

**STATE OF ILLINOIS**  
**BEFORE THE ILLINOIS COMMERCE COMMISSION**

IN THE MATTER OF: )  
)  
SPRINT COMMUNICATIONS L.P. d/b/a )  
SPRINT COMMUNICATIONS COMPANY )  
L.P., SPRINTCOM, INC., WIRELESSCO, )  
L.P., NEXTEL WEST CORP., and NPCR, )  
INC., )  
)  
vs. )  
)  
ILLINOIS BELL TELEPHONE COMPANY )  
D/B/A AT&T ILLINOIS )  
)  
Compliant and Request for Declaratory Ruling )  
Pursuant to Sections 13-514, 13-515, 13-801, )  
and 10-108 of the Illinois Public Utilities Act. )

Docket No. 07-0629

**SPRINT COMMUNICATIONS L.P. D/B/A SPRINT COMMUNICATIONS COMPANY  
L.P., SPRINTCOM, INC., WIRELESSCO, L.P., NEXTEL WEST CORP.,  
AND NPCR, INC.**

**RESPONSE TO PETITIONS FOR REVIEW**

NOW COMES Sprint Communications L.P. d/b/a Sprint Communications Company L.P., SprintCom, Inc. and WirelessCo, L.P. through their agent Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. (collectively “Sprint”), by and through its attorneys, Clark Hill PLC, and pursuant to Section 13-515(d)(8) of the Public Utilities Act, files this Response to the Petitions for Review of Administrative Law Judge Glennon P. Dolan’s (“ALJ”) Order filed by the Staff of the Illinois Commerce Commission (“Staff”) and Illinois Bell Telephone Company d/b/a AT&T Illinois (“AT&T” or “AT&T Illinois”) on July 14, 2008.

Sprint believes that the issues in this proceeding have been fully briefed and presented to the Commission, and incorporates herein, by reference, all of its prior filings in this proceeding. However, three issues raised by Staff and AT&T in their Petitions for Review warrant responses.

Sprint filed its Verified Complaint and Request for Declaratory Ruling with the Commission seeking an Order requiring AT&T Illinois to allow Sprint to port the Sprint/AT&T Kentucky Interconnection Agreement (the “Kentucky ICA”) into Illinois. Prior to the filing of this Complaint, AT&T Illinois had not honored Sprint’s request to port and adopt the Kentucky ICA to Illinois for all of the Sprint entities, and had not raised any state-specific pricing issues or technical feasibility issues that precluded the adoption of the Kentucky ICA in Illinois. Prior to this Complaint, 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. Believing that AT&T’s refusal and delay and otherwise posing impediments to importing the Kentucky ICA into Illinois constituted violations of Sections 13-514, 13-515 and 13-801 of the Illinois Public Utilities Act, on December 28, 2007, Sprint filed with this Commission a Verified Complaint and Request for Declaratory Ruling seeking an Order: 1) declaring that Sprint is entitled to port the Kentucky ICA to the State of Illinois pursuant to the Merger Commitments made by AT&T, Inc., parent company of Respondent AT&T Illinois<sup>1</sup>; 2) that AT&T’s actions refusing and delaying Sprint’s election of

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<sup>1</sup> The Merger Commitments in question are contained in Appendix F of *In the Matter of AT&T Inc. and BellSouth Corporation Application for Transfer of Control*, Memorandum Opinion and Order at 113, Ordering Clause ¶ 227, WC Docket No. 06-74 (rel. Mar. 26, 2007) (“*Merger Order*”). The Merger Commitment specifically provide that AT&T:

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

the Kentucky ICA violate Section 13-514 of the Illinois Public Utility Act; and, 3) that AT&T's actions refusing and delaying Sprint's election of the Kentucky ICA violate Section 13-801 of the Illinois Public Utility Act.

The ALJ, in his Order Issued June 30, 2008, in fact did find and proposed Ordering that "that Sprint is authorized to import the Kentucky ICA" and that "the remedies set forth in [the ALJ's Order] should be adopted to address the violations of Section 13-514 of the Public Utilities Act."<sup>2</sup>

Staff raises in its Petition for Review the question of the allocation of Staff's Costs. Staff correctly notes that:

Section 13-516(a)(3) provides that: "The Commission shall award damages, attorney's fees, and costs to any telecommunications carrier that was subjected to a violation of Section 13-514." 220 ILCS 5/13-516(a)(3). Likewise, Section 13-515(g) requires that the Commission's costs in adjudicating a Section 13-515 complaint be taxed to the parties "according to the resolution of the complaint[.]" 220 ILCS 5/13-515(g).<sup>3</sup>

Staff then goes on to suggest that "[i]n light of the fact that Sprint has not prevailed on any one of its 'big ticket' issues, Staff believes that any fee allocation awarded to Sprint should be a nominal one at most, with Staff costs charged accordingly."<sup>4</sup> However what Staff considers "Sprint's" "Big Ticket" issues were issues actually raised not in Sprint's Complaint, but rather by AT&T in its continuing attempts at obstructing and delaying the implementation of the Merger Commitments. AT&T, not Sprint, raised the issues of whether bill-and-keep and

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and regulatory requirements of, the state for which the request is made.

