**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**December 11, 2001**

| | | |
|---|---|---|
| **IN RE:** | ) | |
| | ) | |
| **COMPLAINT BY AT&T REGARDING** | ) | **DOCKET NO. 00-00971** |
| **DELIVERY OF CALLER NAME** | ) | |
| **SERVICES BY BELLSOUTH** | ) | |
| **TELECOMMUNICATIONS, INC.** | ) | |

---

**ORDER DENYING BELLSOUTH'S PETITION FOR APPEAL AND AFFIRMING THE INITIAL ORDER OF THE HEARING OFFICER**

---

This Docket came before the Tennessee Regulatory Authority (the "Authority") at a regularly scheduled Authority Conference on May 15, 2001 for consideration of the *Petition for Appeal from Initial Order of Hearing Officer* ("Petition for Appeal") filed by BellSouth Telecommunications, Inc. ("BellSouth") on March 22, 2001.

**Background**

This Docket was initiated by a complaint filed by AT&T against BellSouth in a letter dated October 30, 2000, from AT&T to the Authority's Executive Secretary David Waddell. In the letter AT&T requested the Authority "order BellSouth to take immediate steps to correct network and database deficiencies regarding Calling Name Service for AT&T local service customers and to provide such documentation as [is] necessary in order to inform customers that BellSouth is correcting the problem and does not intend to

use this problem to win back customers for BellSouth." At a regularly scheduled Authority Conference held on October 31, 2000, the Directors appointed Joe Werner, Chief of the Telecommunications Division, to act as Hearing Officer in this matter and to issue an order on the merits of AT&T's complaint. BellSouth responded to AT&T's complaint on November 3, 2000.

The Southeastern Competitive Carriers Association and XO Tennessee, Inc. petitioned to intervene in this Docket on November 7, 2000. Time Warner Telecom of the Midsouth, L.P. petitioned to intervene on November 9, 2000. The Hearing Officer issued an order granting the various petitions to intervene on November 16, 2000.

On November 21, 2000 the Hearing Officer issued an order directing the Parties to brief two threshold issues: 1) whether BellSouth is legally obligated to provide Competing Local Exchange Carriers ("CLECs") with the elements necessary to deliver caller name services; and 2) whether BellSouth is legally obligated to provide CLECs with 10-digit Global Title Translation ("GTT"). The Parties completed briefing of the "Threshold Issues" by December 1, 2000, and a status conference was held on January 9, 2001.

The *Initial Order of Hearing Officer* ("*Initial Order*") of March 7, 2001, attached to this Order as Exhibit A, contained the following findings: (1) the number portability requirements found in the Telecommunications Act of 1996 ("the Act") and Federal Communications Commission ("FCC") rules as well as state statutes prohibiting anti-competitive practices require local exchange carriers to provide the network functions necessary to deliver the caller's name to its subscribers regardless of the caller's choice of carrier; (2) neither six-digit GTT nor the interim solution of loading CLEC numbers in

BellSouth's calling name ("CNAM") database sufficiently satisfy these number portability obligations; and (3) applicable number portability obligations do not mandate the deployment of a specific technology such as ten-digit GTT. The *Initial Order* directed BellSouth to make the necessary network modifications to allow the calling party's name to be delivered on all calls regardless of the caller's choice of local service provider no later than April 6, 2001. In the interim, the Hearing Officer ordered BellSouth to load the names and numbers of all CLEC customers in its CNAM database within 48 hours of a written or electronic request by the CLEC.

On March 22, 2001, BellSouth filed a *Petition for Appeal from Initial Order of Hearing Officer* ("*Petition*") requesting the Authority to: (1) reverse the Hearing Officer's decision to require BellSouth to make the necessary network modifications to allow a calling party's name to be delivered on all calls regardless of the callers choice of local service provider; (2) reverse the Hearing Officer's decision to require BellSouth to load the names and numbers of CLEC customers in its CNAM database within 48 hours of a written or electronic request by the CLEC until BellSouth makes the necessary network modifications to allow the calling party's name be delivered on all calls regardless of the provider; and (3) consider in this Docket BellSouth's recovery costs incurred to implement the number portability requirements ordered by the Hearing Officer. On March 29, 2001 BellSouth officially notified the Authority that as of March 26, 2001 BellSouth had completed implementation of 10-digit GTT in the State of Tennessee.

AT&T responded to BellSouth's *Petition* on April 18, 2001. The Authority considered BellSouth's *Petition* at a regularly scheduled Authority Conference on May 15, 2001.

**Findings and Conclusions**

BellSouth has argued that the issues involved in this Docket center around a retail service problem concerning its Caller ID Deluxe service rather than a number portability issue. BellSouth claims that the FCC's prohibition on service degradation or loss of services resulting from the porting of a customer's number concerns the customer's ability to enjoy the same service the customer enjoyed prior to switching service providers. BellSouth states that since AT&T has not complained that its customers are prevented from receiving any caller ID service offered by AT&T, no number portability issue exists.

