

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 28, 2004

IN RE:	)	
TARIFF TO ESTABLISH THE	)	DOCKET NO.
WIRELESS ANSWERS PROMOTION --	)	03-00554
TARIFF NUMBER: 20031036	)	
	)	
AND	)	
	)	
IN RE:	)	DOCKET NO.
TARIFF TO ESTABLISH CONSUMER	)	03-00624
WIRELESS COMBINED BILL REWARD	)	
OFFER – TARIFF NUMBER: 20031379	)	

**DISSENT OF DIRECTOR RON JONES TO ORDERS ALLOWING
TARIFF NUMBERS 2003-1036 AND 2003-1379 TO TAKE EFFECT**

The above-styled dockets came before a panel of the Tennessee Regulatory Authority (“Authority”) at an Authority Conference held on January 8, 2004 for consideration of the Tariff to Introduce the Wireless Answers Promotion (Docket No. 03-00554/Tariff No. 2003-1036)¹ and the Tariff Filing to Establish the BellSouth Consumer Wireless Combined Bill Reward Offer (Docket No. 03-00624/Tariff No. 2003-1379)² filed by BellSouth Telecommunications, Inc. (“BellSouth”) and the *Petition to Intervene* filed in Docket No. 03-00554 and the *Complaint and Petition to Intervene* filed in Docket No. 03-00624 by the Consumer Advocate and Protection

¹ BellSouth’s Wireless Answers Promotion offers “current, new and former BellSouth customers who purchase a BellSouth® Wireless Answerssm Bundle consisting of eligible BellSouth local service and eligible Cingular Wireless service a \$2, \$5, or \$10 discount on their Cingular Service.” *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, Tariff Filing to Establish the BellSouth Wireless Answerssm Promotion, Executive Summary (rec’d Sept. 19, 2003) (filed Oct. 15, 2003).

² Under BellSouth’s Consumer Wireless Combined Bill Reward Offer “BellSouth residential customers who also subscribe to Cingular Wireless service and combine their BellSouth and Cingular Wireless bills will be eligible to receive 10% off their Cingular Wireless service plan.” *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, Tariff Filing to Establish the BellSouth® Consumer Wireless Combined Bill Reward Offer, Executive Summary (rec’d Dec. 3, 2003) (filed Dec. 9, 2003).

Division of the Office of the Attorney General (“Consumer Advocate”). During the Conference, Chairman Deborah Taylor Tate and Director Pat Miller voted to allow the tariffs to go into effect without any further process thereby effectively dismissing the complaint and petitions to intervene filed by the Consumer Advocate. For the reasons stated herein, I respectfully dissent from these decisions.

I. PROCEDURAL HISTORY

A. DOCKET NO. 03-00554

The Authority received BellSouth’s Wireless Answers Promotion tariff on September 19, 2003. The Authority issued data requests to BellSouth on September 25 and October 9, 2003. In its responses, BellSouth stated that it would fund thirty-two percent (32%) of the discount on Cingular Wireless service and that the “bundle itself is not available for resale.”³

Also on October 16, 2003, the Consumer Advocate filed its *Petition to Intervene*. In its petition, the Consumer Advocate cites Tenn. Code Ann. § 65-4-118(c)(2)(A) for its authority to initiate a contested case and intervene. The Consumer Advocate asserts that the tariff may have an adverse effect on consumers because the tariff neither states that it is available for resale nor provides a reason that the offering is exempt from the resale requirement of the Federal Telecommunications Act of 1996.⁴

BellSouth filed a response to the *Petition to Intervene* on November 12, 2003. BellSouth asserts that the petition raises a legal issue only; therefore, there is no need to engage in a contested case.⁵ BellSouth also brings to the Authority’s attention the fact that a reseller has not

³ See *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, BellSouth Telecommunications, Inc.’s responses to data requests, 2 (rec’d Sept. 29, 2003) (filed Oct. 15, 2003); *id.*, BellSouth Telecommunications, Inc.’s responses to data requests, Request No. 2, p. 1 of 3 (Oct. 16, 2003).

