

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 21, 2010

IN RE:)	
)	
PETITION FOR ARBITRATION OF AENEAS)	DOCKET NO.
COMMUNICATIONS, LLC WITH BELL SOUTH)	04-00017
TELECOMMUNICATIONS, INC.)	

ORDER ADMINISTRATIVELY CLOSING DOCKET

On January 21, 2004, the Tennessee Regulatory Authority (“TRA” or “Authority”) opened the instant docket upon the filing by Aeneas Communications, LLC (“Aeneas”) of a *Petition for Arbitration by Aeneas Communications, LLC* (“*Petition*”) that requested the TRA arbitrate certain unresolved interconnection issues between Aeneas and BellSouth Telecommunications, Inc. (“BellSouth”).¹ BellSouth filed its response to Aeneas’ *Petition* on February 17, 2004.

On April 27, 2004, the Authority issued a *Notice of Filing* stating that the TRA’s statutory nine-month deadline² to resolve the issues raised in this arbitration was approaching on May 11, 2004, and the parties were directed to file an update on the status of the issues submitted for arbitration in this docket by May 3, 2004 and, if necessary, to waive the nine-month deadline. The parties responded on April 28, 2004 that the issues were still being discussed by the parties and that they had agreed to waive the nine-month arbitration deadline.

¹ Following the initial complaint filing, Aeneas alleged new or additional claims for resolution by the Authority in this docket. The first was filed on September 1, 2004, and BellSouth notified the Authority on September 29, 2004 that the parties had reached and implemented a settlement of the matter addressed in the September 1, 2004 filing and stated that no action by the Authority was required. Additionally, on November 7, 2005, Aeneas filed a Supplemental Petition for Arbitration which was subsequently denied by the Pre-Arbitration Officer. See, *Order Denying Supplemental Petition for Arbitration* (January 6, 2006).

² 47 U.S.C. § 252(b)(4)(C).

Thereafter, the parties made no filings in this docket, and on June 15, 2004, the TRA issued a *Notice of Filing* directing the parties to file a status update by July 1, 2004 and on the first of every month thereafter until all issues were resolved and an executed interconnection agreement was filed with the TRA. Status updates were filed with the Authority on June 30, August 6 and September 21, 2004. On December 6, 2004, the TRA issued a *Notice of Filing* stating that no updates had been filed by the parties since September 21, 2004 and directing the parties to file an update on the status of negotiations no later than December 13, 2004 and on the first of every month thereafter until all issues were resolved and an executed interconnection agreement was filed with the TRA. The parties responded on December 13, 2004 and January 4, 2005 that they were in agreement that negotiations related to this arbitration were on hold pending the issuance of new rules by the Federal Communications Commission and the TRA's decision in Docket No. 04-00381 related to changes of law.³

The TRA notified the parties by letter dated May 24, 2006 that the Authority had ruled on the issues in Docket No. 04-00381 and requested that the parties file a joint letter with the Authority no later than May 31, 2006 advising whether they were ready to proceed in this docket. On May 31, 2006, the parties filed a joint response requesting that the arbitration remain in abeyance pending either the issuance of a written order in Docket No. 04-00381 or a request by one of the parties to proceed. A final order in Docket No. 04-00381 was issued on November 28, 2007,⁴ and an order resolving the issues brought up for reconsideration was issued on June 10, 2008.⁵

³ 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.

⁴ 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, Order (November 28, 2007).


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, Order Granting Reconsideration of Issue 28 on the Merits and Denying Reconsideration of Issue 14 on the Merits (June 10, 2008).

Thereafter, the parties made no filings in this docket, and on July 11, 2008, the TRA sent a letter to the parties requesting that they file a status update by July 31, 2008. On July 31, 2008, the parties filed a joint letter stating that they were negotiating a new interconnection agreement consistent with the TRA's decision in Docket No. 04-00381 and requesting that this matter continue to be held in abeyance pending a request to proceed from either party. The parties have made no filings in this docket since that time.

At the request of the parties, this matter has remained dormant before the Authority in anticipation of the conclusion of the parties' impending settlement negotiations for over five years. As demonstrated by the procedural history and perpetual requests for holding the matter in abeyance by the parties, the matters alleged in the docket either do not require or are not yet ripe for resolution by the Authority.

IT IS THEREFORE ORDERED THAT:

1. This docket is **ADMINISTRATIVELY CLOSED**.
2. In the event that the parties reach a settlement, the docket may be reopened upon the joint motion of the parties for the purpose of the Authority's consideration of the settlement agreement.
3. In the event that settlement negotiations ultimately fail, this Order shall not bar either party, once ready to proceed, from filing a new petition. The filing of such petition shall initiate a new docket.
4. Any party aggrieved by this Order may file a Petition for Reconsideration with the Tennessee Regulatory Authority pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of this Order.



Gary Hotvedt, Pre-Arbitration Officer