In the *Initial Order*, the Hearing Officer pointed to the definition of number portability found in §153(30) of the Act, which defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another." The Hearing Officer also pointed to §251(b)(2) of the Act that requires each local exchange carrier to "provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."[1] The Act clearly requires a long-term

[1] The Hearing Officer also correctly pointed to the requirements of the FCC's *Number Portability First Report and Order*, FCC 96-286, CC Docket No. 95-116, RM 85-35, 11 FCC Rcd. 8352, paragraph 56 (July 2, 1996), which states in part: "Customers are not likely to switch carriers and retain their telephone numbers if they are required to forego services and features to which they have become accustomed. Thus any long-term method that precludes the provision of existing services and features would place competing service providers at a competitive disadvantage."

number portability method that supports custom local area signaling service features, such as Caller ID services. Accordingly, the Hearing Officer was correct in finding the existence of a number portability issue in this case and correctly interpreted the federal number portability regulations as requiring the delivery of the calling party's name and number.

BellSouth argues that there are no violations of federal number portability regulations because there has been no degradation of service quality or loss of service in this case. BellSouth does not, however, dispute that before a customer switches from BellSouth to AT&T (or another CLEC) that customer's calling information is provided to BellSouth customers subscribing to Caller ID services. At the time of the filing of AT&T's complaint, a customer who switched to a CLEC, suffered the loss of delivery of some previously-delivered calling information, including the customer's name. The situation described above is a clear case of degradation of service quality or loss of service, especially in today's environment of caller blocking and screening where customers often refuse to accept or answer incoming calls from unknown or unidentified callers.

BellSouth's contention that the Hearing Officer's decision is wrong given that the FCC's *Caller ID Order*[2] leaves the decision to offer calling name delivery service to the individual service provider is not persuasive for a number of reasons. First, the FCC's *Caller ID Order* was released before the Act was signed into law. Conversely, the FCC's *Number Portability First Report and Order* and related number portability statutes and rules relied upon by the Hearing Officer became effective after the FCC's *Caller ID*

[2] *In the Matter of Rules and Policies Regarding Calling Number Identification Service—Caller ID*, FCC 95-187, CC Docket No. 91-281, 10 FCC Rcd. 11,700, para. 129 (May 5, 1995).

*Order* and directly control the number portability issues correctly identified by the Hearing Officer in this case. Second, the Hearing Officer's decision is consistent with paragraph 129 of the *Caller ID Order* cited by BellSouth because nothing in the Hearing Officer's *Initial Order* suggests that BellSouth should transmit calling party information without charge.[3]

For the reasons stated above the Authority finds that the Hearing Officer's decision to require BellSouth to modify its network is consistent with both federal and state law. Additionally, to the extent that BellSouth incurs costs that satisfy federal guidelines regarding costs not recovered through some other rate, BellSouth should be allowed to recover the costs of providing the functionality required by the *Initial Order*. However, the Authority is not in a position to address this issue in the context of this Docket because the record is insufficient concerning BellSouth's network configuration plans and number portability costs. As a final matter, BellSouth's implementation of ten-digit GTT on March 26, 2001 rendered moot BellSouth's appeal of the Hearing Officer's decision to require BellSouth to manually load the names of CLEC customers in its CNAM database as an interim measure until the required network modifications were complete.

**IT IS THEREFORE ORDERED THAT:**

1. BellSouth's *Petition for Appeal From Initial Order of Hearing Officer* is denied.

---

[3] Paragraph No. 129 of the *Caller ID Order* reads as follows: "While we apply the same privacy rules to calling name and calling number, we do not believe that the same rules governing CPN transport should apply to calling name transport. Therefore, at this time we do not require that carriers pass calling party name to interconnected carriers without charge. Although the record is limited on this matter, we reach this conclusion, in part, because the mechanisms associated with the generation and delivery of calling party name and number are substantially different. The record indicates that while calling party number is routinely included in the SS7 Initial Address Message, calling party name is not." *In the Matter of Rules and Policies Regarding Calling Number Identification Service—Caller ID*, FCC 95-187, CC Docket No. 91-281, 10 FCC Rcd. 11, 700 para. 129 (May 5, 1995).

2. The *Initial Order of Hearing Officer*, attached to this Order as Exhibit A, is hereby affirmed and adopted as if fully rewritten herein.

3. BellSouth's appeal of the Hearing Officer's decision to require BellSouth to load the names and numbers of CLEC customers in its CNAM database within 48 hours of a written or electronic request by the CLEC until BellSouth makes the necessary network modifications to allow the calling party's name to be delivered on all calls regardless of the provider is dismissed as moot given BellSouth's current implementation of 10-digit Global Title Translation in the State of Tennessee.

4. BellSouth's request that the Authority consider in this Docket the issue of the recovery of costs BellSouth may incur implementing the number portability requirements ordered by the Hearing Officer is denied. However, BellSouth is not precluded from filing a petition for specific relief.

Sara Kyle, Chairman

H. Lynn Greer, Jr., Director

Melvin J. Malone, Director

ATTEST:

K. David Waddell, Executive Secretary

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**March 7, 2001**

| | | |
|---|---|---|
| **IN RE:** | ) | |
| | ) | |
| **COMPLAINT BY AT&T REGARDING THE DELIVERY OF CALLER NAME SERVICES BY BELLSOUTH TELECOMMUNICATIONS, INC.** | ) | **DOCKET NO. 00-00971** |

---

**INITIAL ORDER OF HEARING OFFICER**

---

## BACKGROUND

On October 30, 2000 AT&T, through a letter from Garry Sharp of AT&T to David Waddell, Executive Secretary of the Tennessee Regulatory Authority ("the Authority"), filed a complaint alleging that BellSouth's network is not delivering the caller's name on calls made by customers of AT&T to customers of BellSouth.[1] The complaint centers around Dillards, a large multi-state department store, who recently switched its service to AT&T. AT&T contends that the six-digit Global Title Translation ("GTT") performed by BellSouth's network is not sufficient to identify the customer's name on numbers ported from another provider and that BellSouth is legally obligated to provide ten-digit GTT to correct this deficiency.[2] AT&T requests that "the TRA order BellSouth to provide AT&T such documentation as necessary in

[1] Typically, in order to receive the caller's name, the called party must subscribe to Caller ID service from their local service provider.

