

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**January 6, 2006**

**IN RE:**

**COMPLAINT OF AT&T AGAINST BELL SOUTH  
OVER TARIFF TO AMEND JURISDICTIONAL  
REPORT REQUIREMENTS NO. TN2004-138**

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**DOCKET NO.  
04-00405**

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**ORDER ACCEPTING WITHDRAWAL OF COMPLAINT**

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This matter came before Chairman Pat Miller, Director Deborah Taylor Tate 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 June 13, 2005 for consideration of the *Notice of Withdrawal of AT&T's Complaint* ("*Notice of Withdrawal*").

On October 1, 2004, BellSouth Telecommunications, Inc. ("BellSouth") filed Tariff No. 2004-1214, which revised its Access Service Tariff to reflect a seven percent (7%) Calling Party Number ("CPN") floor. CPN data allows BellSouth to determine whether a call is interstate or intrastate in nature. Certain calls, however, lack sufficient CPN data for BellSouth to make this determination. The effect of the revision to the tariff was that, for each interexchange carrier ("IXC"), any unidentifiable minutes exceeding seven percent (7%) of the total minutes terminated by BellSouth would be treated as intrastate access minutes and would be charged at a higher intrastate access rate. Prior to the revision, the CPN floor was 19.22%.<sup>1</sup> Tariff No. 2002-1214 became effective October 21, 2004.<sup>2</sup>

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<sup>1</sup> *Response and Answer of BellSouth Telecommunications, Inc.*, p. 3 (December 16, 2004).

<sup>2</sup> Tariff No. 2004-1214 was filed on October 1, 2004 and, in accordance with Tenn. Code Ann. § 65-5-101(c) (2004) which allows tariffs to become effective 21 days after filing, became effective on October 21, 2004.

On November 17, 2004, AT&T Communications of the South Central States, LLC ("AT&T") filed the *Complaint of AT&T Against BellSouth Over Tariff to Amend Jurisdictional Report Requirements No. TN2004-138*<sup>3</sup> ("*Complaint*") against BellSouth requesting that the TRA cancel BellSouth's Tariff Filing to Amend BellSouth Jurisdictional Report (Tariff No. 2004-1214). In its *Complaint*, AT&T opposed BellSouth's revisions to lower the established CPN floor and asserted that this revision would allow BellSouth to automatically re-classify all traffic above the seven percent (7%) floor as intrastate traffic including traffic that is, in fact, interstate. AT&T asserted that there were a number of circumstances for which it was not responsible for the lack of CPN data and that it, as well as other IXC's, should not be forced to pay higher intrastate access rates on what were actually interstate calls.

On December 16, 2004, BellSouth filed its *Response and Answer of BellSouth Telecommunications, Inc.* ("*Response*"). In the *Response*, BellSouth stated that the seven percent (7%) floor established in its tariff was based upon a 2004 study performed by Agilent Technologies that found that approximately seven percent (7%) of an IXC's traffic is legitimately unidentifiable as interstate or intrastate due to technical limitations. BellSouth also claimed that, in practice, much more than seven percent (7%) of the terminating traffic sent by many IXC's is missing CPN data. BellSouth argued that, if an IXC proved calls lacking CPN data in excess of the seven percent (7%) floor were interstate and not intrastate in nature, BellSouth would apply the appropriate interstate charge.

This matter was deferred in anticipation of a potential settlement at both the February 28, 2005 and the March 14, 2005 Authority Conferences. Then, on March 29, 2005 BellSouth filed a letter on behalf of both parties stating that a settlement agreement had been reached in this

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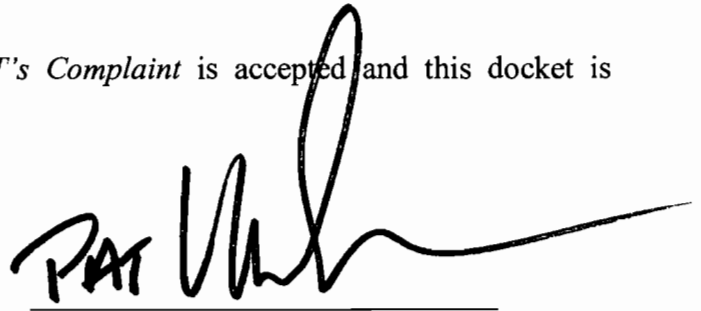
<sup>3</sup> On January 11, 2005, AT&T filed a letter with the Authority stating that the correct tariff number in this Docket is Tariff No. 2004-1214 rather than Tariff No. 2004-138, the tariff number that was originally identified in the *Complaint*.

proceeding. The letter states that BellSouth has agreed to modify its tariff after which AT&T will dismiss its *Complaint* in Tennessee. On April 22, 2005 the *Notice of Withdrawal* was filed in this docket. The *Notice of Withdrawal* states that consistent with the agreement, BellSouth filed a revised tariff, Tariff No. 2005-0480, on April 15, 2005 and that AT&T now deems its *Complaint* to have been satisfied and withdraws its *Complaint*, with prejudice.

During the Authority Conference held on June 13, 2005, upon consideration of the entire record in this matter, the panel voted unanimously to accept AT&T's *Notice of Withdrawal* in its entirety and to close this Docket.

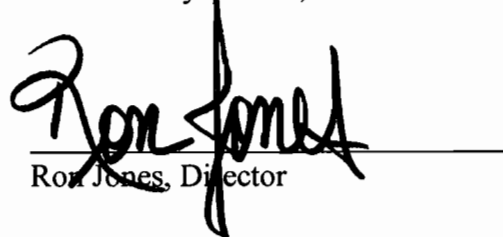
**IT IS THEREFORE ORDERED THAT:**

AT&T's *Notice of Withdrawal of AT&T's Complaint* is accepted and this docket is hereby closed.

  
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Pat Miller, Chairman

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Deborah Taylor Tate, Director<sup>4</sup>

  
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Ron Jones, Director

<sup>4</sup> Director Tate voted in agreement with the other directors but resigned her position as director before the issuance of this order.