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May 12, 2006. 10:00 AM

Ron Jones, Chairman
Tennessee Regulatory Authority
460 James Robertson Pkwy.
Nashville, TN 37243-0505

Re: *Petition to Establish Generic Docket to Consider Amendments to Interconnection Agreements*
Resulting from Changes of Law
Docket Number: 04-00381

Dear Chairman Jones:

On May 8, 2006, Momentum Telecom, Inc. filed with the Authority a copy of a recent decision by the Minnesota Public Utilities Commission affirming that a state regulatory agency has jurisdiction over unbundled network elements made available by a Bell operating company pursuant to Section 271 of the federal Telecommunications Act.

On May 10, 2006, BellSouth submitted a response to Momentum's filing. The response says nothing about the merits of the Minnesota order. It does, however, make several factual errors that may lead to some confusion about the Authority's pending determination of this jurisdictional issue.

1. BellSouth states that the TRA's decision in the ITC^DeltaCom arbitration, Docket 03-00119, "was reached more than 18 months ago."

While the Authority's oral deliberations on that case occurred on June 24, 2004, the Authority's Order was issued October 20, 2005, approximately seven months ago. Moreover, the Authority voted on December 12, 2005, to deny BellSouth's motion to reconsider. On March 22, 2006, Chairman Jones issued a memorandum instructing the Staff to open a generic docket to establish a 271 switching rate as ordered in the arbitration decision. See TRA Docket 06-00080.

2. BellSouth states that the ITC^Deltacom case was a "2-1 decision."

That is correct; the original vote was 2-1. More recently however, the Authority's voted to re-affirm that arbitration order and deny BellSouth's motion to reconsider in a unanimous, 3-0 decision.

3. BellSouth states that the Authority, "has previously rejected the CLECs' 271 theory" and cites to "March 6, 2006 transcripts of Authority deliberations."

The 271 jurisdictional issue was not on the TRA's agenda during the March 6 conference, and the Authority did not vote on that issue. It is scheduled to be addressed on May 15, 2006.

4. BellSouth states that "Director Kyle flatly rejected the 271-based argument" in the dispute over "New Adds" and that "Director Kyle's view ultimately prevailed."

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Director Kyle's dissent (July 13, 2005) in the New Adds dispute says nothing at all about the issue of TRA jurisdiction over 271 elements. It addresses the commingling issue, not the jurisdictional question. Similarly, the TRA's later decision agreeing with Director Kyle (July 25, 2005) does not say anything about the question of TRA jurisdiction over 271 elements.

5. BellSouth states that the CLEC's 271 theory "flies in the face of the FCC's national policy decisions and orders."

As the Minnesota PUC noted, "the question of whether states may set rates for services required by §271 has been pending, unanswered, for several years before the FCC." Minnesota Order at p.4, citing to BellSouth's "Emergency Petition" for preemption of the TRA's ITC^DeltaCom decision, filed by BellSouth on July 1, 2004.

6. Finally, BellSouth states that the Alabama Commission "rejected the CLEC's arguments on all 271 related issues."

While Alabama agreed with BellSouth on the question of a state's ability to set rates for 271 elements, the Commission agreed with the CLECs that a competing carrier had the right under the FCC's commingling rules to combine a 271 element with a 251 element.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:


Henry Walker

HW/djc

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to:

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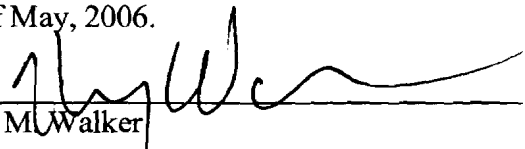
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on this the 12th day of May, 2006.


Henry M. Walker