

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**RECEIVED**

JUN - 6 2002

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

cc Docket No. 01-92

In the Matter of )  
)  
Sprint Petition for Declaratory Ruling )  
)  
Obligation of Incumbent LECs to Load )  
Numbering Resources Lawfully Acquired )  
and to Honor Routing and Rating Points )  
Designated by Interconnecting Carriers )  
)  
\_\_\_\_\_ \

**SPRINT REPLY IN SUPPORT OF  
ITS DECLARATORY RULING PETITION**

Sprint Corporation, on behalf of its wireless division ("Sprint"), hereby replies to the **Op-**position **filed** by BellSouth Telecommunications, Inc. ("BellSouth") on May 22, 2002 in response to the Petition for Declaratory Ruling ("Petition") that Sprint submitted on May 9, 2002.

In its Opposition, BellSouth does not refute the federal law governing the dispute between BellSouth and Sprint (and other CMRS carriers); nor does BellSouth challenge Sprint's demonstration that BellSouth has violated **this federal** law. BellSouth nevertheless contends that the Commission should deny Sprint's declaratory ruling petition because of two inconsistent positions:

1. The Commission rather **than** state regulators should address the **issues** raised in the Sprint Petition, but the Commission should do **so** in the *Unified Intercarrier Compensation* proceeding; and/or
2. State regulators rather than the Commission should address the issues raised in the Sprint Petition, because they supposedly involve intercarrier compensation rather than routing of traffic and compliance with the Commission's numbering rules.

No. of Copies rec'd 2  
List ABCDE  
\_\_\_\_\_

BellSouth is incorrect on both counts, **as** Sprint demonstrates below. Accordingly, and for the reasons set forth in Sprint's filings, the Commission should **reaffirm** that all telecommunications carriers have an obligation under the Communications Act to timely load in their networks numbering resources obtained by carriers and to use the rating and routing points that the carrier holding the numbering resources designates.

**I. SPRINT SEEKS A DECLARATION OF CURRENT LAW, NOT THE ESTABLISHMENT OF NEW RULES**

BellSouth **asserts** that the Sprint Petition seeks to “establish new policy” because the “underlying issues are already before the Commission in its intercarrier compensation proceeding.” BellSouth's **assertions** are incorrect.

First, Sprint does not **seek** to “establish new policy.” Sprint documented in its Petition that industry guidelines currently in effect explicitly permit a CMRS carrier to designate different rating and routing **points** for the NXX codes they **acquire**.<sup>2</sup> Sprint asks **only** that the Commission confirm what industry guidelines already authorize and the practice that all incumbent LECs had universally followed – until BellSouth unilaterally pursued a different path.

**Second**, the Commission's **inquiry** in the *Unified Intercarrier Compensation* proceeding is limited to the use of virtual NXX codes by local exchange carriers (“LECs”), and not by CMRS providers:

[W]e seek comment on the following issues: (1) Under what circumstances should a **LEC** be entitled **to** use virtual NXX codes? (2) If LECs are **permitted to** use virtual NXX codes, what is the transport obligation **of** the originating LEC?

---

<sup>1</sup> BellSouth Opposition at 4 ¶ 7.

<sup>2</sup> See Sprint Petition at 4-5 and notes 6 and 9.

(3) Should the LEC employing the virtual NXX code be required to provide transport **from** the central offices associated with those NXX codes?<sup>3</sup>

The issue raised by BellSouth – the rules that should govern CMRS carrier use of virtual codes – is not within the **scope** of the Commission’s inquiry.

