

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

May 13, 2002

IN RE:

GENERIC DOCKET TO CONSIDER GEOGRAPHIC DEAVERAGING

and

GENERIC DOCKET TO CONSIDER TECHNOLOGY ADVANCES

DOCKET NO.
01-00339

DOCKET NO.
02-00434

ORDER ACCEPTING REPORT AND RECOMMENDATION

This matter came before the Tennessee Regulatory Authority (the "Authority") at a regularly scheduled Authority Conference held on April 16, 2002 for consideration of the Pre-Hearing Officer's March 13, 2002 *Report and Recommendation* attached hereto as Exhibit 1.

The Authority opened Docket No. 01-00339, *In re: Generic Docket to Consider Technology Advances and Geographic Deaveraging* in accordance with the *Final Order* entered on February 23, 2001 in Docket No. 97-01262.¹ At the May 1, 2001 Authority Conference, the Directors voted unanimously to appoint General Counsel or his designee to act as the Pre-Hearing Officer for the purposes of determining the scope of the docket, establishing a procedural schedule to completion, and disposing of all preliminary matters.

In the course of determining the scope of the docket, the Pre-Hearing Officer set forth three recommendations in the *Report and Recommendation* for the Directors' consideration. First, the Pre-Hearing Officer found that disposing of the two subjects of Docket No. 01-00339,

¹ *In re: Petition of BellSouth Telecommunications, Inc. to Convene a Contested Case to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements*, Docket No. 97-01262, *Final Order*, 10-11 (Feb. 23, 2001).

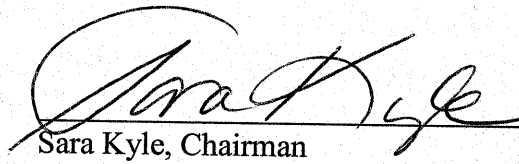
geographic deaveraging and technology advances, in one proceeding could be difficult and cause confusion for the reasons set forth in the *Report and Recommendation*. Based on this finding, the Pre-Hearing Officer recommended that the Directors vote to retain Docket No. 01-00339 as the docket on geographic deaveraging and open a new docket for technology advances. Second, the Pre-Hearing Officer recommended that the Directors vote to appoint General Counsel or his designee to act as the Pre-Hearing Officer for the purposes of determining the scope of the technology advances docket, establishing a procedural schedule to completion, and disposing of all preliminary matters. Third, the Pre-Hearing Officer recommended that the Directors order the parties that had previously filed petitions to intervene in Docket No. 01-00339 to notify the Executive Secretary within five (5) days of the deliberations regarding the dockets in which the parties wish to intervene. The Pre-Hearing Officer further recommended that if the parties choose to seek intervention in both dockets, then the petitions should remain in Docket No. 01-00339 and the parties afforded an opportunity to file petitions in the technology advances docket at a later date. At the April 16, 2002 Authority Conference, the Directors voted to accept the *Report and Recommendation* without modification.

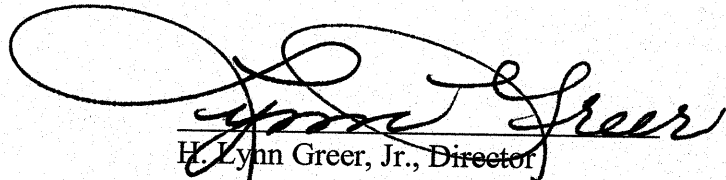
IT IS THEREFORE ORDERED THAT:

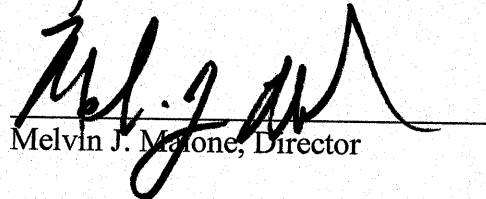
- 1) The *Report and Recommendation* of the Pre-Hearing Officer filed on March 13, 2002, attached hereto as Exhibit 1, is accepted and is incorporated into this Order as if fully rewritten herein.
- 2) Docket No. 01-00339, *In re: Generic Docket to Consider Technology Advances and Geographic Deaveraging* shall be retained as *In re: Generic Docket to Consider Geographic Deaveraging* and Docket No. 02-00434 shall be convened as *In re: Generic Docket to Consider Technology Advances*.

3) General Counsel or his designee is appointed as Pre-Hearing Officer in Docket No. 02-00434 for the purposes of determining the scope of the docket, establishing a procedural schedule to completion, and disposing of all preliminary matters.

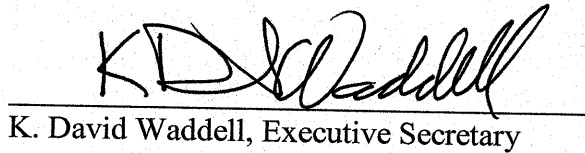
4) Those parties having filed petitions to intervene in Docket No. 01-00339 shall notify the Executive Secretary within five (5) days of the deliberations regarding the dockets in which they wish to intervene. If the parties choose to seek intervention in both dockets, then the petitions shall remain in Docket No. 01-00339 and the parties shall be afforded an opportunity to file petitions in Docket No. 02-00434 at a later date.


