

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

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In Re: *Generic Docket to Develop Policy for the Submission and Review of*
CLEC-TO-CLEC Interconnection Agreements.

TRA DOCKET ROOM

Docket No. 05-00327

COMMENTS OF AT&T

AT&T Communications of the South Central States, LLC, TCG MidSouth, Inc, and SBC Long Distance, LLC d/b/a AT&T Long Distance (collectively "AT&T"), pursuant to the Tennessee Regulatory Authority's ("TRA" or the "Authority") Notice requesting comments from interested parties dated August 24, 2006, hereby submits its Comments encouraging the Authority to refrain from establishing a rule that would impose an obligation upon Competitive Local Exchange Carriers ("CLECs") to negotiate Section 252 interconnection agreements ("ICAs") with other CLECs and to acknowledge and affirm that in the absence of a formal interconnection agreement, less formal arrangements are adequate to meet the requirements of Section 251.

**I. CLECs Have No Obligation to Negotiate
Interconnection Agreements With Other
CLECs Under Section 251 of The
Telecommunications Act of 1996.**

Section 251 of the Telecommunications Act of 1996 ("the Act")¹ creates three sets of obligations for various types of telecommunications carriers. Section 251(a) establishes a general duty on *all telecommunications carriers* to interconnect directly or indirectly with other carriers; Section 251(b) creates obligations for all *local exchange carriers* regarding (1) resale;

¹ 47 U.S.C. § 251.

(2) number portability; (3) dialing parity; (4) access to rights-of-way; and (5) reciprocal compensation; and Section 251 (c) applies to *incumbent local exchange carriers* (“ILECs”) and includes among other things the duty to negotiate in good faith the terms and conditions of an agreement to implement the requirements of § 251(b) and (c). Thus, according to the FCC, “section 251 of the Act creates a three-tiered hierarchy of escalating obligations based on the type of carrier involved.”²

The duty to negotiate an ICA under § 251(c) applies to negotiations between ILECs and CLECs, but it does not apply to CLECs negotiating amongst themselves. “Although there are duties established by § 251(a) and (b), and such duties apply to [CLECs], the Court cannot find any language in the Act indicating that these duties independently give rise to a duty to negotiate or to arbitrate.”³ Thus, it is clear that the Act imposes no duty on CLECs to negotiate Section 252 ICAs with other CLECs. In the absence of such a duty under the Act, the TRA should not entertain a rule that would force this obligation on CLECs.

II. Requiring CLECs to Negotiate Interconnection Agreements With Other CLECs Would be Unduly Burdensome, Economically Inefficient, and Would Provide No Added Benefit to the Provision Of Telecommunications Services in Tennessee.

Notwithstanding that § 251(c) does not impose a duty on CLECs to negotiate Section 252 ICAs with other CLECs, the time, expense and resources required to negotiate (if possible) interconnection agreements with a myriad of CLECs would by itself impede the development of

² *Total Telecomms. Servs., Inc. & Atlas Tel. Co., Inc. v. AT&T Corp.*, FCC 01-84, File No. E-97-003, Memorandum Op. & Order at ¶ 25.

³ *Sprint Communications Co., L.P. v. PUC of Tex. And Brazos Tel. Co-op., Inc.*, U.S. Dist. Court, Western Dist. of TX., Austin Div., Slip Opinion, August 14, 2006, p. 10.

local competition and would do so unnecessarily.⁴ Indeed, the traffic volumes exchanged between CLECs in most states is generally so small that the cost of capturing and verifying the traffic data and then having CLECs bill each other outweighs the potential revenue to either CLEC.


CONCLUSION

Because the Telecommunications Act of 1996 does not impose a duty on CLECs to negotiate Section 252 interconnection agreements with other CLECs, the TRA should refrain from adopting a rule that would be in conflict with the comprehensive scheme adopted by Congress.

Respectfully submitted,

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⁴ The Authority's website lists 117 CLECs authorized to provide service in Tennessee. Requiring CLECs to negotiate ICAs with each other potentially could result in thousands of such agreements being submitted to the Authority for arbitration.