**Third**, the prospective relief BellSouth **seeks** in the *Unified Intercarrier Compensation* proceeding – prohibiting use of ‘Virtual’ NXX codes – would not change in any way the dispute between BellSouth and CMRS providers. Sprint PCS and other CMRS providers do not use ‘virtual’ NXX codes. As Sprint demonstrated in its Petition – a point BellSouth does not challenge:

The Commission has defined ‘virtual’ codes **as** those that ‘correspond with a particular geographic area that are assigned to a customer located in **a** different geographic area.’ Sprint obtains NXX codes only in areas where it has facilities and provides services to customers. There is nothing ‘virtual’ about Sprint’s provision of services in areas where it obtains NXX codes.<sup>4</sup>

Thus, even if the Commission accepts the new position that BellSouth advocates in the *Intercarrier Compensation* docket (and it should not), the change BellSouth seeks would not affect the issue raised by Sprint in its Petition.

In **sum**, there is **no** basis to defer consideration of issues raised in Sprint’s Petition to the *Intercarrier Compensation* rulemaking proceeding. Moreover, it is apparent that that rulemaking proceeding will be likely protracted. It is critical to competitors, incumbents, and consumers alike for **this** Commission **to** act quickly to clarify that incumbent LECs may not block Wireless carriers’ ability to utilize numbering resources they have lawfully obtained.

---

<sup>3</sup> *Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Red 9151 at ¶ 115 (2001).

<sup>4</sup> Sprint Petition at 13.

## II. THE DUPLICATIVE PUC PROCEEDINGS BELL SOUTH PROPOSES TO COMMENCE WILL NOT RESOLVE THE FEDERAL ISSUES RAISED BY SPRINT'S PETITION

BellSouth does not contest the federal law that Sprint discussed in its Petition. It instead **asserts** that the central issue raised in the Petition involves not the routing of traffic to CMRS providers or implementation of the Commission's numbering rules, but "intercarrier compensation and state tariffs" that, BellSouth further asserts, "fall within the purview of the state commission." While Sprint disagrees with BellSouth's characterization of the issues, Sprint submits that BellSouth's argument falls even under its own theory of the case.

BellSouth appends to its Opposition the Affidavit of Robert E. **James**, who describes **various** call scenarios involving customers **served** by BellSouth in Jacksonville, Florida; Northeast Florida Telephone Company in Macclenny, Florida; and/or Sprint PCS in either Jacksonville or **Macclenny**.<sup>6</sup> According to BellSouth, "[v]arious forms of intercarrier compensation, including reciprocal compensation, access charges and inter-company settlements could apply to this traffic." BellSouth is mistaken.

Jacksonville and Macclenny, Florida are both located within the Jacksonville Major Trading Area ("MTA"). The Commission has ruled repeatedly that "reciprocal compensation, rather than interstate or intrastate access charges, applies to LEC-CMRS traffic that originates and terminates within the **same** Major Trading **Area** (MTA)."<sup>8</sup> It is incorrect to suggest that intraMTA traffic involving a CMRS carrier could be subject to access charges.

---

<sup>5</sup> BellSouth Opposition at 4 ¶ 7.

<sup>6</sup> See James Affidavit at 2-3 ¶¶ 11-14.

<sup>7</sup> BellSouth Opposition at 2 ¶ 4.

<sup>8</sup> *Intercarrier Compensation for ISP-Bound Traffic*, 16 FCC Rcd 9151 at ¶ 47 (2001). See also 47 U.S.C. §§ 51.701(b)(2), 51.703; *First Local Competition Order*, 11 FCC Rcd 15499, 16014 ¶ 1036 (1996).

The Commission's LEC-CMRS MTA/reciprocal compensation rules have been affirmed on appeal.<sup>9</sup> Thus, even if BellSouth was correct that the current dispute really involved intercarrier compensation, a state commission would have no choice but to apply the Commission's LEC-CMRS MTA/reciprocal compensation rules.<sup>10</sup> Sprint demonstrated in its Petition that state commissions lack the authority to address the federal law issues raised in the Petition." Further, even if state commissions could address these federal questions, there would be nothing for them to decide because existing federal law is clear, and because under the Supremacy Clause states have no choice but to follow federal law.

BellSouth's state ~~tariff~~ defense is also unavailing. The Commission has held repeatedly that an incumbent LEC may not avoid its obligations under federal law simply by filing incompatible state ~~tariffs~~."

