

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 21, 2007

IN RE:)	
)	
ENFORCEMENT OF INTERCONNECTION)	DOCKET NO.
AGREEMENT BETWEEN BELL SOUTH)	02-01203
TELECOMMUNICATIONS, INC. AND)	
ITC^DELTA COM COMMUNICATIONS, INC.)	

**ORDER GRANTING MOTION TO DISMISS
WITH PREJUDICE AND CLOSING DOCKET**

This matter is before the Hearing Officer upon the Motion to Dismiss filed by BellSouth Telecommunications, Inc. ("BellSouth") on February 1, 2007. This docket was commenced on November 5, 2002, upon the filing of the *Complaint of BellSouth Telecommunications, Inc. to Enforce Interconnection Agreement and Request for Expedited Proceedings* ("Complaint") which sought enforcement of the enhanced extended loops ("EELs") audit procedures contained in its Interconnection Agreement with ITC^DeltaCom Communications, Inc. ("DeltaCom").


In the Motion to Dismiss filed on February 1, 2007, BellSouth states that the dispute in this matter is now moot and should be dismissed with prejudice. According to BellSouth, on December 29, 2006, the Federal Communications Commission ("FCC") approved the merger of BellSouth Corporation and AT&T, Inc. subject to certain voluntary commitments of AT&T. One of the commitments concerns EELs audits and states:

AT&T/BellSouth shall cease all ongoing or threatened audits of compliance with the [FCC]'s EEL eligibility criteria (as set forth in the *Supplemental Order Clarification's* significant local use requirement and related safe harbors, and the *Triennial Review Order's* high capacity EEL eligibility criteria), and shall not initiate any new EELs audits.

BellSouth asserts that pursuant to the FCC's announced adoption of a Memorandum Opinion and Order approving the merger, BellSouth became obligated to cease all "ongoing or threatened" EEL audits as of December 29, 2006. For these reasons BellSouth requests that its *Complaint* be dismissed with prejudice. On February 16, 2007, DeltaCom filed a letter confirming that the parties are in agreement that the *Complaint* should be dismissed with prejudice.

IT IS THEREFORE ORDERED THAT:

1. The Motion to Dismiss filed by BellSouth Telecommunications, Inc is granted.
2. The *Complaint of BellSouth Telecommunications, Inc. to Enforce Interconnection Agreement and Request for Expedited Proceedings* is dismissed with prejudice.
3. This docket shall be closed by the Tennessee Regulatory Authority


J. Richard Collier, General Counsel
as Hearing Officer