[2] Numbers are "ported" to another carrier when a customer switches local exchange carriers but keeps their previous telephone numbers.

order to inform customers that BellSouth is correcting the problem and that BellSouth does not intend to use this problem to win back customers to BellSouth."[3]

BellSouth responded to AT&T's complaint on November 3, 2000 acknowledging that the six-digit translation being done in BellSouth's network does not deliver the caller's name on ported numbers. However, BellSouth indicated that it is in the process of implementing ten-digit GTT in all Tennessee NPAs (area codes). According to BellSouth's response, it notified three Tennessee CLECs, Time Warner, XO and MCI/WorldCom, on October 3, 2000, prior to AT&T filing this complaint, of the timeline for implementing ten-digit GTT throughout the BellSouth territory. According to this timeline, ten-digit GTT will be implemented in all Tennessee area codes by April 6, 2001.[4] In the interim, BellSouth indicated that it will "store the names of CLEC's customers in its CNAM database at no charge until the ten-digit Global Title Translation is available."[5] BellSouth further acknowledged that the customer information for Dillards had been loaded in its CNAM database on October 27, 2000, and that Dillard's name is now being delivered on calls to BellSouth customers.

On November 7, 2000, a meeting was held with the parties to address the interim solution and to identify the threshold issues. During that meeting, BellSouth and AT&T confirmed that Dillards is now having its name delivered on calls to BellSouth customers. BellSouth repeated that it will load and store in its CNAM database, information on additional lines added by Dillards as well as customer information for other CLEC customers.[6] During that meeting, the Southeastern Competitive Carriers Association ("SECCA"), XO Tennessee, Inc. ("XO") and

[3] AT&T complaint (October 30, 2000), paragraph 1.
[4] BellSouth response (November 3, 2000), Exhibit 2.
[5] BellSouth response (November 3, 2000), page 3, paragraph 2. The CNAM database contains customer name information for BellSouth's customers and is used by BellSouth to identify and deliver the caller's name for its customers.
[6] BellSouth response (November 3, 2000), Exhibit 2.

Time Warner Telecom ("Time Warner") requested intervention in this docket. These companies subsequently filed formal Petitions to Intervene all of which were granted in the Hearing Officer's Report dated November 16, 2000 (See Exhibit 1).

On January 9, 2001, the Hearing Officer held a status conference. Appearing were Jim Lamoureux representing AT&T, Guy Hicks and Patrick Turner (by phone) representing BellSouth, Henry Walker, representing XO and SECCA and Charles Welch representing Time Warner. The conference was called to discuss the status of the docket, possible settlement and the need for any additional filings.

During the status conference, the parties acknowledged that BellSouth has committed to having ten-digit GTT implemented throughout Tennessee by April 6, 2001 and agreed that the implementation of ten-digit GTT by BellSouth will settle this complaint. The Hearing Officer noted that, based on BellSouth's April 6th commitment, it appeared that a settlement was at hand. The Hearing Officer asked if the parties could agree to the April 6, 2001 deadline. AT&T and the intervenors expressed concern that, due to a history of delays, BellSouth would fail to meet this commitment and thus, would agree to a settlement only if the April 6th date was reflected in an order by the Authority. BellSouth, however, would not agree during the conference to putting its commitment in a settlement agreement because implementing the permanent solution (ten-digit GTT) is a "complex, time-consuming process" and BellSouth cannot make an "absolute guarantee" to meet the April 6th date.[7] Bellsouth stated that, although it does not believe that it is legally obligated to provide ten-digit GTT, it would continue the implementation and are on schedule to meet the April 6, 2001 commitment.[8] Therefore, absent a settlement, the Hearing

[7] January 9, 2001 transcript, page 14.
[8] *Id.*, pages 14-15.

Officer determined that no further filings were necessary and that he would proceed with a decision on the threshold issues.

On February 20, 2001, AT&T filed a "Request for Emergency Assistance" in this docket. AT&T's petition states that another AT&T customer, Deloitte and Touche, LLP, is not having its name delivered on calls to BellSouth customers and that "BellSouth refuses to load the customer information into its database" as it previously agreed to do for Dillards and all other CLEC customers. On February 21, 2001, the Hearing Officer met with the parties to discuss AT&T's request. In that meeting, BellSouth agreed that it would manually load the Deloitte and Touche information in its CNAM database by February 22, 2001 as it did for Dillards. Further AT&T and BellSouth agreed that once the permanent solution is in place, AT&T would not ask BellSouth to manually load customer information into the CNAM database and that in the interim, BellSouth would handle each request by AT&T on a case-by-case basis but only manually load customer information into the CNAM database in an "emergency" situation. [9]

**The Threshold Issues**

The parties disagree on the extent of BellSouth's legal obligation to deliver the caller's names and, specifically, whether BellSouth is obligated to perform ten-digit GTT. Therefore, to resolve this complaint, the Hearing Officer ordered the parties to submit briefs and reply briefs on the following threshold issues:

1) Is BellSouth legally obligated to provide CLECs with the elements necessary to deliver caller name services?

