as Exhibit K.

51. On December 18, 2007, the Kentucky Public Service Commission entered its orders granting Nextel West Corp. and NPCR, Inc. request to adopt the Kentucky ICA, finding the adoption lawful and denying AT&T's motion to dismiss the adoption petition. The effect of these orders is that the Kentucky ICA is available to all requesting Sprint entities, Sprint CLEC and all three requesting Sprint CMRS providers – Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. The December 18 orders are attached as Exhibit L.

52. Sprint provided the required notice under Sec. 13-515(c) of the Illinois Public Utilities Act before filing a complaint alleging that AT&T's refusal to allow the porting of the Kentucky ICA violated certain sections of Illinois law. AT&T responded on December 21, 2007 and continues to raise issues of no merit as to why all of the Sprint entities cannot port and adopt the Kentucky ICA in Illinois. For example, AT&T raises the issue that more than one CMRS provider cannot port the Kentucky ICA under the merger commitment. There simply is no such requirement in merger commitment 7.1. All of the Sprint CMRS entities identified as parties in

the complaint are entitled to the Kentucky ICA, as recognized by the Kentucky Public Service Commission in its adoption orders of December 18, 2007. AT&T further raises an issue regarding the certification of NPCR, Inc. To the contrary that entity is a certificated carrier in Illinois. Finally, AT&T claims that its actions do not violate Illinois law. This complaint provides details on why AT&T's continuing refusal to port the Kentucky ICA to all of the Sprint entities impedes competition and violates Illinois law.

53. While AT&T and Sprint have engaged in negotiations regarding a new Interconnection Agreement that would include Illinois, those discussions have not resulted in an executed agreement.

54. In lieu of initiating a full-blown arbitration proceeding in Illinois, and unnecessarily utilizing the resources of the Illinois Commission and Sprint, Sprint files this Complaint and exercises its rights under Merger Commitment 7.1 to port and adopt the Kentucky ICA in Illinois, subject to state-specific pricing, and requests that the Commission acknowledge and implement Sprint's request to adopt the Kentucky ICA and direct AT&T to execute an appropriate adoption amendment.

COUNT I
REQUEST FOR DECLARATORY RULING

55. Sprint repeats paragraph 1 through 54 as though fully set forth here.

56. In the FCC *Merger Commitments* Order approving the AT&T Inc./BellSouth Corporation merger, the interconnection-related Merger Commitments Nos. 1 and 2 (under the heading "**Reducing Transaction Costs Associated with Interconnection Agreements**") obligate AT&T Illinois as follows:

“Reducing Transaction Costs Associated with Interconnection Agreements

1. The AT&T/BellSouth ILECs shall make available to any requesting telecommunications carrier any entire effective Interconnection Agreement, whether negotiated or arbitrated, that an AT&T/BellSouth ILEC entered into in any state in the AT&T/BellSouth 22-state ILEC operating territory, subject to state-specific pricing and performance plans and technical feasibility, and provided, further, that an AT&T/BellSouth ILEC shall not be obligated to provide pursuant to this commitment any interconnection arrangement or UNE unless it is feasible to provide, given the technical, network, and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the state for which the request is made.
2. The AT&T/BellSouth ILECs shall not refuse a request by a telecommunications carrier to opt into an agreement on the ground that the agreement has not been amended to reflect changes of law, provided the requesting telecommunications carrier agrees to negotiate in good faith an amendment regarding such change of law immediately after it has opted into the agreement.”⁹

57. AT&T Illinois reiterated this obligation in its November 16, 2007 Accessible

Letter stating:

“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). 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/renewal. 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. Therefore, if a carrier adopts and ports an ICA whose initial term has expired, subsequent noticing of that ICA for termination and renewal will require that the adopted/ported agreement also be renewed. Moreover, consistent with Federal rules, ICAs that have been noticed for

⁹ *Merger Commitments*, Appendix F, p 149.

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.” 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.”¹⁰

58. Sprint has requested a port of the Kentucky ICA into Illinois.

59. AT&T has not stated any reason why the Kentucky ICA is not feasible to provide, given the technical, network, and OSS attributes and limitations in, and is consistent with the laws and regulatory requirements of, the State of Illinois.

60. The term of the Kentucky ICA runs until December 28, 2009 – the Kentucky ICA has not expired.

61. Sprint respectfully requests that the Commission find and declare that the *Merger Commitments* require AT&T Illinois to permit Sprint to port the Kentucky ICA into Illinois.

62. Sprint respectfully requests that the Commission order AT&T Illinois to execute a port of the Kentucky ICA with Sprint for the State of Illinois, subject to state-specific pricing, and file such Interconnection Agreement with this Commission for approval.