Congress has directed ~~this~~ Commission to establish "a Federal regulatory framework" for all CMRS.<sup>13</sup> It has also given ~~this~~ Commission "exclusive jurisdiction" over the North American Numbering Plan." Even if there was an issue that a state commission could resolve (and there is not), requiring CMRS ~~carriers~~ to re-litigate the identical issue in each of the nine states served by CMRS is incompatible with the Congressional directive for the Commission to establish "a Fed-

---

<sup>9</sup> See *Iowa Utilities Board v. FCC*, 120 F.3d 753, 800 n.21 (8<sup>th</sup> Cir. 1997).

<sup>10</sup> The Supreme Court has twice affirmed the commission's authority to adopt national rules governing intercarrier compensation. See *AT&T v. Iowa Utilities Board*, 525 U.S. 366, 384-85 (1999); *Verizon Communications v. FCC*, No. 00-511 (May 13, 2002).

<sup>11</sup> See Sprint Petition at 19-20.

<sup>12</sup> See, e.g., *Metrocall v. Concord Telephone*, DA 02-301 (Feb. 8, 2002); *TSR Wireless v. U S WEST*, 15 FCC Rcd 11166 (2000), *aff'd Qwest v. FCC*, 252 F.3d 462 (D.C. Cir. 2001).

<sup>13</sup> H.R. Conf. Rep. No. 103-213, 103d Cong., 1<sup>st</sup> Sess. 490 (1993). See also *Calling Party Pays Declaratory Order*, 14 FCC Rcd 10861, 10880-81 ¶ 36 (1999) (Commission refers to "our statutory mandate to 'establish a federal regulatory framework to govern the offering of all [CMRS].'" ).

<sup>14</sup> 47 U.S.C. § 251(3)(1).

eral regulatory framework” for all CMRS. Moreover, re-litigating this identical issue would place an undue and unnecessary burden on carriers.

### III. BELLSOUTH’S CHARACTERIZATION OF THIS DISPUTE IS INCORRECT

BellSouth **asserts** in its Opposition that Sprint’s Petition “misstates BellSouth’s policy and position”:

**On** March 20, 2002 BellSouth advised all carriers that it had revised Carrier Notification Letter SN91082844 that related to the activation of NPA-NXX codes with rate centers in non-BellSouth **areas**.<sup>15</sup>

In support, BellSouth recites its Carrier Notification Letter SN91082947 that “Sprint attached to their [*sic*] **Petition** . . . as exhibits D and E respectively.”<sup>16</sup> It is difficult to understand how Sprint could “misstate” BellSouth’s position when Sprint attached to its Petition the very documents **upon** which BellSouth **relies**.<sup>17</sup>

BellSouth further **asserts** that the two central factual allegations Sprint made in its Petition – BellSouth refused to load the 904-408 NXX code Sprint had obtained to sell its PCS services in and around Macclenny, Florida, and on March 8, 2002 BellSouth notified Sprint that its “current configurations in Beaufort, SC, Marls Hill, NC, **Stark**, FL and others should be corrected no later than June 8, 2002”<sup>18</sup> – are “incorrect.”<sup>19</sup> BellSouth presents no facts in support of its denial, however,

---

<sup>15</sup> BellSouth Opposition at 2 ¶ 2.

<sup>16</sup> Id. at 2 n.1.

<sup>17</sup> It is important to emphasize that BellSouth did not rescind its policy in its March 20, 2002 Revised Carrier Notification. **Rather**, BellSouth only decided that it would no longer act unilaterally and would instead **ask** state commissions to sanction its new position. As discussed above, however, there is nothing for the state commissions to address because federal law governs the dispute.

<sup>18</sup> Sprint Petition at 5-11.

<sup>19</sup> BellSouth Opposition at 1 ¶ 1.

