

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 21, 2014

IN RE:

PETITION FOR ARBITRATION OF CELLCO PARTNERSHIP)	
D/B/A VERIZON WIRELESS, PETITION FOR ARBITRATION)	
OF BELL SOUTH MOBILITY LLC; BELL SOUTH PERSONAL)	
COMMUNICATIONS, LLC; CHATTANOOGA MSA LIMITED)	DOCKET NO.
PARTNERSHIP; COLLECTIVELY D/B/A CINGULAR)	03-00585
WIRELESS, PETITION FOR ARBITRATION OF AT&T)	
WIRELESS PCS, LLC D/B/A AT&T MOBILITY; PETITION)	
FOR ARBITRATION OF T-MOBILE USA, INC., PETITION)	
FOR ARBITRATION OF SPRINT SPECTRUM L.P. D/B/A)	
SPRINT PCS)	

ORDER GRANTING MOTION FOR CLARIFICATION

This matter came before Chairman James M. Allison, Director Kenneth C. Hill and Director David F. Jones of the Tennessee Regulatory Authority (“Authority” or “TRA”), the Panel of Arbitrators (“Panel”) assigned to this docket, on March 18, 2014, for consideration of the *Motion for Clarification* filed by AT&T Mobility on February 27, 2014.

RELEVANT BACKGROUND

In 2003, several commercial mobile radio service providers (“CMRS Providers”) petitioned the Authority to arbitrate certain controversies that prevented the execution of interconnection and reciprocal compensation agreements (“ICAs”) with many rural and small local exchange companies (collectively the Tennessee Rural Coalition “Coalition” or

“RLECs”).¹ On January 12, 2006, the Authority panel of Directors, serving as an Arbitration Panel, issued an *Order of Arbitration Award* memorializing its decisions on the numerous issues that were raised during the arbitration.² The only issue left to be resolved was Issue 8, which involved the pricing methodology to be used to set a reciprocal compensation rate for the transport and termination of non-access telecommunications traffic exchanged between the parties. The Authority issued its *Final Order of Arbitration Award* on February 13, 2014, which resolved Issue 8 and set a rate for indirect or direct traffic exchanged during the period of October 2004 to June 30, 2012.³ On February 27, 2014, AT&T Mobility filed a *Motion for Clarification*.⁴

MOTION FOR CLARIFICATION

The *Motion for Clarification* requests that the Authority clarify its *Final Order of Arbitration Award* issued in this docket. AT&T Mobility states “[t]he 2014 award should be clarified to direct the parties to prepare and submit for Authority review an interconnection agreement (‘ICA’) conforming with that Award, and with the Order of Arbitration Award the Authority issued in this docket on January 12, 2006 (‘2006 Award’).”⁵ AT&T Mobility asserts “the 2014 Award does not expressly state that the reciprocal compensation rates established in the Award are to apply only for true-up purposes, and not prospectively or for traffic exchanged before July 1, 2012. Accordingly, AT&T Mobility respectfully requests that the Authority make

¹ The Tennessee Rural Coalition consists of a group of rural and small local exchange companies as follows: Ardmore Telephone Company, Inc.; Ben Lomand Rural Telephone Cooperative, Inc.; Bledsoe Telephone Cooperative; CenturyTel of Adamsville, Inc.; CenturyTel of Claiborne, Inc.; CenturyTel of Ooltewah-Collegedale, Inc.; Concord Telephone Exchange, Inc.; Crockett Telephone Company, Inc.; DeKalb Telephone Cooperative, Inc.; Highland Telephone Cooperative, Inc.; Humphreys County Telephone Company; Loretto Telephone Company, Inc.; Millington Telephone Company; North Central Telephone Cooperative, Inc.; Peoples Telephone Company; Tellico Telephone Company; Tennessee Telephone Company; Twin Lakes Telephone Cooperative Corporation; United Telephone Company; West Tennessee Telephone Company, Inc.; and Yorkville Telephone Cooperative.

² See *Order of Arbitration Award* (January 12, 2006) (memorializing decisions rendered by the TRA Arbitration Panel during its regularly scheduled Authority Conference held on January 12, 2005).

³ The complete background and travel of this docket is provided in detail in the *Final Order of Arbitration Award*.

⁴ Although styled as a “Motion for Clarification,” AT&T Mobility cited Tenn. Code Ann. § 4-5-317, which applies to petitions for reconsideration. Therefore, the Authority has deemed the *Motion for Clarification* as a request for reconsideration.

⁵ *AT&T Motion*, p. 1 (February 27, 2014).

explicit that the reciprocal compensation rates established in the 2014 Award do not apply to traffic exchanged after June 30, 2012.”⁶

On March 6, 2014, the RLECs filed its *Response of Tennessee Rural Coalition to AT&T Mobility Motion for Clarification*. The RLECs argue that “[t]he questions for which AT&T Mobility seeks ‘clarification’ have obvious, unambiguous and already agreed to answers, and are interposed solely for the purposes of delay.”⁷ The Coalition states it even offered to stipulate to these facts prior to AT&T Mobility filing the *Motion for Clarification*, but the RLECs state its offer was rejected.⁸

AT&T Mobility filed a *Reply in Support of Motion for Clarification* on April 14, 2014. AT&T argues that it needs “confirmation that the Authority shares AT&T Mobility’s understanding that the rates established in the 2014 Award must be implemented by means of a conforming ICA; it is not sufficient that the RLECs share that understanding.”⁹ AT&T goes on to state that it seeks clarification “in order to make sure there is no misunderstanding about when a possible appeal from the 2014 Award must be filed.”¹⁰

MARCH 18, 2014 CONVENING OF THE PANEL

A *Notice of Convening Panel and Electronic Participation* was issued on March 10, 2014 indicating that the Panel in this docket would be convened to hear the *Motion for Clarification* on March 18, 2014 at 10:00 a.m. (CDT).

Tenn. Code Ann. § 4-5-317 sets forth the procedure for reconsideration. Pursuant to subsection (a) of the statute, any party, within fifteen days after entry of a final order, may file a petition for reconsideration stating the specific grounds upon which relief is requested. Under

⁶ *Id.* at 6.

⁷ *RLEC Response*, p. 1 (March 6, 2014).

⁸ *Id.*

⁹ *Reply in Support of Motion for Clarification*, p. 2 (March 10, 2014).

¹⁰ *Id.*

subsection (c), if no action has been taken on the petition within twenty days, the petition is deemed to have been denied. If an order granting the petition and setting the matter for further proceedings is issued, pursuant to subsection (d) the new proceeding is limited to argument upon the existing record, and no new evidence can be introduced unless the party proposing such evidence shows good cause for such party's failure to introduce the evidence in the original proceeding.

The Panel convened on March 18, 2014 to consider the *Motion for Clarification* and voted unanimously that AT&T Mobility's motion be accepted for reconsideration based on the procedure set forth in Tenn. Code Ann. § 4-5-317 and to address the merits of the reconsideration at a future conference. The Panel directed the parties to file briefs by April 4, 2014, and Response Briefs should be filed by April 25, 2014. The Panel also directed AT&T Mobility to suggest specific language it proposes should be included in the Authority's Order to address the issues AT&T Mobility has raised.

IT IS THEREFORE ORDERED THAT:

The *Motion for Clarification* filed by AT&T Mobility is granted, the merits of which will be considered by the Authority at a future conference.

Chairman James M. Allison, Director Kenneth C. Hill and Director David F. Jones concur.

ATTEST:



Earl R. Taylor, Executive Director