

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Southwestern Bell Telephone Company,)	
d/b/a AT&T Missouri,)	
)	
Complainant,)	
)	Case No. _____
vs.)	
)	
Sprint Spectrum, L.P. d/b/a Sprint PCS and)	
Nextel West Corp.)	
)	
Respondents.)	

COMPLAINT

AT&T Missouri¹ brings this Complaint² to recover appropriate compensation from Sprint Spectrum, L.P. d/b/a Sprint PCS and Nextel West Corp.³ for inter-Major Trading Area (“interMTA”) wireless traffic that they delivered to AT&T Missouri for termination.

PARTIES

1. AT&T Missouri is a Missouri corporation with its principal Missouri office at One AT&T Center, Room 3520, St. Louis, Missouri 63101. It may be contacted at the regular and electronic mail addresses and telephone and facsimile numbers of its attorneys, as set out under the signature block of this Application. AT&T Missouri is authorized to do business in

¹ Southwestern Bell Telephone Company, d/b/a AT&T Missouri, will be referred to in this pleading as “AT&T Missouri.”

² AT&T Missouri brings this Complaint pursuant to 4 CSR Section 240-2.070, Sections 251 and 252 of the federal Telecommunications Act, and the provisions of the interconnections agreements between AT&T Missouri and the Sprint Companies.

³ Respondent Sprint Spectrum, L.P. d/b/a Sprint PCS will be referred to in this pleading as “Sprint PCS,” Respondent Nextel West Corp. will be referred to as “Nextel,” collectively Respondents will be referred to as “the Sprint Companies.”

Missouri⁴ and its fictitious name is duly registered with the Missouri Secretary of State.⁵ AT&T Missouri is a "local exchange telecommunications company" and a "public utility," and is duly authorized to provide "telecommunications service" within the State of Missouri, as each of those phrases is defined in Section 386.020, RSMo 2000.⁶

2. All correspondence, pleadings, orders, decisions, and communications regarding this proceeding should be sent to:

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Attorneys for Southwestern Bell Telephone Company
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3. Sprint Spectrum, L.P. is a Delaware limited partnership, which does business as Sprint PCS and provides commercial mobile radio service ("CMRS") in Missouri.

4. Nextel West Corp. is a Delaware corporation and provides CMRS in Missouri.

FACTS AND NATURE OF DISPUTE

1. AT&T Missouri files this complaint for a declaration that Sprint PCS and Nextel have violated their interconnection agreements with AT&T Missouri by failing to pay the appropriate charges for interMTA traffic, and for an order finding that Sprint PCS and Nextel are required to pay all past due amounts for AT&T Missouri's termination of such traffic.

⁴ In accordance with 4 CSR 240-2.060(1) and (G), a certified copy of Southwestern Bell Telephone Company's Certificate of Good Standing from the Missouri Secretary of State was filed with the Commission on August 15, 2007, in Case No. IK-2008-0044.

⁵ In accordance with 4 CSR 240-2.060(1)(E) and (G), a copy of the registration of the fictitious name "AT&T Missouri" was filed with the Commission on July 17, 2007, in Case No. TO-2002-185.

⁶ Following its June 26, 2007, Order in Case No. TO-2002-185 allowing Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri, to alter its status from a Texas limited partnership to a Missouri corporation, the Commission approved tariff revisions to reflect the new corporate name, Southwestern Bell Telephone Company d/b/a AT&T Missouri. *See, Order Granting Expedited Treatment and Approving Tariffs*, Case No. TO-2002-185, issued June 29, 2007.

2. Major Trading Areas, or MTAs, are geographic service areas defined in regulations of the Federal Communications Commission (“FCC”). Under the FCC’s rules, a wireless call delivered by a CMRS provider to an ILEC for termination to the ILEC’s end-user is treated like a local call, subject to reciprocal compensation, if the call originates and terminates in the same MTA (*i.e.*, an *intra*MTA call). *See* 47 C.F.R. § 51.701(b)(2). If, however, such a call originates and terminates in different MTAs (*i.e.*, is an *inter*MTA call), it is subject to access charges.