COUNT II
VIOLATION OF 13-514 OF THE ILLINOIS PUBLIC UTILITY ACT

63. Sprint repeats paragraph 1 through 62 as though fully set forth here.

64. Section 13-514 of the Illinois Public Utility Act provides, in relevant part, as follows:

Sec. 13-514. Prohibited Actions of Telecommunications Carriers. A telecommunications carrier shall not knowingly impede the development of competition in any telecommunications service market. The following prohibited actions are considered per se

¹⁰ AT&T November 16, 2007 Accessible Letter No. CLECALL07-086.

impediments to the development of competition; however, the Commission is not limited in any manner to these enumerated impediments and may consider other actions which impede competition to be prohibited:

(1) unreasonably refusing or delaying interconnections or collocation or providing inferior connections to another telecommunications carrier;

* * * *

(8) violating the terms of or unreasonably delaying implementation of an Interconnection Agreement entered into pursuant to Section 252 of the Federal Telecommunications Act of 1996 in a manner that unreasonably delays, increases the cost, or impedes the availability of telecommunications services to consumers;

* * * *

(10) unreasonably failing to offer network elements that the Commission or the Federal Communications Commission has determined must be offered on an unbundled basis to another telecommunications carrier in a manner consistent with the Commission's or Federal Communications Commission's orders or rules requiring such offerings;

(11) violating the obligations of Section 13-801; . . . ¹¹

65. The *Merger Commitments* constitute a determination by the FCC that allows carriers to port effective Interconnection Agreements entered into in any state in AT&T's 22-state ILEC operating territory.

66. AT&T Illinois' November 16, 2007 Accessible Letter indicates that AT&T Illinois will "allow carriers to port effective Interconnection Agreements entered into in any state in AT&T's 22-state ILEC operating territory."

67. AT&T Illinois refuses to port a valid, effective, and unexpired Interconnection Agreement.

68. Sprint's Kentucky ICA is a valid and unexpired Interconnection Agreement.

¹¹ 220 ILCS 5/13-514.

69. AT&T Illinois refuses to port the Kentucky ICA to Illinois.

70. Sprint respectfully requests that the Commission find that AT&T Illinois has (1) refused or delayed interconnection; (2) unreasonably delayed implementation of an interconnection agreement in a manner that unreasonably delays, increases the cost or impedes the availability of telecommunications services to consumers; and (3) “unreasonably fail[ed] to offer” a port of an Interconnection Agreement “that the . . . Federal Communications Commission has determined must be offered on an unbundled basis to another telecommunications carrier in a manner consistent with the . . . Federal Communications Commission's orders or rules requiring such offerings” in violation of Section 13-514(1)(8) and (10) of the Illinois Public Utility Act.

COUNT III
VIOLATION OF SECTION 13-801 OF THE ILLINOIS PUBLIC UTILITY ACT

71. Sprint repeats paragraph 1 through 70 as though fully set forth here.

72. Section 13-801 of the Illinois Public Utility Act provides, in relevant part, as follows:

Sec. 13-801. (a) This Section provides additional State requirements contemplated by, but not inconsistent with, Section 261(c) of the Federal Telecommunications Act of 1996, and not preempted by orders of the Federal Communications Commission. A telecommunications carrier not subject to regulation under an alternative regulation plan pursuant to Section 13-506.1 of this Act shall not be subject to the provisions of this Section, to the extent that this Section imposes requirements or obligations upon the telecommunications carrier that exceed or are more stringent than those obligations imposed by Section 251 of the Federal Telecommunications Act of 1996 and regulations promulgated thereunder.

An incumbent local exchange carrier shall provide a requesting telecommunications carrier with interconnection, collocation, network elements, and access to operations support systems on just, reasonable, and nondiscriminatory rates, terms, and conditions

to enable the provision of any and all existing and new telecommunications services within the LATA, including, but not limited to, local exchange and exchange access. The Commission shall require the incumbent local exchange carrier to provide interconnection, collocation, and network elements in any manner technically feasible to the fullest extent possible to implement the maximum development of competitive telecommunications services offerings. As used in this Section, to the extent that interconnection, collocation, or network elements have been deployed for or by the incumbent local exchange carrier or one of its wireline local exchange affiliates in any jurisdiction, it shall be presumed that such is technically feasible in Illinois.

(b) Interconnection.

(1) An incumbent local exchange carrier shall provide for the facilities and equipment of any requesting telecommunications carrier's interconnection with the incumbent local exchange carrier's network on just, reasonable, and nondiscriminatory rates, terms, and conditions:

* * * * *

(C) that is at least equal in quality and functionality to that provided by the incumbent local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the incumbent local exchange carrier provides interconnection.