2) Is BellSouth legally obligated to provide CLECs with ten-digit GTT?

[9] February 21, 2001 transcript, page 3.

The parties submitted comprehensive briefs and reply briefs that address the threshold issues as well as the specifics of the interim solution. Below is a summary of these briefs along with the Hearing Officer's decision on these issues.

**Position Of the Parties** [10]

BellSouth

BellSouth states that it's network is currently not capable of providing ten-digit GTT.[11] BellSouth's brief reiterates its position that "it is not obligated to do anything to address the situation described in AT&T's complaint but that it has decided to take voluntary steps to address this situation "for its own business reasons".[12]

With regard to the interim solution, BellSouth claims that "AT&T is stubbornly refusing to avail itself of a solution that clearly addresses its concerns and would rather wait for TRA to issue an order."[13] BellSouth further states, "it is in complete compliance with all requirements of FCC orders related to Permanent Local Number Portability." and that there is "no regulatory mandate" to provide ten-digit GTT, only recommendations by various local number portability task forces and steering committees.[14] BellSouth goes on to argue that its use of six-digit GTT is not discriminatory because it provides the same service to CLECs as it provides to itself. BellSouth notes that its network does not identify the name of BellSouth callers whose number have been ported from another carrier the same as it does not identify the name of CLEC customers with ported numbers.[15]

---

[10] Initial briefs were filed by BellSouth, AT&T, XO and Time Warner. Only BellSouth, XO and AT&T submitted reply briefs.
[11] BellSouth response, Exhibit 1
[12] BellSouth brief, page 9.
[13] *Id.*, page 2.
[14] BellSouth brief, page 17.
[15] BellSouth reply brief, page 5.

In its reply brief, BellSouth argues that neither AT&T nor the intervenors provide any statement that BellSouth must perform ten-digit GTT.[16] BellSouth claims that it is not in violation of T.C.A. § 65-4-124(c) and that AT&T is incorrect in its conclusion that BellSouth is providing "ten-digit GTT to itself." BellSouth further argues that it has no obligation to ever provide Caller ID services citing a 1995 FCC Order on number identification services.

BellSouth's reply brief claims that its use of six-digit GTT does not affect the quality, reliability or convenience of any service that the CLECs provide to its customers and that consistent with 47 CFR 52-23(a)(1), BellSouth's number portability supports the same network services features, and compatibilities that existed prior to implementing number portability.[17] Finally, BellSouth contends that it has never established a deadline for providing ten-digit GTT. Therefore, it could not have "failed to meet its own deadline as suggested by XO"[18]

AT&T

AT&T argues that T.C.A. § 65-4-124(a) imposes a duty on BellSouth to deliver caller name services promptly unless BellSouth proves that is not technically feasibly to do so and that BellSouth has not demonstrated such technical infeasibility.[19] AT&T contends that BellSouth is unduly discriminating against CLECs because it is not delivering the names of CLEC customers as it does for BellSouth customers. In its reply brief, AT&T cites the FCC's "performance criteria" with which local exchange carriers must comply in providing number portability and claims that BellSouth has failed to meet its obligations under both state and federal law.[20]

[16] *Id.*, page 2.
[17] *Id.*, page 8.
[18] *Id.*, page 9.
[19] AT&T brief, page 2.
[20] AT&T reply brief, pages 2-3.

Time Warner

Time Warner argues that "since the introduction of number portability, BellSouth has failed to upgrade its network to support ten-digit GTT despite its repeated representations and promises to do so within a reasonable time."[21] Time Warner claims that BellSouth is making it impossible to comply with the Authorities "do not call" rules which prohibit telecommunications providers from blocking the delivery of the numbers of telemarketers.[22]

Like AT&T and XO, Time Warner outlines the FCC number portability requirements and contends that BellSouth is not in compliance with those requirements. Time Warner goes on to address deficiencies in BellSouth's interim solution suggesting that it is costly, discriminatory and "does not remedy the problem with regard to numbers ported from carriers other than BellSouth."[23] Finally, Time Warner suggests that "ten-digit GTT is the most efficient and technically feasible method" to ensure that number portability is provided consistent with FCC requirements.[24]

XO

XO argues that the threshold issues do not adequately address what action the TRA may take in this docket "as a matter of regulatory policy in order to promote competition and curb discriminatory practices" and that the Authority should "impose ten-digit GTT as a matter of policy.[25] XO states that "CLECs in the BellSouth region have repeatedly urged BellSouth to implement ten-digit global title translations in its network to prevent degraded service for ported

[21] Time Warner brief, page 1.
[22] TRA Rule 1220-4-11-(.02)(5)
[23] Time Warner brief, page 4.
[24] *Id.*, page 5.
[25] XO brief, page 1.

numbers." According to XO, BellSouth originally committed to having ten-digit GTT in place by the second quarter of 2000.[26]