3. Sprint PCS and Nextel entered into interconnection agreements with AT&T Missouri that reflect this compensation structure.

a. Sprint PCS entered into an interconnection agreement with AT&T Missouri (the “Sprint PCS ICA”) that became effective on December 15, 2003 when the Commission approved it through an order issued in Case No. TK-2004-0180. The Sprint PCS ICA was subsequently amended by tracking number filings VT-2005-0041 and VT-2005-0042. The Sprint PCS ICA was recently extended by the Commission in Case No. CO-02009-239 until November 21, 2011. A complete copy of the Sprint PCS ICA is attached hereto as Exhibit A.

b. Nextel entered into an interconnection agreement with AT&T Missouri (the “Nextel ICA”) that became effective on January 20, 1999, when the Commission approved it through an order issued in Case No. TO-99-149. Nextel ICA was subsequently amended in Case No. TK-2005-309. The Nextel ICA was recently extended by the Commission in Case No. CO-2009-239 until November 21, 2011. A complete copy of the Nextel ICA is attached hereto as Exhibit B.

c. The Sprint PCS ICA and the Nextel ICA define “Local Traffic” as *intra*MTA traffic. Section 1.35 of the Sprint PCS ICA states:

“Local Traffic”, for the application of reciprocal compensation, means Authorized Services Telecommunications traffic between **SBC-13STATE** and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area (“MTA”), as defined in 47 CFR Section 24.202(a).⁷

Section 1 of the Nextel ICA states:

“Local Traffic”, for the application of reciprocal compensation, means telecommunications traffic between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area (“MTA”), as defined in 47 CFR Section 24.202(A).⁸

Both agreements provide that such local traffic is subject to reciprocal compensation rates.⁹

d. On the other hand, both agreements specifically exclude non-local, *inter*MTA traffic from reciprocal compensation: “Reciprocal Compensation shall apply solely to the transport and termination of Local Traffic, and shall not apply to any other traffic or services, including without limitation . . . *inter*MTA traffic.”¹⁰ Instead, both agreements make such traffic subject to access charges or an access charge-like rate specified in the agreement. The Nextel ICA, at Section 4.2.1, provides for switched access charges:

Carrier shall pay SWBT Switched Access Charges (including Carrier Common Line, Local Switching and Transport) for any and all traffic which crosses an MTA boundary as provided herein (as defined by the cell site/base station at which the call originates or terminates and the SWBT end user’s serving wire center at which the call originates or terminates). Switched Access charges are specified in Appendix PRICING paragraph 5.2 as *inter*MTA rates.¹¹

The Sprint PCS ICA subdivided *inter*MTA traffic into two categories: *intra*LATA *Inter*MTA and *inter*LATA *inter*MTA traffic:

- “Terminating *Intra*LATA *Inter*MTA Traffic” consists of *inter*MTA traffic originated by Sprint and delivered to AT&T Missouri for termination that

⁷ Sprint PCS ICA, p. 8.

⁸ Nextel ICA, p. 3.

⁹ Sprint PCS ICA, Section 3.3.1.1, at p. 20. Nextel ICA, Section 3.2.1, at p. 12.

¹⁰ Sprint PCS ICA, 3.3.2.1, p. 20. Nextel ICA, Section 3.2.3, at p. 12

¹¹ Nextel ICA, pp. 14-15.

originates and terminates in the same LATA in Missouri. For such traffic, the Agreement calls for Sprint PCS to pay “the Terminating IntraLATA InterMTA Traffic rates in Appendix Pricing – Wireless.”¹²

- InterLATA InterMTA traffic consists of interMTA traffic that originates and terminates in different LATAs and was classified as “Terminating Switched Access Traffic.” With respect to this traffic, Section 1.60 of the Sprint PCS ICA states:

A Carrier is acting as an Interexchange Carrier by delivering this traffic and such traffic must be terminated to **SBC-13STATE** as FGD terminating switched access per **SBC-13STATE**’s Federal and/or State Access Service tariff.¹³