⁴ See *In re Tariff To Establish The Wireless Answers Promotion -- Tariff Number 20031036*, Docket No. 03-00554, *Petition to Intervene* (Oct. 16, 2003).

⁵ See *id.*, *Response of BellSouth to Petition of Consumer Advocate to Intervene*, 3 (Oct. 16, 2003).

sought relief from the agency.⁶ Lastly, BellSouth asserts that the petition lacks sufficient legal justification to support the position asserted.⁷

B. DOCKET NO. 03-00624

The Authority received the Consumer Wireless Combined Bell Reward Offer on December 3, 2003. The Authority issued data requests to BellSouth on December 5, 2003. The Consumer Advocate filed its *Complaint and Petition to Intervene* on December 8, 2003. In its petition, the Consumer Advocate again cites Tenn. Code Ann. § 65-4-118(c)(2)(A) as the grounds for its authority to file the petition. As to the substance, the Consumer Advocate argues that the tariff may have an adverse effect on consumers because the tariff neither states that it is available for resale nor provides a reason that the offering is exempt from the resale requirement of the Federal Telecommunications Act of 1996.⁸

BellSouth filed its response to the Consumer Advocate's *Complaint and Petition to Intervene* on December 11, 2003. BellSouth asserts that the complaint contains general allegations, causes delay, and denies consumers the benefits of discounted offers. As an alternative to suspending the tariff, BellSouth urges the Authority to allow the tariff to go into effect and contends that any ruling can be applied at the time a final decision is rendered.⁹

On December 12, 2003, BellSouth responded to data requests issued by the Authority. The first request asked whether the offering described in the tariff was available for resale. BellSouth responded by stating: "Since this offer does not provide customers with a discount off

⁶ See *id.* at 4

⁷ See *id.* at 4-5

⁸ See *In re: Tariff to Establish Consumer Wireless Combined Bell Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *Complaint and Petition to Intervene*, 2 (Dec. 8, 2003)

⁹ See *id.*, *BellSouth Telecommunications, Inc.'s Response to Consumer Advocate Division's Complaint and Petition to Intervene*, 1-2 (Dec. 11, 2004).

their BellSouth regulated services, this offer is not available for resale.”¹⁰ In response to another request, BellSouth responded that it expects to fund on average two-thirds of the Cingular Wireless discount.¹¹

C. BRIEFS

During the December 15, 2004 Authority Conference, the panel voted to allow BellSouth to file a brief explaining how the tariffs are distinguishable from the Sprint Safe and Sound II Solution Tariff and the justification for funding a portion of the discount.¹² The panel also provided time for the Consumer Advocate to file a reply brief.¹³ Pursuant to the panel’s direction, BellSouth filed its brief on December 22, 2003 and the Consumer Advocate filed a reply brief on December 30, 2003.

BellSouth’s brief begins by emphasizing the Federal Communications Commission’s position that combined and bundled offers are generally procompetitive.¹⁴ BellSouth asserts that

¹⁰ See *id.*, BellSouth Telecommunications, Inc.’s responses to data requests, Request No. 1, p. 1 of 2 (Dec. 12, 2003).

¹¹ See *id.*, Request No. 4, p. 1 of 1.