(2) An incumbent local exchange carrier shall make available to any requesting telecommunications carrier, to the extent technically feasible, those services, facilities, or Interconnection Agreements or arrangements that the incumbent local exchange carrier or any of its incumbent local exchange subsidiaries or affiliates offers in another state under the terms and conditions, but not the stated rates, negotiated pursuant to Section 252 of the Federal Telecommunications Act of 1996. Rates shall be established in accordance with the requirements of subsection (g) of this Section. An incumbent local exchange carrier shall also make available to any requesting telecommunications carrier, to the extent technically feasible, and subject to the unbundling provisions of Section 251(d)(2) of the Federal Telecommunications Act of 1996, those unbundled network element or Interconnection Agreements or arrangements that a local exchange carrier affiliate of the incumbent local exchange carrier obtains in another state from the incumbent local exchange carrier in that state, under the terms and conditions, but not the stated rates, obtained through negotiation, or through an arbitration

initiated by the affiliate, pursuant to Section 252 of the Federal Telecommunications Act of 1996. Rates shall be established in accordance with the requirements of subsection (g) of this Section.

* * * * *

(k) The Commission shall determine any matters in dispute between the incumbent local exchange carrier and the requesting carrier pursuant to Section 13-515 of this Act.¹²

73. AT&T Illinois' November 16, 2007 Accessible Letter states that "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.

74. AT&T Illinois' November 16, 2007 Accessible Letter indicates that AT&T Illinois will "allow carriers to port effective Interconnection Agreements entered into in any state in AT&T's 22-state ILEC operating territory."

75. AT&T Illinois refuses to port a valid, effective, and unexpired Interconnection Agreement.

76. Sprint's Kentucky ICA is a valid and unexpired Interconnection Agreement.

77. AT&T Illinois refuses to port the Kentucky ICA to Illinois.

78. Sprint respectfully requests that the Commission find that AT&T Illinois has failed to "make available to any requesting telecommunications carrier, to the extent technically feasible, those services, facilities, or Interconnection Agreements or arrangements that the incumbent local exchange carrier or any of its incumbent local exchange subsidiaries or affiliates offers in another state under the terms and conditions, but not the stated rates, negotiated pursuant to Section 252 of the Federal Telecommunications Act of 1996" in violation of Section 13-801 of the Illinois Public Utility Act.

¹² 220 ILCS 5/13-801.

COMPLIANCE WITH SECTION 13-515 OF THE ILLINOIS PUBLIC UTILITY ACT

79. In compliance with Section 13-515 of the Illinois Public Utility Act, which provides in part that “no complaint may be filed under this Section until the complainant has first notified the respondent of the alleged violation and offered the respondent 48 hours to correct the situation,” Sprint has notified AT&T Illinois of the alleged violation and offered AT&T 48 hours to correct the situation. Attached hereto as Exhibit M.

80. On December 21, 2007 AT&T responded to Sprint’s Section 13-515 Notice. Attached hereto as Exhibit N.

RELIEF REQUESTED

Sprint respectfully requests that this Commission grant its Complaint and Request for Declaratory Action and enter judgment in favor of Sprint and against AT&T Illinois, and further that the Commission:

A. Find and declare that the *Merger Commitments* require AT&T Illinois to permit Sprint to port the Kentucky ICA into Illinois;

B. Order AT&T Illinois to execute a port of the Kentucky ICA with Sprint for the State of Illinois, subject to state-specific pricing, and file such Interconnection Agreement with this Commission for approval;

C. Find that AT&T Illinois has (1) refused or delayed interconnection; (2) unreasonably delayed implementation of an interconnection agreement in a manner that unreasonably delays, increases the cost or impedes the availability of telecommunications services to consumers; and (3) “unreasonably fail[ed] to offer” a port of an Interconnection Agreement “that the . . . Federal Communications Commission has determined must be offered on an unbundled basis to another telecommunications carrier in a manner consistent with the . . . Federal Communications Commission's orders or rules requiring such offerings” in violation of Section 13-514(1)(8) and (10) of the Illinois Public Utility Act;

D. Find that AT&T Illinois has failed to “make available to any requesting telecommunications carrier, to the extent technically feasible, those services, facilities, or Interconnection Agreements or arrangements that the incumbent local exchange carrier or any of its incumbent local exchange subsidiaries or affiliates offers in another state under the terms and conditions, but not the stated rates, negotiated pursuant to Section 252 of the Federal Telecommunications Act of 1996” in violation of Section 13-801 of the Illinois Public Utility Act;

E. Order the AT&T Illinois to pay fines for the each violation of Section 13-514 of the Illinois Public Utility Act pursuant to Section 13-516 of the Illinois Public Utility Act;

F. Order AT&T Illinois to make Sprint whole by payment by AT&T Illinois to Sprint of Sprint’s attorney fees and actual costs incurred in bringing this Complaint to the Commission, pursuant to Section 13-516 of the Illinois Public Utility Act;

G. Order the Defendant to cease and desist from future violations of its Merger Commitments and the Illinois Public Utility Act.; and,

H. Order such other relief as may be just and reasonable.

Respectfully Submitted,

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