Attached is the Declaration of Bill Pruitt, a Sprint employee with personal knowledge of the facts. Mr. Pruitt testifies that Sprint obtained the 904-408 code on March 25, 2001, that he repeatedly asked BellSouth to load this code, but that BellSouth consistently refused to load this code until May 2002.<sup>20</sup> Mr. Pruitt further summarizes the several waivers that Sprint was compelled to secure from the Florida Commission because BellSouth's refusal to load the 904-408 code would have otherwise caused Sprint to contravene the Commission's numbering optimization rules.<sup>21</sup> Mr. Pruitt confirms that on March 8, 2002, BellSouth notified Sprint that its "current configurations in Beaufort, SC, Marls Hill, NC, Stark, FL and others should be corrected no later than June 8, 2002" and that BellSouth did not withdraw this threat until May 22, 2002, when BellSouth filed its Opposition to Sprint's Petition.<sup>22</sup> Finally, Mr. Pruitt testifies that he requested BellSouth to confirm in writing that BellSouth would not terminate service involving the configurations in Beaufort, South Carolina, Marls Hill, North Carolina and Stark, Florida if Sprint did not "correct" those configurations by June 8, 2002, but that BellSouth refused.<sup>23</sup>

BellSouth further asserts that the arrangements Sprint seeks, arrangements that are consistent with industry guidelines, "result in, at a minimum, inappropriate intercarrier compensation."<sup>24</sup> However, Mr. James, in his supporting Affidavit, states only that "Sprint creates a situation whereby compensation for all participants for resulting traffic *may/will* be incorrect":

---

<sup>20</sup> See Pruitt Declaration at 3 ¶ 8.

<sup>21</sup> See *id.* at 2 ¶ 7.

<sup>22</sup> See *id.* at 3 ¶ 11.

<sup>23</sup> See at 3 ¶ 9.

<sup>24</sup> BellSouth Opposition at 2 ¶ 4.

In **sum**, by establishing a routing destination into BST and a rating destination in NFTC's exchange service area, Sprint places BST in the position of *potentially . . .* skewing compensation between the carriers.<sup>25</sup>

In fact, Mr. James acknowledges that carriers are compensated correctly for mobile-to-land calls. For example, if a Sprint PCS customer calls a customer of Northeast Florida, Sprint PCS delivers the **call** to BellSouth because Sprint PCS and Northeast Florida do not exchange sufficient **volumes** of traffic to justify a **direct** connection. In this example, Sprint PCS should pay BellSouth for its transit **costs** and Northeast Florida for its **call** termination **costs**. BellSouth concedes that Sprint will pay its transit **costs**, and that BellSouth will provide to the destination **carrier** (here, Northeast Florida) the information the destination carrier **needs** to bill Sprint for call **termination**.<sup>26</sup>

BellSouth additionally **asserts** that Sprint is asking BellSouth to “rout[e] traffic outside of its exchange area.”” **This**, too, is incorrect. To Sprint's knowledge, BellSouth does not own or operate facilities “outside of its exchange area,” and thus it is simply not possible for BellSouth to “rout[e] traffic outside of its exchange area.” Sprint **asks** BellSouth only to route and rate traffic to Sprint consistent with the rating and routing points Sprint designates in its NXX code application. In short, Sprint **asks only** that BellSouth do what it has historically done and what all other telecommunications **carriers** continue to do.

---

<sup>25</sup> James Affidavit at 2 ¶ 8 4 ¶ 16 (emphasis added).

<sup>26</sup> See *id.* at 3 ¶ 14.

<sup>27</sup> BellSouth Opposition at 3 n. 2.

#### IV. CONCLUSION

Congress directed the Commission "to establish a *Federal regulatory framework* to govern the offering of *all* commercial mobile **services**,"<sup>28</sup> not only because of the impracticality of applying state regulation to services that operate "without regard to state lines," but also to "foster the growth and development of mobile services":

The Committee considers the right to interconnect **an** important one which the Commission shall **seek** to promote, since interconnection **serves** to enhance competition and advance a seamless national **network**.<sup>29</sup>

Sprint PCS' ability to serve **customers** in and around Macclenny, Florida was delayed by over a year because of BellSouth's arbitrary and unlawful refusal to load NXX codes that Sprint had lawfully obtained. Neither Sprint PCS nor any other CMRS provider should be compelled to re-litigate the identical issue in nine different states – especially when the outcome rests on federal law and not state law.