XO points out that "FCC rules specifically require BellSouth to provide number portability that supports network services, features, capabilities existing at the time number portability is implemented, including CLASS features such as Caller ID."[27] XO asserts that BellSouth's violation of the FCC number portability orders puts CLECs at a competitive disadvantage, because customers will not want to switch carriers if they are required to forego services and features. XO also contends that the interim solution offered by BellSouth is discriminatory, inadequate, costly and that "the interim solution does not, and cannot, address the problem of BellSouth failing to deliver calling name for ported CLEC numbers."[28] XO concludes that "the only apparent way to resolve the problem is through ten-digit global title translations."[29]

In its reply brief, XO argues that BellSouth failed to support its position that it is not obligated to provide ten-digit GTT, and that BellSouth's assertion that the interim solution adequately addresses the problem is incorrect. XO points out that BellSouth's own brief underscores the potential impact of this problem on Tennessee consumers.

**Findings and Conclusions**

The issue before the Authority is that the six-digit GTT being performed by BellSouth's network does perform sufficient network translations to know if a number has been ported to another carrier and, therefore, is unable to identify the caller's name for ported numbers. On calls from a ported number, BellSouth's network assumes that the number still belongs to the

[26] *Id.*, page 3.
[27] *Id.*, page 5.
[28] *Id.*, pages 5-6.

original carrier and only "dips" that carrier's name database but not the database of the customer's current provider. Ten-digit GTT provides the additional network translations needed to identify the current provider of ported numbers. It is important to note that delivery of the caller's name benefits both the called and the calling party. For example, for privacy many customers will not answer if the caller's name or number is not identified on the caller ID screen.

Federal and state statutes as well as the FCC rules and Orders on number portability provide the necessary guidance needed to resolve this complaint. In fact, the issues raised in this complaint were all addressed in the FCC's 1996 *Number Portability Order.*[30]

The delivery of the caller's name between the networks of different providers is essential to the provision of number portability. The 1996 Federal Telecommunications Act ("the Act") defines number portability "as the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."[31] The Act goes on to state that each local exchange carrier has "the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the [Federal Communications] Commission." [32]

Consistent with its Congressional directive, the FCC promulgated rules for number portability on July 2, 1996. These rules require that any long-term number portability method "support existing network services, features, or capabilities, such as emergency services, CLASS

---

[29] XO reply brief, page 7.
[30] FCC Number Portability First Report and Order, CC Docket 95-116, July 2, 1996. 11 FCC Rcd. 8352.
[31] 47 U.S.C. § 153(46).
[32] 47 U.S.C.§ 251(b)(2). In addition, Section 271 of the Federal Telecom Act, the Competitive Checklist, requires the regional Bell Operating Companies to provide "nondiscriminatory access to databases and associated signaling necessary for call routing and completion" and to provide permanent number portability in compliance with FCC rules before being permitted to enter the InterLATA long distance market. 47 USC 271(b)(x) and (xi).

features, operator and directory assistance services, and intercept capabilities"[33] and "does not result in any degradation in service quality or network reliability when customers switch carriers."[34] In its order promulgating these rules, the FCC stated that "customers are not likely to switch carriers and retain their telephone numbers if they are required to forego services and features to which they have become accustomed. Thus, any long-term method that precludes the provision of existing services and features would place competing service providers at a competitive disadvantage."[35]

The FCC's order goes on to find that "once long-term number portability is implemented, we require that customers not experience any degradation of service quality or network reliability when they port their numbers to other carriers. We reiterate that the 1996 Act requires that consumers be able to retain their numbers 'without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.' We interpret this mandate to mean, at a minimum, that when a customer switches carriers, that customer must not experience a greater dialing delay or call set up time, poorer transmission quality, or a loss of services (such as CLASS features) due to number portability compared to when the customer was with the original carrier."[36]

State statutes also require the Authority to "adopt other rules or issue orders to prohibit cross-subsidization, preferences to competitive services or affiliated entities, predatory pricing, price squeezing, price discrimination, tying arrangements or other anti-competitive practices."[37] As evidenced by the customer complaints referenced in this docket as well as the findings of the

---

[33] 47 CFR § 52.23 (a)(1).
[34] *Id.*, (5).
[35] FCC Number Portability First Report and Order, CC Docket 95-116, July 2, 1996. 11 FCC Rcd. 8352, paragraph 49.
[36] ID paragraph 56. In addition, Paragraph 30 of this order specifically defines caller ID services as a CLASS service. In discussing the remote call forwarding option for providing permanent number portability the FCC states that "... it generally does not support several custom local area signalling services (CLASS), such as caller ID, and may degrade transmission quality..."

FCC discussed in the previous paragraphs, BellSouth's practice of not delivering the caller's name on ported numbers is a disincentive for customers to switch their service to BellSouth and a competitive disadvantage for CLECs in the state. Tennessee's telecommunications policy as articulated in state statute declares that:

> The general assembly declares that the policy of this state is to foster the development of an efficient, technologically advanced, statewide system of telecommunications services by permitting competition in all telecommunications services markets, and by permitting alternative forms of regulation for telecommunications services and telecommunications services providers. To that end, the regulation of telecommunications services and telecommunications services providers shall protect the interests of consumers **without unreasonable prejudice or disadvantage to any telecommunications services provider**; universal service shall be maintained; and rates charged to residential customers for essential telecommunications services shall remain affordable.[38] [Emphasis Added]

This is precisely the type of practice that must be prohibited in order to fulfill the Authority's obligations and achieve the goals outlined in the above state laws.

