

**Exhibit B**

PETITION OF SPRINT COMMUNICATIONS	§	
COMPANY L.P. FOR COMPULSORY	§	PUBLIC UTILITY COMMISSION
ARBITRATION UNDER THE FTA TO	§	
ESTABLISH TERMS AND CONDITIONS FOR	§	OF TEXAS
INTERCONNECTION TERMS WITH	§	
BRAZOS TELECOMMUNICATIONS INC.	§	

**ORDER DENYING SPRINT'S APPEAL OF ORDER NO. 1**

This Order denies Sprint Communications Company LP's (Sprint's) appeal of Order No. 1 issued by the Arbitrators in this proceeding on June 14, 2005, which dismissed Sprint's petition for compulsory arbitration against Brazos Telecommunications, Inc. (BTI). The Commission agrees with the Arbitrators that BTI's rural exemption must be terminated before it can consider a petition for arbitration.

**I. Background**

On April 23, 2005, Sprint, a competitive local exchange carrier (CLEC) holding a certificate of operating authority and authorized to provide local exchange service within the State of Texas, filed a petition for compulsory arbitration of certain terms and conditions for interconnection with BTI, a rural incumbent local exchange carrier (ILEC) pursuant to P.U.C. PROC. R. 22.95(a), P.U.C. SUBST. R. 26.272(g)(1), and Federal Telecommunications Act of 1996 (FTA) Section 252.<sup>1</sup> Sprint claimed that it was seeking interconnection and traffic exchange pursuant only to FTA §§ 251(a) and (b) and not FTA § 251(c). In response, BTI maintained that Sprint was seeking FTA § 251(c)(2) terms and conditions and that as a result, it had no duty to negotiate an interconnection agreement with Sprint because of its rural carrier exemption under FTA § 251(f)(1).

On June 14, 2005, the Arbitrators issued Order No. 1, finding that Sprint's request for arbitration and proposed interconnection agreement went beyond the general duty to interconnect

<sup>1</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as amended in scattered sections of 15 and 47 U.S.C.) (FTA).

pursuant to FTA § 251(a) and instead included FTA § 251(b) and (c) obligations. Further, the Arbitrators found that BTI's rural exemption extended to FTA § 251(c)(1), which includes the duty to negotiate obligations under FTA § 251(b). The Arbitrators granted BTI's motion to dismiss, concluding that Sprint's request for compulsory arbitration was premature, and noted that Sprint's recourse is to petition the Commission to terminate BTI's rural exemption.

On August 23, 2005, the Commission issued an order that affirmed in part, and reversed in part, the Arbitrators' Order No. 1 and referral of the docket to the State Office of Administrative Hearings (SOAH) for processing. The Commission indicated that the record was unclear as to whether Sprint was requesting interconnection solely under FTA § 251(a) and (b), and referred this matter to SOAH for a hearing to develop the evidentiary record. The Commission also held that if it was determined that Sprint was requesting interconnection under § 251(c), then Sprint must file a petition to lift BTI's rural exemption under FTA § 251(f)(1)(A).

On September 9, 2005, Sprint filed a motion for clarification and reconsideration of the Commission's August 23 order. On September 21, 2005, the Commission rescinded its order, finding that further briefing on the issues in this docket was necessary to determine what type of interconnection Sprint was requesting.

## II. Discussion

In reviewing the briefs submitted in this case, it is clear that Sprint's request is expressly for the ability to offer and provide telephone exchange service.<sup>2</sup> In order for Sprint to accomplish this, Sprint stated that it must be able to connect with other carrier's networks in order to exchange traffic, specifically "telephone exchange" traffic.<sup>3</sup> Sprint argued that it seeks interconnection only through FTA §§ 251(a), and not (c).<sup>4</sup>

The Commission disagrees with Sprint's contention that it can receive interconnection through FTA §§ 251(a) to offer and provide telephone exchange service. FTA § 251(c)(2) provides, in part, that an ILEC is obligated to provide interconnection for the transmission and

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<sup>2</sup> Sprint Brief in Response to Order Requesting Briefing at 3 (Oct. 18, 2005).

<sup>3</sup> *Id.*

<sup>4</sup> Sprint's Response to Motion to Dismiss at 17-18 (May 20, 2005).

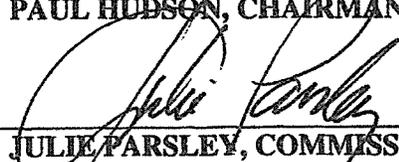
routing of "telephone exchange service" and exchange access. FTA § 251(a), however, does not require ILECs or other telecommunications carriers to interconnect for the express purpose of exchanging traffic relating to telephone exchange service. FTA § 251(a) encompasses a broad duty to interconnect for all carriers. The duty of an ILEC to provide interconnection for purposes of exchanging "telephone exchange service" is solely and expressly an FTA § 251(c) obligation. Therefore, according to FTA § 251(f)(1)(A), BTI is exempt from this FTA § 251(c) obligation until (1) it receives a bona fide request for interconnection and (2) the Commission determines that such request is not unduly economically burdensome, is technically feasible, and is consistent with FTA § 254.

Accordingly, the Commission finds that Sprint is requesting interconnection under FTA § 251(c)(2), and therefore, Sprint is required to petition to lift BTI's rural exemption under FTA § 251(f)(1)(A) before proceeding to negotiate and arbitrate an interconnection agreement. Until Sprint seeks termination of BTI's rural exemption and the Commission makes a determination regarding same, BTI is not obligated to negotiate and arbitrate an interconnection agreement with Sprint.

SIGNED AT AUSTIN, TEXAS THIS 2nd day of December 2005.

PUBLIC UTILITY COMMISSION OF TEXAS

  
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PAUL HUDSON, CHAIRMAN

  
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JULIE PARSLEY, COMMISSIONER

  
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BARRY T. SMITHERMAN, COMMISSIONER