For the foregoing reasons and those set forth in its Declaratory Ruling Petition, Sprint respectfully requests that the commission reaffirm that all telecommunications carriers have an obligation under the Communications Act to timely load in their networks numbering resources

---

<sup>28</sup> H.R. Conf. Rep. No. 103-213, 103d Cong., 1<sup>st</sup> Sess. 490 (1993)(emphasis added).

<sup>29</sup> H.R. Rep. No. 103-111, 103d Cong., 1<sup>st</sup> Sess. 260-61 (1993).

obtained by carriers **and** to use the rating and routing points that the carrier holding the numbering resources designates. Commission intervention is necessary. BellSouth's actions have created uncertainty in the industry and **stifled** consumer choice in the process.

Respectfully submitted,

**SPRINT CORPORATION  
(on behalf of its Wireless Division)**

A handwritten signature in black ink, appearing to read "L. Lancetti", is written over a horizontal line. The signature is stylized and somewhat illegible.

**Luisa L. Lancetti  
Vice President, PCS Regulatory Affairs  
401 9<sup>th</sup> Street, N.W., Suite 400  
Washington, D.C. 20004  
202-585-1923**

Charles W. McKee  
Monica M. Barone  
6391 Sprint Parkway,  
Mail Stop: KSOPHT0101-Z2060  
Overland Park, KS 66251  
913-315-9134

June 6, 2002

**DECLARATION OF BILLY E. PRUITT**

I, Billy H. Pruitt, depose and state:

1. I am employed by **Sprint PCS** as a Principal Engineer II in the Carrier Interconnection Management group. I have personal knowledge of the facts set forth below.

2. Sprint PCS provides its mobile services in and around Jacksonville and along Interstate 10 west of Jacksonville, including in and around Macclenny, Florida, which is approximately **20 miles** west of Jacksonville. Residents of Macclenny ordinarily will not find Sprint PCS' services attractive **unless** it can assign to customers telephone numbers that **are** rated in the Macclenny exchange. For example, if Sprint PCS were to assign to a Macclenny resident a mobile telephone number rated in the Jacksonville exchange, all calls made to the handset by friends and family in Macclenny would be rated as toll calls, even when the Sprint PCS customer is located in Macclenny at the time of the call. To avoid **this** undesirable situation, Sprint PCS must assign a local telephone number, one rated in Macclenny, **so** friends and family would not incur toll charges in calling the mobile handset.

3. **On** December 5, 2000, Sprint PCS requested from the North American Numbering Plan Administrator ("NANPA") assignment of an **initial** NXX code. Sprint PCS requested that the rating point be associated with the Macclenny exchange and the routing point associated with BellSouth's LATA tandem switch in Jacksonville, because the mobile switching center ("MSC") that Sprint PCS **uses** to provide its services in and around Macclenny is located in Jacksonville. NANPA assigned the 904-408 code to Sprint PCS with an effective date of March 25, 2001, with

a **rating** point associated with the Macclenny exchange and the routing point associated with the Jacksonville exchange.

4. New **NXX** code assignments are published in the Local Exchange Routing Guide (“**LERG**”), which carriers use to update their routing and rating tables **so** they know how to route and rate new **NXX** codes. Sprint PCS had expected BellSouth to **load** the new **904-408** code that Sprint **PCS** had obtained. After all, consistent with long-standing industry practice, BellSouth had always loaded other Sprint PCS codes which had different **rating** and routing points. For example, BellSouth had loaded Sprint PCS’ **904-507 NXX** code, even though the designated rating point was ALLTEL’s Callahan exchange while the designated routing point was **Bell-South’s** LATA tandem **switch** in BellSouth’s Jacksonville exchange.