However, § 6.3.1.3 of the ICA provides that “[n]otwithstanding any other provision of this Agreement, for all traffic sent over local Interconnection . . . Trunk Groups determined by [AT&T Missouri] to be terminating switched access, based on sample data from Telco network studies, [AT&T Missouri] is authorized to charge, and Carrier will pay, the Terminating IntraLATA InterMTA traffic rate stated in Appendix Pricing-Wireless”

4. As set forth below, since December 2007, Sprint PCS and Nextel have failed to pay the charges billed by AT&T Missouri for the termination of interMTA traffic. Sprint PCS and Nextel do not dispute their obligation to pay either access charges or the Terminating IntraLATA InterMTA traffic rate as specified in the Agreements for interMTA traffic, but dispute the volumes of traffic that AT&T Missouri identified as interMTA traffic.

5. The parties agreed to bill interMTA traffic using a factor, under which a percentage of the traffic delivered by Sprint PCS and Nextel to AT&T Missouri for termination

¹² Sprint PCS ICA, Section 1.59, at p. 10, and Sections 6.3.2.1 and 6.3.2.2 at p. 28.

¹³ Sprint PCS ICA, p. 10.

is billed as interMTA traffic, and the remainder is billed as local traffic.¹⁴ This factor, however, was not set in stone. The parties agreed that the factor could be revised from time to time. Under the Sprint PCS ICA, revised factors were to be based on “Carrier-specific, State-specific network engineering information, a Carrier-specific, State-specific InterMTA traffic study; and/or other Carrier-specific, State-specific data/information in complete and appropriate form.”¹⁵ The Nextel ICA required Nextel, six months after the effective date of the Agreement and every twelve months thereafter, to “conduct a study (available to SWBT on request) to ensure the Parties are using an accurate interMTA factor.”¹⁶

8. In 2007, AT&T Missouri determined that Sprint PCS and Nextel had been delivering more interMTA traffic to AT&T Missouri for termination over the local interconnection arrangements established pursuant to the parties’ interconnection agreements than was contemplated by the factors. AT&T Missouri determined this by analyzing the Jurisdictional Information Parameter (“JIP”) of the traffic delivered by Sprint PCS and Nextel. The JIP is a data field contained in the signaling information of wireless calls that is populated by Sprint PCS/Nextel at its originating switch, and was used by AT&T Missouri to determine the location of the originating switch. By comparing the JIP of calls delivered by Sprint PCS and Nextel to the terminating telephone number, AT&T Missouri determined that a large number of the calls appeared to originate and terminate in different MTAs, including both intrastate and interstate interMTA traffic. AT&T Missouri’s analysis based on the data available revealed that

¹⁴ The Sprint PCS ICA specifies in Appendix Pricing-Wireless that the parties would initially use a factor of 0.006 to identify Local and IntraLATA InterMTA traffic, such that 0.6% of the traffic delivered by the Sprint Companies over the local trunks would be billed as IntraLATA InterMTA traffic, and the remainder would be billed as Local traffic.

¹⁵ Sprint PCS ICA, Section 6.3.2.3, at p. 28.

¹⁶ Nextel ICA, Section 4.2.2, at p. 15.

the particular factor the parties had previously been using to bill interMTA traffic understated the volumes of interMTA traffic Sprint PCS and Nextel delivered to AT&T Missouri.

9. In 2007, AT&T Missouri notified Sprint PCS and Nextel of the results of AT&T Missouri's analysis. The parties then engaged in discussions regarding adjustment of the interMTA billing factor, but did not reach agreement.

10. In November 2007, AT&T Missouri notified Sprint PCS and Nextel that AT&T Missouri would adjust its billing on a going-forward basis to bill interMTA charges based upon interMTA factors developed from AT&T Missouri's traffic studies using the JIP data. Since December 2007, AT&T Missouri has continued to bill Sprint PCS and Nextel for interMTA charges based upon the interMTA factors developed from AT&T Missouri's traffic studies using the JIP data supplied by Sprint PCS and Nextel.