¹² The Safe and Sound II Solution “is an offering of discounted regulated services consisting of an access line and caller ID. In order to obtain the discounted services from the tariff, the customer must also purchase from Sprint non-regulated services consisting of a maintenance plan for customer premises equipment (“CPE”) and for inside wire.” *In re: Sprint United Tariff 2003-710 to Introduce Safe and Sound II Solution*, Docket No. 03-00442, *United Telephone-Southeast, Inc. Response to CAPD’s Petition to Intervene*, 1 (Sept. 16, 2003). The bundled rate is \$19.95. See *id.*, Tariff No. 2003-710 (rec’d July 11, 2003) (filed July 21, 2003). Sprint stated that it is not obligated to offer any portion of the tariff for resale and resellers can obtain the telecommunications services at resale from the stand-alone tariffs. See *id.*, Letter to Darlene Standley from James B. Wright dated July 24, 2003 (rec’d July 25, 2003) (filed July 30, 2004). At the October 6, 2003 Authority Conference, Directors Pat Miller, Sara Kyle, and Ron Jones voted to convene a contested case and ordered the filing of briefs on the legal issues. See *id.*, *Order Convening a Contested Case Proceeding and Granting Interventions*, 2 (Oct. 21, 2003). At the December 15, 2003 Authority Conference, the Directors voted that services contained in the bundle are telecommunications services that are subject to the federal resale obligation and that the tariff as written could not be approved. The Directors provided Sprint two weeks to work with the intervenors to modify the tariff. See Transcript of Proceedings, December 15, 2003, pp. 15-17 (Authority Conference). Sprint withdrew the tariff on December 29, 2003. Directors Pat Miller and Sara Kyle later voted in favor of approving BellSouth’s Integrated Solutions Promotion, and Director Sara Kyle stated that she would vote to reconsider her decision on the Safe and Sound II Solution Tariff. See *infra* text accompanying note 25.

¹³ See Transcript of Proceedings, December 15, 2003, pp. 21-46 (Authority Conference).

¹⁴ See *In re: Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, and *In re: Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *BellSouth’s Brief Addressing Federal Resale Requirements in the Context of Combined Offerings*, 3 (Dec. 22, 2003).

wireless services offered by a carrier other than an ILEC fall outside the federal resale requirement¹⁵ and that the resale discount applies only to the retail rate for the stand-alone product.¹⁶ In order to distinguish its tariffs from the Sprint Safe and Sound II Solution Tariff, BellSouth contends its tariffs do not offer services for a single price and the discounted services are not telecommunications services offered by BellSouth.¹⁷ In response to arguments of the Consumer Advocate that the effect of the tariffs is a discount on the telecommunications services, BellSouth argues that such treatment inappropriately expands the clear terms of the federal resale requirement.¹⁸ BellSouth also addresses its funding of a portion of the discount by asserting that both it and Cingular benefit from the arrangement, it is a permissible joint marketing effort, and it is not an inappropriate subsidy.¹⁹ Relying on what it contends is sound public policy, BellSouth asserts that resellers have sufficient choices for reselling the telecommunications services included in BellSouth's tariffs and adoption of the Consumer Advocate's position, which has not been adopted elsewhere in the BellSouth region, would result in fewer choices for Tennessee consumers.²⁰

The Consumer Advocate contends that BellSouth's brief exceeded the scope of the Directors' request. Further, the Consumer Advocate asserts that it is at an enormous disadvantage in trying to present its case when it is compelled to file briefs on both the law and facts before the Authority grants it a contested case.²¹ As to the substantive arguments, the

¹⁵ See *id.* at 5

¹⁶ See *id.* at 6

¹⁷ See *id.* at 7.

¹⁸ See *id.* at 8-9

¹⁹ See *id.* at 9-10.

²⁰ See *id.* at 10-11.

²¹ See *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, and *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *Consumer Advocate's Response to BellSouth's Brief Addressing Federal Resale Requirements in the Context of Combined Offerings*, 3 (Dec. 30, 2004).