No party disputes the fact that the calling name delivery problems cited in this complaint arise when a customer ports it number[s] to another local service provider. Customers who have not switched carriers and ported numbers do not appear to be experiencing problems having their names delivered. BellSouth freely admits that the six-digit GTT currently executed in BellSouth's Tennessee network is not capable of delivering the caller's name on ported numbers.[39] Such deficiency is inconsistent with federal and state statutes. The FCC's order is unambiguous in finding that the degradation of service on ported numbers, such as the significant Caller ID degradation experienced by customers of CLECs in Tennessee, is unacceptable and could have a chilling effect on the development of local telephone competition.

---

[37] T.C.A. § 65-5-208(c).
[38] *Id.*, § 65-4-123.
[39] BellSouth brief, page 9.

It is apparent from the above referenced legal mandates that the networks of BellSouth, as well as all other local exchange carriers must be capable of delivering the caller's name regardless of the caller's choice of local service provider and that BellSouth is not in compliance with these legal mandates.

Upon finding that number portability mandates require that BellSouth's network be capable of delivering the caller's name regardless of the caller's choice of local service provider and that the six-digit GTT being performed in BellSouth's network is deficient in identifying the caller's name on ported numbers, we must now determine if the interim solution offered by BellSouth brings them into compliance with the number portability rules prescribed by the FCC. As previously discussed, BellSouth has offered to load the names and numbers of CLEC customers into its CNAM database until a permanent solution is in place. While this interim solution identifies the caller's name on numbers ported from BellSouth to another carrier, the parties concur that loading CLEC numbers in the CNAM database will not allow BellSouth to identify the caller's name on numbers ported between two CLECs or numbers ported from a CLEC to BellSouth.[40]

In addition, requiring CLECs to load its customers' names into the database of a competitor in order to have the names of their customer delivered clearly places CLECs at a competitive disadvantage and thus is not an acceptable long-term solution. The FCC specifically addressed such a scenario in its July 2, 1996 *Number Portability Order* stating that:

> Fourth, we require that any long-term method ensure that carriers have the ability to route telephone calls and provide services to their customers independently from the networks of other carriers. Requiring carriers to rely on the networks of their competitors in order to route calls can have several undesirable effects. For example, dependence on the original service provider's network to provide services to a customer that has switched carriers contravenes the choice made by

[40] BellSouth reply brief, page 10, Time Warner brief, page 4, XO brief page 6.

> that customer to change service providers. In addition, such independence creates the potential for call blocking by the original service provider and may make available to the original service provider proprietary customer information. Moreover, methods which first route the call through the original service provider's network in order to determine whether the call is to a ported number, and then perform a query only if the call is to be ported, would treat ported numbers differently than non-ported numbers, resulting in ported calls taking longer to complete than unported calls. This differential in efficiency would disadvantage the carrier to whom the call was ported and impair that carrier's ability to compete effectively against the original service provider. Finally, dependence on another carrier's network also reduces the new service provider's ability to control the routing of telephone calls to its customers, thus inhibiting its ability to control the costs of such routing. For these reasons, a long-term number portability method should not require dependency on another carrier's network. We note that this criterion does not prevent individual carriers from determining among themselves how to process calls, including a method by which a carrier voluntarily agrees to use the original service provider's network.[41]

All carriers should have the option to establish their own customer database or contract with another entity for use of an established database. They should not be forced to use a competing carrier's database because of deficiencies in the competitor's network. As a result, it is the opinion of the Hearing Officer that the interim solution offered by BellSouth does not place BellSouth in compliance with number portability provisions of the Telecom Act and FCC rules, and that further network modifications are needed for a permanent solution.

Finally, the Authority must determine if BellSouth should be ordered to implement ten-digit GTT in its Tennessee network. The briefs filed by the parties do not identify any State or Federal mandates requiring the deployment of ten-digit GTT or any other specific technology. In fact, in ordering number portability, the FCC concluded that "establishing performance criteria that a LEC's number portability architecture must meet would better serve the public interest than choosing a particular technology or specific architecture."[42]

---

[41] FCC Number Portability First Report and Order, CC Docket 95-116, July 2, 1996. 11 FCC Rcd. 8352, paragraph 53.
[42] *Id.*, paragraph 46.

The Hearing Officer sees no reason to order BellSouth to implement ten-digit GTT. BellSouth is correct that neither the Telecom Act nor the FCC's rules require the deployment of ten-digit GTT. BellSouth should be given the opportunity to comply with number portability mandates without being ordered to deploy a specific technology such as ten-digit GTT. As long as BellSouth implements a solution that identifies the caller's name on all calls regardless of the caller's choice of provider and does so in a manner that is competitively neutral, nondiscriminatory, and meets all of the requirements of the FCC, the specific technology used is irrelevant. Therefore, the Hearing Officer declines to order BellSouth to implement a specific remedy such as ten-digit GTT to bring them into compliance with applicable number portability requirements.