11. Sprint PCS and Nextel disputed and refused to pay the amounts billed by AT&T Missouri for interMTA traffic. For the period from December 2007 to April 2010, these charges total approximately \$11,539,163 for Sprint PCS. For the time period from December 2007 to April 2010, these charges total approximately \$95,086 for Nextel. In addition, pursuant to the agreements, late payment charges accrue upon unpaid amounts; to date, those amounts are approximately \$3,174,716 for Sprint PCS and \$21,150 for Nextel.

12. Sprint PCS and Nextel disputed the accuracy of AT&T Missouri's measurement of interMTA traffic, which was based on the JIP data that Sprint PCS and Nextel provided.

13. Sprint PCS has refused to produce traffic detail for Missouri that provides the geographic location of its traffic to support its claim that AT&T Missouri incorrectly identified interMTA traffic. Nextel, on the other hand, provided some data to AT&T Missouri in 2009, but despite AT&T Missouri's request still did not provide enough information for AT&T Missouri to

reconcile that data with AT&T Missouri's measurement of interMTA traffic based on Nextel's JIP data. AT&T Missouri has repeatedly requested that Sprint PCS and Nextel provide such data, and has repeatedly made clear that AT&T Missouri is open to using data from Sprint PCS and Nextel's studies in identifying interMTA traffic and developing a billing factor.

14. AT&T Missouri has attempted to resolve this dispute informally. AT&T Missouri engaged in a series of discussions with Sprint PCS and Nextel beginning on or around November 2007, before AT&T Missouri sent Sprint PCS and Nextel the initial interMTA bills based upon the interMTA factor developed from their supplied JIP data. Recently, AT&T Missouri invoked dispute resolution via correspondence dated April 20, 2009, and continued to attempt to resolve the issue. These discussions were conducted by knowledgeable, responsible representatives of AT&T in good faith to resolve this dispute. The parties, however, appear to be at an impasse.

AT&T Missouri now petitions the Commission for a finding that the Sprint Companies have breached the ICAs by delivering interLATA interMTA traffic over the local trunks, by refusing to appropriately adjust the intraLATA interMTA billing factor, and by failing to appropriately compensate AT&T Missouri for the termination of interMTA traffic from December 2007 to the present.

ISSUES IN DISPUTE

The issues in dispute presented by this Petition include:

- (1) Whether Sprint PCS breached its ICA by delivering interLATA interMTA traffic to AT&T Missouri over the local interconnection trunks the parties had established pursuant to the ICA, and by failing to pay the appropriate charges for such traffic.**

AT&T Missouri's Position: Sprint PCS breached its ICA by using the local interconnection trunks established under the ICA to deliver interLATA interMTA traffic. AT&T

Missouri's study demonstrated that Sprint PCS was delivering interLATA interMTA traffic to AT&T Missouri over the local trunks. Pursuant to § 6.3.1.2 of the ICA, however, the local interconnection trunks were reserved for the delivery of local traffic, as well as *intra*LATA interMTA traffic, and the ICA expressly provided that *inter*LATA interMTA traffic "shall not be routed over" the local interconnection trunks.

In addition, Sprint PCS breached the ICA by failing to pay the appropriate ICA rate for the portion of its traffic that AT&T Missouri's studies identified as interLATA interMTA traffic. Under § 6.3.1.3 of the ICA, where AT&T Missouri determined using its network studies that Sprint PCS delivered switched access traffic (which includes interLATA interMTA traffic) over the local trunks, even though such traffic was *not* supposed to be delivered over those trunks, AT&T Missouri was permitted to charge for that traffic the ICA rate that applies to terminating *intra*LATA interMTA traffic. Between December 2007 and the present, AT&T Missouri charged Sprint PCS that rate for the traffic that AT&T Missouri's study identified as interLATA interMTA traffic delivered over the local interconnection trunks, yet Sprint PCS has refused to pay those charges.