Consumer Advocate begins by explaining that the resale price is determined by applying the discount to the bundled price of the telecommunications services.²² The Consumer Advocate asserts that the tariffs are bundles in that the telecommunications services and the discounts are inextricably linked and that the Federal Communications Commission treats as bundles offers whereby a customer receives a discount on one service if the customer purchases another service.²³ The Consumer Advocate argues that BellSouth's refusal to resale its tariffs even though it is funding a portion of the discounts raises concerns that BellSouth is engaged in cross-subsidization and providing preferences to competitive services or affiliated entities in violation of Tenn. Code Ann. § 65-5-208(c).²⁴ Using data from BellSouth's Integrated Solutions Tariff,²⁵ the Consumer Advocate calculates the rate a reseller would pay if the discount is applied to the tariffed, stand-alone rate, as opposed to the discounted bundled rate. Based on this calculation,

²² See *id.* at 4-5, 7-12

²³ See *id.* at 6.

²⁴ See *id.* at 15.

²⁵ BellSouth described its Integrated Solutions Program as follows:

BellSouth® Integrated Solutions is a product/service bundle that will be provided for a single price, which will be determined by the service configuration the customer chooses. BellSouth® Integrated Solutions provides the following capabilities: voice channels, interoffice facilities where necessary, Dedicated Internet Access, Shared Web Hosting, E-mail boxes, and Customer Premises Equipment, including installation, maintenance and monitoring. BellSouth® Integrated Solutions is available in two formats: BellSouth® Integrated Solutions-T1 (starting at \$639) and BellSouth® Integrated Solutions-primary Rate ISDN (PRI) (starting at \$759).

In re Promotion to Introduce BellSouth Integrated Solutions Program – Tariff Number 2003956, Docket No. 03-00512, Tariff Filing to Establish BellSouth® Integrated Solutions Program, Promotion Description (rec'd Aug. 29, 2003) (filed Sept. 15, 2003). BellSouth stated that the Integrated Solutions Program is not subject to resale because the bundle includes offerings that are not subject to resale. See *id.*, Letter to Darlene Standley from Katherine Sager dated Aug. 26, 2003 (rec'd Aug. 27, 2003) (filed Sept. 15, 2003). During the January 5, 2004 Authority Conference, Director Sara Kyle stated that she would vote in favor of reconsidering the decision on the Safe and Sound II Solution Tariff and, after further comment, moved to approve BellSouth's Integrated Solutions Promotion. See Transcript of Proceedings, January 5, 2004, pp. 11-16 (Authority Conference). In response to a question from Chairman Deborah Taylor Tate, Director Sara Kyle clarified that it was her intention that competitors would only receive the resell discount off the tariffed, stand-alone rate. See *id.* at 16-17. Chairman Deborah Taylor Tate took exception with the portion of the motion requiring the resell discount to apply only to the tariffed, stand-alone rate but agreed to allow the tariff to go into effect. See *id.* at 18. After clarifying that the Authority could review pricing at the request of a competitor after the tariff is effective, Director Pat Miller voted in favor of the motion. See *id.* at 19-20. The panel issued an order memorializing its decision on April 22, 2004. See *In re Promotion to Introduce BellSouth Integrated Solutions Program – Tariff Number 2003956*, Docket No. 03-00512, Order Approving Tariff (April 22, 2004).

the Consumer Advocate asserts that the reseller's gross profit is zero and, accordingly, the reseller has no incentive to compete for the bundle customer's business.²⁶

II. FINDINGS AND CONCLUSIONS

The majority filed orders memorializing its decisions on April 28, 2004. In the orders, the majority voted to allow the tariffs to go into effect after determining that "consideration of the resale issue at this time would be premature since no reseller has expressed an interest in reselling the Tariff[s]."²⁷ The majority further determined that it would only consider the issue upon the filing of a complaint by a reseller that alleges that the "telecommunications services at issue were not available for resale at the discounted bundled rate."²⁸ Last, the majority determined that consumers should have access to the bundles and that resale issues should be addressed in negotiated agreements.²⁹

I respectfully dissent from the majority's decision. The decision ignores the Consumer Advocate's legal right and responsibility to bring issues affecting Tennessee consumers before the Authority. Further, the majority's decision allows two tariffs to go into effect that are alleged to be illegal without any determination as to the allegations or further investigation.

