

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**February 10 , 2005**

**IN RE:**

**PETITION FOR APPROVAL OF AMENDMENT  
TO THE INTERCONNECTION AGREEMENT  
BETWEEN BELL SOUTH  
TELECOMMUNICATIONS, INC. AND  
1-800-RECONEX, INC. D/B/A USTEL**

**DOCKET NO.  
04-00376**

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**ORDER APPROVING  
FIFTH AMENDMENT TO THE INTERCONNECTION AGREEMENT**

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This matter came before Chairman Pat Miller, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on December 13, 2004, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and 1-800-RECONEX, Inc. d/b/a USTEL.<sup>1</sup>

The original interconnection agreement between these parties was filed on December 19, 2002, and was assigned Docket No. 02-01304. It was approved at a regularly scheduled Authority Conference on February 18, 2003. The first amendment was filed on May 14, 2003, under Docket No. 03-00334 and was approved at a regularly scheduled Authority Conference on July 7, 2003. The second amendment was filed on June 20, 2003, under Docket No. 03-00401

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<sup>1</sup> See *In re Petition of 1-800-RECONEX, Inc for Name Change to 1-800-RECONEX, Inc d/b/a USTEL*, Docket No. 03-00354, *Order Granting Approval of the Petition of 1-800-RECONEX, Inc for Name Change* (June 16, 2003)



and was approved at a regularly scheduled Authority Conference on August 4, 2003.<sup>2</sup> The third amendment was filed on July 9, 2004, under Docket No. 04-00204 and was approved at a regularly scheduled Authority Conference on August 30, 2004. The fourth amendment was filed on August 29, 2004, under Docket No. 04-00269 and was approved at a regularly scheduled Authority Conference on October 11, 2004. The fifth amendment, which is the subject of this docket, was filed on October 22, 2004.

Based upon a review of the amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104 (2004).

2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within BellSouth Telecommunications, Inc.'s service area.

3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it "discriminates against a telecommunications carrier not a party to the agreement" or if the implementation of the agreement "is not consistent with the public interest, convenience or necessity." Unlike arbitrated agreements, a state commission may not reject a

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<sup>2</sup> On September 2, 2003, in Docket No. 03-00401, the Authority issued an *Order Approving First Amendment to Interconnection Agreement*, which did not reflect the total number of amendments to the interconnection agreement. Accordingly, this order reflects the correct procedural history of this docket by stating that the amendment referred to in the September 2, 2003 Order in Docket No. 03-00401 is the second amendment and not the first amendment to the interconnection agreement



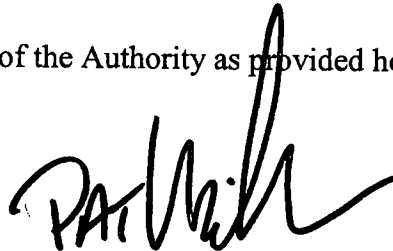
negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>3</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

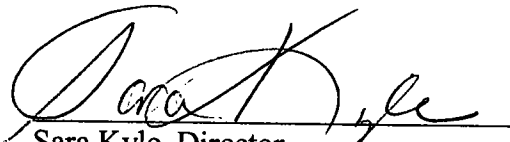
6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104 (2004).

**IT IS THEREFORE ORDERED THAT:**

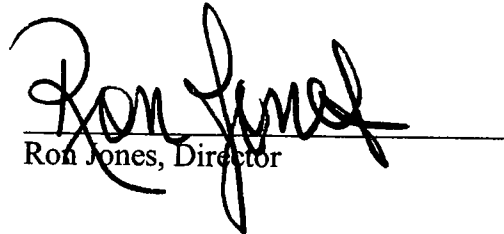
The Petition is granted, and the fifth amendment to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and 1-800-RECONEX, Inc. d/b/a USTEL is approved and is subject to the review of the Authority as provided herein.



Pat Miller, Chairman



Sara Kyle, Director



Ron Jones, Director

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<sup>3</sup> See 47 U.S.C. § 252(e)(2)(B)