(2) Whether Sprint PCS breached its ICA by failing to appropriately compensate AT&T Missouri for its termination of *intra*LATA interMTA traffic.

AT&T Missouri's Position: Sprint PCS breached its ICA by failing to appropriately compensate AT&T Missouri between December 2007 and the present for terminating *intra*LATA interMTA traffic. While the parties initially established a billing factor to distinguish between local and *intra*LATA interMTA traffic, that factor was subject to modification based on "Carrier-specific, State-specific network engineering information, a Carrier-specific, State-specific InterMTA traffic study; and/or other Carrier-specific, State-specific data/information." AT&T Missouri's study demonstrated that the initial billing factor was significantly inaccurate,

and thus in December 2007 AT&T Missouri began billing Sprint PCS using a different factor, based on AT&T Missouri's study of the JIP data provided by Sprint PCS. While Sprint PCS disputed the accuracy of AT&T Missouri's study, it refused to provide additional data (1) to support its suggestion that AT&T Missouri's study was inaccurate, and (2) which in any event was mutually acceptable to AT&T Missouri as an alternative basis for adjusting the factor. The Commission should conclude that Sprint PCS's actions in refusing to provide traffic data, refusing to adjust the plainly inaccurate factor, and refusing to properly compensate AT&T Missouri for interMTA traffic violated the ICA.

(3) Whether Nextel breached its ICA by failing to appropriately compensate AT&T Missouri for its termination of interMTA traffic.

AT&T Missouri's Position: Nextel breached its ICA by failing to appropriately compensate AT&T Missouri between December 2007 and the present for terminating interMTA traffic. While the parties initially established a billing factor to distinguish between local and interMTA traffic, the ICA required Nextel, six months after the ICA's effective date and every twelve month thereafter, to "conduct a study (available to SWBT on request) to ensure the Parties are using an accurate interMTA factor." Nextel ICA, Section 4.2.2. AT&T Missouri's study demonstrated that the initial billing factor was significantly inaccurate, and thus in December 2007 AT&T Missouri began billing Nextel using a different factor, based on AT&T Missouri's study of the JIP data provided by Nextel. While Nextel disputed the accuracy of AT&T Missouri's study, it refused to provide additional data (1) to support its suggestion that AT&T Missouri's study was inaccurate, and (2) which in any event was mutually acceptable to AT&T Missouri as an alternative basis for adjusting the factor. The Commission should conclude that Nextel's actions in refusing to provide adequate traffic data, refusing to adjust the

plainly inaccurate factor, and refusing to properly compensate AT&T Missouri for interMTA traffic violated the ICA.

RELIEF REQUESTED

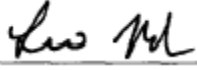
For the reasons stated above, AT&T Missouri respectfully requests that the Commission issue an order:

- (a) Declaring that Sprint PCS violated its ICA by delivering interLATA interMTA traffic to AT&T Missouri over local trunks reserved for the delivery of local and intraLATA interMTA traffic;
- (b) Declaring that the Sprint Companies violated their ICAs by failing to appropriately identify and pay the appropriate charges for interMTA traffic;
- (c) Finding that the Sprint Companies are required to pay the amounts billed by AT&T Missouri and owing for interMTA traffic in the amount of \$14,830,115 (through April 2010), and all additional amounts that have accrued since April 2010, including applicable late payment charges;
- (d) Ordering Sprint PCS and Nextel to pay AT&T Missouri for interMTA traffic on a going-forward basis pursuant to the factor developed from the AT&T Missouri traffic studies and updated periodically; or, in the alternative, if Sprint PCS and Nextel produce sufficient and accurate data through studies, ordering Sprint PCS and Nextel on a going-forward basis to compensate AT&T Missouri for interMTA traffic based on a factor developed from that data and updated periodically; and

Granting such other and further relief as the Commission deems just and proper.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY,
D/B/A AT&T MISSOURI

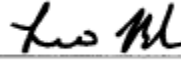
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CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on June 8, 2010.



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