5. BellSouth **refused** to load Sprint PCS’ new 904-408 code. BellSouth refused to load **this** code even though it told me that it “**agree[s]** that you [Sprint PCS] have the right to define the **rating** and routing centers for that **NPA/NXX**.” Letter **from** Randy J. **Ham**, Managing Director – Wireless Interconnection, BellSouth, **to** Bill Pruitt (July 11, 2001). Subsequent discussions with BellSouth over **this** matter proved **fruitless**.

6. BellSouth’s **refusal** to **load** the 904-408 code meant that Sprint PCS could not assign to customers who resided in and around Macclenny local telephone **numbers so** friends and family could avoid toll charges in calling the mobile customer. BellSouth’s refusal to **load** the 904-**408** code also forced Sprint PCS to seek several waivers of the FCC’s numbering optimization rules, which require carriers to activate new codes within a specified period of time.

7. Specifically, **on** October 16, 2001, the Florida Public Service Commission notified Sprint that the 904-408 code would be reclaimed if Sprint PCS did not activate the code or obtain an extension of time. Sprint submitted a request for **an** extension on November 12, 2001, and **on**

November 16,2001, the Florida Commission advised Sprint that an extension ~~through~~ February 15, 2002 had been granted. Because BellSouth continued to refuse to load the ~~904-408~~ code, Sprint PCS submitted a second extension request on ~~January~~ 22,2002, and the Florida Commission subsequently granted ~~an~~ extension ~~through~~ August 15,2002.

8. BellSouth did not provide Sprint PCS with formal notification that it actually loaded the ~~904-408~~ code into its Jacksonville Tandem. However, we believe that BellSouth loaded the ~~904-408~~ code on or about May 5,2002, over a year after Sprint PCS obtained the code.

9. In an electronic mail dated March 8,2002, Carl Brackett of BellSouth notified me that “BellSouth will not support activation of ~~NPA/NXX~~ applications ~~as~~ described above and in ~~our~~ Carrier Notification”:

The “current configurations in Beaufort, SC, Marls Hill, NC, Stark, FL and others should be corrected no later than June 8,2002”

I requested BellSouth to verify in writing that it would not terminate service to Sprint PCS if Sprint PCS did not “correct” these configurations. BellSouth refused.

10. In ~~an~~ e-mail dated March 25,2002, Carl Brackett of BellSouth provided me ~~a~~ copy of a revised BellSouth Carrier Notification SN91082844 which stated that “BellSouth will process the code administration request, while at the same time raising the issue with the appropriate state commission for determination.” However, ~~this~~ Carrier Notification did not remove the requirement to change ~~the~~ “current configurations in Beaufort, SC, Marls Hill, NC, Stark, FL ~~and~~ others” by the June 8<sup>th</sup> BellSouth deadline.

11. BellSouth did not withdraw ~~this~~ threat of disconnection until May 22,2002, when it stated in its Opposition to Sprint’s Petition that “BellSouth will not ~~unilaterally~~ stop routing

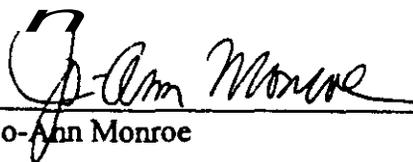


**CERTIFICATE OF SERVICE**

I, Jo-Ann Monroe, hereby certify that on this 6<sup>th</sup> day of June 2002, copies of the foregoing "Sprint Reply in Support of Its Declaratory Ruling Petition" were served by U.S. first-class mail, postage prepaid, to the following:

Nancy B. White  
James Meza, III  
BellSouth Telecommunications, Inc.  
150 West Flagler Street, Suite 1910  
Miami, FL 33130

R. Douglas Lackey  
BellSouth Telecommunications, Inc.  
Suite 4300  
675 W. Peachtree Street, NE  
Atlanta, GA 30375

  
\_\_\_\_\_  
Jo-Ann Monroe