BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 8, 2006

IN RE:	)	
	)	
IMPLEMENTATION OF THE FEDERAL COMMUNICATIONS COMMISSION'S TRIENNIAL REVIEW ORDER- 9 MONTH PROCEEDING-SWITCHING	)	**DOCKET NO. 03-00491**

ORDER CLOSING DOCKET

This matter came before Chairman Ron Jones, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 12, 2005 to consider closing this docket.

BACKGROUND

On February 20, 2003, the Federal Communications Commission ("FCC") announced in a press release its adoption of new rules for incumbent local exchange carriers ("ILECs"),[1] which set forth "substantial changes to existing requirements" regarding the manner in which ILECs must provide unbundled network elements ("UNEs").[2] As part of this process, the FCC undertook an impairment analysis of switching to determine its future availability as an unbundled network element. The FCC made a presumptive finding of no impairment with regard to business customers being served by high-capacity loops and a finding of impairment in regard to mass market customers.

[1] The extensive Triennial Review Order was officially released on August 21, 2003. *See Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket 01-338, *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, 18 FCC Rcd. 16978 (2003), as modified by *Errata*, 18 FCC Rcd. 19020 (2003), vacated in part, *U.S. Telecom. Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("TRO").

[2] TRO, 18 FCC Rcd. at 16984, ¶ 4.

These presumptions could be rebutted through mandatory proceedings at the state level, to be completed within ninety days and nine months, respectively.

On June 16, 2003, during a regularly scheduled Authority Conference, the Directors discussed, under section one business, the initiation of certain proceedings at the TRA for implementation of the TRO and opened Docket No. 03-00460. During a subsequent Authority Conference held on September 22, 2003, the Directors decided to address implementation of the TRO through three separate dockets: Docket No. 03-00491 (Switching), Docket No. 03-00526 (Hot Cuts), and Docket No. 03-00527 (Loop and Transport).

Portions of the TRO were appealed by ILECs and competing local exchange carriers ("CLECs"), resulting in the partial vacatur of the TRO by the U.S. Circuit Court of Appeals for the District of Columbia.[3] Responding to the D. C. Circuit Court's decision, the FCC released its Triennial Review Remand Order ("TRRO") on February 4, 2005.[4] The TRRO set forth the FCC's reclassification of specific UNEs and altered the obligations of ILECs to provide those UNEs to CLECs. The FCC previously determined that specific elements, including unbundled local switching and high capacity loop and transport, must be provided by ILECs to CLECs as Section 251 UNEs and at cost-based rates. The TRRO's provisions abrogated the ILECs' unbundling obligations with regard to these elements by changing the impairment rating for these elements. In establishing transition plans for eliminating these UNEs, the TRRO distinguished service provided by CLECs to their embedded customer bases from new orders for these reclassified or de-listed UNEs.

Prior to the issuance of the TRRO by the FCC, the TRA granted a request to open a docket for the purpose of examining and implementing the changes set forth in the TRO and the anticipated TRRO. This newly opened docket was assigned Docket No. 04-00381.[5]

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[3] *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004).

[4] *Unbundled Access to Network Elements; Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, WC Docket No. 04-313 and CC Docket No. 01-338, *Order on Remand*, 20 FCC Rcd. 2533 (2004).

[5] *See In re: BellSouth's Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements Resulting from Changes of Law*, Docket No. 04-00381.

FINDINGS AND CONCLUSIONS

The record established in Docket No. 03-00491 is now more than two years old, and the docket has been inactive since the informational presentations by parties on March 30, 2004 regarding the FCC's TRO and subsequent D.C. Circuit Court decision. Moreover, the issuance of the TRRO substantially altered the rulings that resulted in the opening of this docket and issues related to the current law are before the Authority in Docket No. 04-00381. The record in Docket No. 03-00491 is available for use in Docket No. 04-00381 through the administrative notice procedure. Based on the foregoing the Directors voted unanimously to close this docket.

IT IS SO ORDERED.

Ron Jones, Chairman

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Deborah Taylor Tate, Director[6]

Pat Miller, Director

[6] Director Tate voted in agreement with the other directors but resigned her position as director before the issuance of this order.