²⁶ See *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, and *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *Consumer Advocate's Response to BellSouth's Brief Addressing Federal Resale Requirements in the Context of Combined Offerings*, 17 (Dec. 30, 2004)

²⁷ *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, *Order Allowing Tariff to Take Effect*, 2-3 (April 28, 2004); *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *Order Allowing Tariff to Take Effect*, 2-3 (April 28, 2004).

²⁸ *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, *Order Allowing Tariff to Take Effect*, 3 (April 28, 2004); *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *Order Allowing Tariff to Take Effect*, 3 (April 28, 2004).

²⁹ See *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, *Order Allowing Tariff to Take Effect*, 3 (April 28, 2004); *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *Order Allowing Tariff to Take Effect*, 3 (April 28, 2004).

A. CONSUMER ADVOCATE'S COMPLAINT AND PETITIONS TO INTERVENE

The majority's decision denies the Consumer Advocate's complaint and petitions to intervene for no other reason than the Consumer Advocate is not or does not represent a reseller. While I too give considerable weight to the fact that no reseller is before the Authority, I cannot agree with the majority's conclusion that the Consumer Advocate's complaint and petitions to intervene should be denied for this reason. It is the duty of the Consumer Advocate to protect the interests of Tennessee's public utility consumers and to pursue its statutorily granted prerogative to request a contested case to represent those interests. Section 65-4-118 provides:

The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may, with the approval of the attorney general and reporter, participate or intervene as a party in any matter or proceeding before the authority or any other administrative, legislative or judicial body and initiate such proceeding, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and the rules of the authority.³⁰

The majority's position ignores the simple fact that Tennessee consumers will ultimately be harmed if, as alleged by the Consumer Advocate, BellSouth's tariffs unreasonably restrict resale and/or constitute anti-competitive practices because consumers will not receive the benefit of competitive choice. This is the crux of the Consumer Advocate's position and the justification for its right to come before the Authority and request a contested case in each of the dockets.³¹

Having determined that the Consumer Advocate is properly before the Authority through its representation of Tennessee, public utility consumers, I next review the substance of the

³⁰ Tenn Code Ann. § 65-4-118(c)(2)(A).

³¹ See *In re Tariff To Establish The Wireless Answers Promotion -- Tariff Number 20031036*, Docket No 03-00554, *Petition to Intervene*, 1 (Oct. 16, 2003); *id.*, *Response of BellSouth to Petition of Consumer Advocate to Intervene*, 4 (Nov. 12, 2003); *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer -- Tariff Number 20031379*, Docket No 03-00624, *Complaint and Petition to Intervene*, 1 (Dec. 8, 2003); *id.*, *Consumer Advocate's Response to BellSouth's Brief Addressing Federal Resale Requirements in the Context of Combined Offerings*, 3, 5, 14 & 17 (Dec. 30, 2004).

Consumer Advocate's allegations contained in the complaint and petitions to intervene. I find that the Consumer Advocate's allegations are sufficient to warrant a contested case.

Federal law requires incumbent local exchange carriers, such as BellSouth, "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers."³² Incumbents are further prevented from imposing unreasonable limitations on the resale of telecommunications services.³³ The Consumer Advocate alleges that the tariffs are subject to this federal resale requirement and that the tariffs do not explicitly recognize this fact.³⁴ In its response filed in Docket No. 03-00554, BellSouth asserts that a contested case is unnecessary because the allegations involve only legal issues, no reseller has come forward to challenge the tariff, and the "bare bones nature" of the complaint.³⁵ In its response filed in Docket No. 03-00624, BellSouth asserts that the Authority should deny the petition based on the general allegations or, in the alternative, allow the tariff to go into effect while addressing the petition.³⁶

It is my opinion that the Authority should have convened contested cases in both dockets after the filing of BellSouth's responses. Authority Rule 1220-1-2-.02(4) provides that a complaint objecting to a tariff "shall state the nature of the interest, the grounds for any such objection and the relief sought."³⁷ In my opinion, the complaint and petitions to intervene contained these elements. Despite BellSouth's allegations, the Consumer Advocate's complaint

³² 47 U.S.C. § 251(c)(4)(A).