Nonetheless, it appears that the most appropriate course of action is for BellSouth to continue with its deployment of ten-digit GTT. The parties agree that ten-digit GTT is technically feasible and the implementation of ten-digit GTT should bring BellSouth into compliance with applicable number portability mandates. In addition, as evidenced by BellSouth's brief and a January 3, 2001 letter from BellSouth to the CLECs, BellSouth is on schedule to implement the network modifications necessary to provide ten-digit GTT by April 6, 2001.

In conclusion, the Hearing Officer finds that: 1) the number portability requirements found in the Telecom Act and FCC rules as well as state statutes prohibiting anti-competitive practices require BellSouth, as well as all other local exchange carriers, to provide the network functions necessary to deliver the caller's name to its subscribers regardless of the caller's choice of carrier, and; 2) neither six-digit GTT nor the interim solution of loading CLEC numbers in BellSouth's CNAM database sufficiently satisfy these number portability obligations, and; 3)

applicable number portability obligations do not mandate the deployment of a specific technology such as ten-digit GTT. For these reasons, BellSouth is ordered to make the necessary network modifications to allow the calling party's name to be delivered on all calls regardless of the caller's local service provider. Such modifications shall be in place no later than April 6th, 2001.

As detailed in this order, BellSouth clearly does not comply with the legal mandates for providing number portability. Such noncompliance is especially troublesome since BellSouth has included a non-discretionary charge on subscriber's bills since February 1999 to cover the costs of providing long-term number portability. Therefore, should BellSouth fail to have such modifications in place by April 6, 2001, the Hearing Officer recommends that a hearing be convened for the purpose of ordering the appropriate fines or other sanctions against BellSouth for noncompliance with state and federal statutes.

In the interim, the Hearing Officer orders BellSouth to load the names and numbers of all CLEC customers in the CNAM database within 48 hours of a written or electronic request by the CLEC until BellSouth completes the network modifications necessary to identify the caller's name on all call regardless of the caller's local provider.[43] Although this interim solution has some shortfalls as previously discussed, it is a significant improvement over the caller name delivery available to CLECs without the interim solution.

Finally, it is the opinion of the Hearing Officer that the above resolution of the threshold issues settles this complaint and that no further proceedings or filings are necessary.

[43] BellSouth appears to have amended its earlier position to load and store the names and numbers of CLEC customers in BellSouth's CNAM database. BellSouth now agrees to load and store the names and numbers of CLECs if they are provided in an acceptable electronic format and will manually load numbers in an emergency situation. In light of the circumstances and BellSouth's non-compliance with number portability requirements, it is the opinion of the Hearing Officer that BellSouth must load the names and numbers of all CLEC customers in the CNAM database within 48 hours of a CLEC request regardless of whether that request is in written or electronic format.

IT IS THEREFORE ORDERED:

1) BellSouth shall make the necessary network modifications to allow the calling party's name to be delivered on all calls regardless of the caller's choice of local service provider. These modifications shall be completed throughout BellSouth's Tennessee network no later than April 6, 2001.

2) BellSouth shall load the names and numbers of CLEC customers in its CNAM database within 48 hours of a written or electronic request by the CLEC until BellSouth makes the necessary network modifications to allow the calling party's name to be delivered on all calls regardless of the provider.

3) Any party aggrieved by this initial decision may file a Petition for Reconsideration with the Tennessee Regulatory Authority within fifteen days from and after the date of this Order. Such petition shall be considered by the Hearing officer presiding herein;

4) Any party aggrieved by this initial decision may file a Petition for Appeal pursuant to Tenn. Code Ann. § 4-5-315 with the Tennessee Regulatory Authority within fifteen days from and after the date of this Order. If the Tennessee Regulatory Authority or any of the parties herein do not seek this review of this Initial Order within the time prescribed by Tenn. Code Ann. § 4-5-315, the Order shall become the Final Order.

Joe Werner

Joe Werner, Hearing Officer

ATTEST: K D Waddell

K. David Waddell, Executive Secretary

EXHIBIT 1

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

November 21, 2000

| | | |
|---|---|---|
| **IN RE:** | ) | |
| | ) | |
| **COMPLAINT BY AT&T REGARDING THE DELIVERY OF CALLER NAME SERVICES BY BELLSOUTH TELECOMMUNICATIONS, INC.** | ) | **DOCKET NO. 00-00971** |
| | ) | |
| | ) | |

---

**ORDER OF HEARING OFFICER**

---

On November 7, 2000, a meeting was held with the parties to Docket 00-00971, *Complaint by AT&T Regarding the Provision of Caller Name Services by BellSouth Telecommunications, Inc.* The meeting was called by Joe Werner, Hearing Officer, upon agreement of the parties. Appearing on behalf of the parties were Garry Sharp representing AT&T Local Services ("AT&T") and Guy Hicks, Esq. representing BellSouth Telecommunications, Inc. ("BellSouth"). In attendance at the meeting were Henry Walker, Esq. representing XO Tennessee, Inc. ("XO") and Southeastern Competitive Carriers Association and Dana Shaffer, Esq. representing XO. As documented in a letter from the Hearing Officer to the parties, the items for discussion were: 1) implementation of the interim solution; 2) briefs on the threshold issues and; 3) schedule for filing issues list. At the start of the meeting, the Hearing Officer reminded the parties that the purpose of the meeting was not to argue the merits of the case, only to address the above issues.