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 13, 2002

IN RE:

**GENERIC DOCKET TO CONSIDER
TECHNOLOGY ADVANCES AND
GEOGRAPHIC DEAVERAGING**

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**DOCKET NO.
01-00339**

REPORT AND RECOMMENDATION

This matter came before the Pre-Hearing Officer *sua sponte* to determine whether this Docket should be divided into two dockets. It is the recommendation of the Pre-Hearing Officer that such division is appropriate given the differences in the subjects of geographic deaveraging and technology advances.

The Authority opened this docket in accordance with the *Final Order* entered on February 23, 2001 in Docket No. 97-01262.¹ At the May 1, 2001 Authority Conference, the Directors voted unanimously to appoint General Counsel or his designee to act as the Pre-Hearing Officer for the purposes of determining the scope of this Docket, establishing a procedural schedule to completion, and disposing of all preliminary matters.

While determining the scope of this Docket, it became apparent to the Pre-Hearing Officer that addressing the two subjects of this Docket, geographic deaveraging and technology advances, in one proceeding could be difficult and cause confusion. To explain, the purpose of the geographic deaveraging portion of this Docket is the adoption of a permanent geographic deaveraging

¹ See *In re: Petition of BellSouth Telecommunications, Inc. to Convene a Contested Case to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements*, Docket No. 97-01262, *Final Order*, pp. 10-11 (Feb. 23, 2001) (hereinafter *Permanent Prices Docket*).

methodology for BellSouth Telecommunications, Inc. ("BellSouth") unbundled network element ("UNE") loop rates and the application of that methodology to BellSouth UNE loop rates.² The purpose of the technology advances portion of this Docket is to establish rates for those BellSouth UNEs on which technology advances have had an impact.³ The setting of average rates in the technology advances portion of this Docket is independent of establishing a geographic deaveraging methodology. Additionally, the modification of rates due to technology advances will require that BellSouth alter its cost study. Adopting a geographic deaveraging methodology will not. Also, the initial filings required in each portion of the Docket are unrelated; thus, it is unlikely that future filing requirements will coincide. As to geographic deaveraging, the parties will first be requested to file proposed deaveraging methodologies, while in regard to technology advances, the first requested filing will be comments identifying those UNE rates requiring reevaluation. Lastly, although the Authority may ultimately apply the adopted geographic deaveraging methodology to the rates set in the technology advances portion of this Docket, it is unclear at this time to what extent the Authority will alter UNE loop rates, if at all.

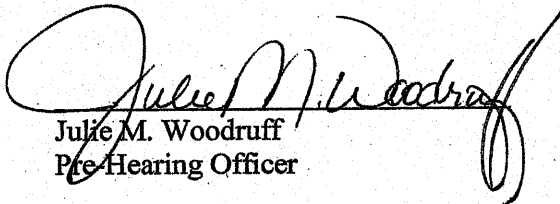
While it is true that the two subjects of this Docket are not in opposition, it is also true that they do not compliment one another. Thus, although the two subjects could remain under one docket, division of the subjects into two separate dockets will ensure a clear understanding of the scope and the most efficient resolution of each subject. For the foregoing reasons, the Pre-Hearing Officer recommends that the Directors vote to retain Docket No. 01-00339 as the docket on geographic deaveraging and open a new docket for technology advances.

² See *Permanent Prices Docket, Second Interim Order Re: Revised Cost Studies and Geographic Deaveraging*, p. 11 (Nov. 22, 2000). To date, the Authority has set UNE loop rates for BellSouth in the *Permanent Prices Docket* and Docket No. 00-00544, the *Line Sharing Docket*. See *Permanent Prices Docket, Final Order*, p. 20 (Feb. 23, 2001); Transcript of Proceeding, November 20, 2001, pp. 44-45 (deliberations in *In re: Generic Docket to Establish UNE Prices for Lines Sharing Per FCC 99-355, and Riser Cable and Terminating Wire as Ordered in TRA Docket 98-00123*, Docket No. 00-00544).

³ Although the Authority did not explicitly limit this Docket to BellSouth, the docket from which this Docket derived, the *Permanent Prices Docket*, was so limited. Therefore, it follows that the scope of the technology advances portion of this Docket is limited to BellSouth UNEs.

If this recommendation is accepted, the Pre-Hearing Officer further recommends that the Directors vote to appoint General Counsel or his designee to act as the Pre-Hearing Officer for the purposes of determining the scope of the technology advances docket, establishing a procedural schedule to completion, and disposing of all preliminary matters. Further, the Pre-Hearing Officer recommends that the Directors order Time Warner Telecom of the Mid-South, L.P., Brooks Fiber Communications of Tennessee, Inc., and MCImetro Access Transmission Services, LLC, all of which have filed petitions to intervene, to notify the Executive Secretary within five (5) days of the deliberations regarding into which dockets the parties wish to intervene. If the parties choose to seek intervention in both dockets, then the petitions should remain in Docket No. 01-00339 and the parties afforded an opportunity to file petitions in the technology advances docket at a later date.

The Pre-Hearing Officer presents this Report and Recommendation to the Directors of the Tennessee Regulatory Authority for their consideration at a regularly scheduled Authority Conference to be scheduled by the publishing of the Final Conference Agenda. Any comments on the Report and Recommendation shall be filed no later than **Friday, March 22, 2002**.


Julie M. Woodruff
Pre-Hearing Officer

ATTEST:


K. David Waddell, Executive Secretary