³³ See *id.* § 251(c)(4)(B).

³⁴ See *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, *Petition to Intervene*, 2 (Oct. 16, 2003); *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *Complaint and Petition to Intervene*, 2 (Dec. 8, 2003).

³⁵ See *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, *Response of BellSouth to Petition of Consumer Advocate to Intervene*, 2-4 (Nov. 12, 2004).

³⁶ See *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *BellSouth Telecommunications, Inc.'s Response to Consumer Advocate Division's Complaint and Petition to Intervene* (Dec. 11, 2003).

³⁷ Tenn. R. & Regs. 1220-1-2-.02(4) (Rev. July 2003).

and petitions included specific allegations concerning the Consumer Advocate's authority to represent the interests of Tennessee consumers, BellSouth's status as an incumbent provider, a description of the tariff at issue, and an explanation of the objection including legal citations and references to other Authority dockets.³⁸ Further, I cannot find any merit to BellSouth's contention that a contested case is not required because the issues are purely legal. I read nothing in the definition of contested case that limits that type of proceeding to controversies involving factual disputes.³⁹ For these reasons, I dissent from the determination that it would be premature to proceed in these dockets and conclude that the convening of a contested case in each docket is the more appropriate procedure to follow.

B. THE KNOWN ALLEGATIONS

I must also dissent from the majority's decision because it allows two tariffs to go into effect that are alleged to be illegal without any determination as to allegations or further investigation. The duty of this agency is to "foster the development of an efficient, technologically advanced, statewide system of telecommunications services by permitting competition in all telecommunications markets and by permitting alternative forms of regulation for telecommunications services and telecommunications service providers."⁴⁰ I believe that one means of accomplishing that goal is to investigate potentially illegal tariffs before they become effective. In the end, it does not matter whether it is the Consumer Advocate or a reseller that brings the potential illegalities to the Authority's attention. Instead, what does matter is that the Authority has knowledge that the tariffs may be illegal and how it chooses to address that

³⁸ *In re Tariff to Establish the Wireless Answers Promotion – Tariff Number 20031036*, Docket No. 03-00554, *Petition to Intervene* (Oct. 16, 2003); *In re Tariff to Establish Consumer Wireless Combined Bill Reward Offer – Tariff Number 20031379*, Docket No. 03-00624, *Complaint and Petition to Intervene* (Dec. 8, 2003).

³⁹ See Tenn. Code Ann. § 4-5-102(3).

⁴⁰ *Id.* § 65-4-123.

situation. In this instance, the majority chose not to address the Consumer Advocate's resale claims for no reason other than the wrong entity raised the claims.⁴¹ I cannot, under any circumstances, understand how such action permits competition in Tennessee's telecommunication service markets.

C. Conclusion

As an aside, I note that I too favor the offering of bundles to consumers as such offers bring choice to the marketplace. Nevertheless, I cannot sanction the offering of bundles that are alleged to violate federal and state laws without pursuing some procedure to ensure that such allegations are without merit. Further, my position in this docket should not be read as supporting any position other than the Consumer Advocate should have been afforded contested cases to develop an evidentiary record and its legal arguments. I have not determined whether the tariffs are subject to the federal resale requirement and, if so, how the resale discount should be applied or whether BellSouth's contributions to the discounts constitute a preference or subsidy.

For the foregoing reasons, I respectfully dissent from the majority's decision to allow the Tariff to Introduce the Wireless Answers Promotion and the Tariff Filing to Establish the BellSouth Consumer Wireless Combined Bill Reward Offer to go into effect.



Ron Jones, Director

⁴¹ The majority's decision does not reference the other allegations of anti-competitive behavior.