**"The Interim Solution"**

On October 30, 2000 AT&T, through a letter from Garry Sharp to David Waddell, Executive Secretary of the Tennessee Regulatory Authority, filed a complaint alleging that BellSouth was not delivering the caller's name on calls made by customers of competitive local exchange carriers ("CLECs"). The complaint centers around a "large multi-state department store" who recently switched its service to AT&T. AT&T argues that the six-digit Global Title Translation ("GTT") being done for CLECs by BellSouth is not sufficient to identify the customers name and number and that BellSouth is legally obligated to offer the 10-digit translation necessary to deliver the CLEC's name and number. AT&T requests that "the TRA order BellSouth to provide AT&T such documentation as necessary in order to inform customers that BellSouth is correcting this problem and that BellSouth does not intend to use this problem to winback customers to BellSouth." [1]

BellSouth responded to AT&T's complaint on November 3, 2000. BellSouth's response acknowledges that the six-digit translation being done by BellSouth will not deliver a CLEC customer's name but that it was in the process of implementing 10-digit GTT. According to the schedule provided by BellSouth, 10-digit GTT will be implemented in all Tennessee area codes by April 6, 2001. In the interim, BellSouth indicated that it will "store the names of CLEC's customers in its database at no charge until the 10-digit Global Title Translation is available." [2] BellSouth further acknowledged that the numbers of the customer referenced in AT&T's complaint had been loaded in its CNAM database on October 27, 2000, and that the customer's name was now being delivered. In its response, BellSouth

[1] AT&T complaint (October 30, 2000), paragraph 1.
[2] BellSouth response (November 3, 2000), page 3, paragraph 2.

provided correspondence to three Tennessee CLECs dated October 3, 2000, documenting the timetable for converting to the 10-digit Global Title Translation.[3]

When asked if the customer referenced in the complaint now has its name being delivered on calls to BellSouth customers, Mr. Sharp acknowledged that the customer's name is now being delivered "for the lines that had been converted." [4] Mr. Sharp expressed concern that the interim solution was not working because the customer "had put orders for subsequent lines on hold." Mr. Sharp read from the customer's November 3, 2000 letter that said, in part, "if you do not get this problem resolved immediately, we'll move our service back to BellSouth." [5] Mr. Sharp could not expand on what the "problem" was or what was needed to resolve the "problem." [6] Based on the representations by the parties at the meeting, the customer in question is having its name delivered on calls to BellSouth customers and future lines added by this customer would be loaded into BellSouth's data base to enable delivery of the caller's name. While AT&T appears to have broad concerns regarding the "interim solution," the purpose of this particular meeting, in part, was to address a solution for the particular customer in question.

**Threshold Issues**

AT&T's complaint and BellSouth's response disagree on BellSouth's legal obligation to deliver callers' names specifically, whether BellSouth is obligated to perform the Global Title Translation at the 10-digit level. These are clearly threshold issues that must be decided before proceeding with this case. Therefore, the Hearing Officer requested that the parties brief the following issues:

---

[3] BellSouth response (November 3, 2000), Exhibit 2
[4] Transcript, page 27, line 14 and page 21, line 8.
[5] Transcript, page 20, line 14.
[6] Mr. Sharp indicated that he would file this letter with the Authority.

1) Is BellSouth legally obligated to provide CLECs with the elements necessary to deliver caller name services?
2) Is BellSouth legally obligated to provide CLECs with 10-digit, Global Title Translation?

The initial briefs on these issues are due November 22, 2000 at 2:00 p.m. with reply briefs due December 1, 2000 at 2:00 p.m.

**Interventions**

During the meeting, Mr. Henry Walker, made an oral motion to intervene in this matter on behalf of XO Communications stating that his client had experienced the same problems as discussed in the AT&T complaint and had a direct interest in the outcome of this matter. Mr. Walker also stated that he intended to intervene on behalf of the Southeastern Competitive Carriers Association ("SECCA").[7]

BellSouth objected to the motion stating that such intervention are attempts to expand the scope of the proceeding. The Hearing Officer asked Mr. Walker to file written petitions to intervene by the end of the day (November 7, 2000) and gave Bellsouth until 2:00 p.m. on November 13, 2000 to respond to such petitions. The Hearing Officer stated that upon review of the petitions and BellSouth's response, he would issue a ruling on the petitions. The Hearing Officer further stated that, if the petitions to intervene are granted, the intervenors would have the opportunity to participate in this matter including filing of briefs on the threshold issues identified by the Hearing Officer.

[7] Transcript page 4, line 1.

The third item included on the agenda for this meeting, schedule for filing issues list, was not addressed during the meeting. This matter will be addressed subsequent to a ruling on the interventions.

**IT IS THEREFORE ORDERED THAT:**

1. The following threshold issues will be briefed by the parties: 1) Is BellSouth legally obligated to provide CLECs with the elements necessary to deliver caller name services?, and; 2) Is BellSouth legally obligated to provide CLECs with 10-digit, Global Title Translation?
2. Initial briefs are due by 2:00 p.m., November 22, 2000
3. Reply briefs are due by 2:00 p.m., December 1, 2000.
4. SECCA and XO Communications will file written petitions to intervene by 4:30 p.m., November 7, 2000.
5. All objections to the above petitions to intervene must be submitted by 2:00 p.m., November 13, 2000.

Joe Werner Acting as
Hearing Officer

ATTEST:

K. David Waddell, Executive Secretary