<sup>2</sup> ALJ's Order at 42.

<sup>3</sup> Staff's Petition for Review at 1.

<sup>4</sup> *Id.* at 2.

facilities sharing are state-specific pricing, which they are not. Further, as Staff correctly pointed out, Section 13-516(a)(3) of the Public Utilities Act provides that: “The Commission shall award damages, attorney's fees, and costs to any telecommunications carrier that was subjected to a violation of Section 13-514.” Nowhere has it been suggested that Sprint committed any violation of Section 13-514. The only party to this proceeding that has committed a violation of Section 13-514 is AT&T, a violation concurred in by Staff and the ALJ. Clearly if any party should bear the costs of Staff’s participation in this proceeding it is AT&T Illinois.

Further emphasizing the fact that AT&T should be assessed with costs in this proceeding is AT&T’s backpedaling in its June 9, 2008 Motion to Withdraw its Motion to Dismiss and in its Petition for Review.

On January 8, 2008, AT&T filed a Motion to Dismiss Sprint’s Complaint. Upon realizing the futility of this Motion, but not until after the parties had briefed and filed numerous supplemental authorities, did AT&T withdraw its Motion. The considerable cost incurred by Sprint and Staff responding to this Motion to Dismiss that was yet another stumbling block placed by AT&T in Sprint’s attempt to port the Kentucky ICA to Illinois should be born by AT&T. AT&T further backpedals in its Petition for Review by now claiming that “the Commission should not decide how many Sprint entities may port the Kentucky ICA to Illinois, because that issue was not presented for decision.”<sup>5</sup> This issue was clearly presented in Sprint’s Complaint<sup>6</sup> and was specifically raised by AT&T in correspondence to Sprint.<sup>7</sup> Realizing that it has lost this issue, AT&T is now trying to rewrite history and pretend like it never existed.

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<sup>5</sup> AT&T Petition for Review at 8.

<sup>6</sup> Complaint at ¶¶ 37 and 52.

<sup>7</sup> Complaint, Attachments K and N.

AT&T also asks the Commission to decide matters that the ALJ declined to address. Presumably the ALJ felt that that these issues could be mutually resolved by the parties. An examination of Sprint's Reply Brief clearly demonstrates that the parties have already resolved many of these issues, and will do so without Commission intervention.<sup>8</sup>

In lieu of initiating a full-blown arbitration proceeding in Illinois, and unnecessarily utilizing the resources of the Illinois Commission and Sprint, on December 28, 2007, Sprint filed the instant Complaint to exercise its rights under Merger Commitment 7.1 to port and adopt the Kentucky ICA in Illinois, subject to state-specific pricing. The ALJ's Order, with or without the Modifications proposed by Sprint in its Petition for Review, does just that – AT&T should be ordered to port and adopt the Kentucky ICA in Illinois

### **CONCLUSION**

For the reasons stated above and in Sprint's Petition for Review, Sprint Communications L.P. d/b/a Sprint Communications Company L.P., SprintCom, Inc. and WirelessCo, L.P. through their agent Sprint Spectrum L.P., Nextel West Corp., and NPCR, Inc. respectfully requests that the Commission adopt the ALJ's Order with the modifications Sprint has outlined and 1) Order AT&T Illinois to permit Sprint to port the Kentucky ICA into Illinois, for all of the Sprint entities who have requested to do so, with minimal changes to conform to Illinois Law, as testified to by Sprint's witnesses, Mark G. Felton<sup>9</sup> and Randy G. Farrar;<sup>10</sup> 2) Find that AT&T Illinois has refused or delayed interconnection; 3) Find that AT&T 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; 4)

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<sup>8</sup> Sprint Reply Brief, at 24-31.

<sup>9</sup> Exhibits 1.0 and 2.0.

<sup>10</sup> Exhibits 3.0 and 4.0.

Find that AT&T “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 Sections 13-514(1)(8) and (10) and 13-801 of the Illinois Public Utility Act; and 5) Order AT&T Illinois to pay fines and 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.

Respectfully Submitted,  
CLARK HILL PLC

By: \_\_\_\_\_

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