

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 2, 2006

IN RE:

**PETITION FOR APPROVAL OF THE AMENDMENT
TO THE INTERCONNECTION AGREEMENT BETWEEN
BELLSOUTH TELECOMMUNICATIONS, INC. AND
KMC TELECOM V, INC.**

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**DOCKET NO.
06-00003**

**ORDER REJECTING AMENDMENT
TO THE INTERCONNECTION AGREEMENT**

This matter came before Chairman Ron Jones, Director Pat Miller, and Director Sara Kyle of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on April 3, 2006 to consider the *Petition for Approval of the Amendment to the Interconnection Agreement between BellSouth Telecommunications, Inc. (“BellSouth”) and KMC Telecom V, Inc. (“KMC”)* filed on January 9, 2006.¹

At an Authority Conference on October 17, 2005, the Directors considered the interconnection agreement between BellSouth and KMC in TRA Docket No. 05-00208. In that docket, the Authority recognized that KMC’s authority to transact business in the State of Tennessee had been revoked by the Tennessee Secretary of State. The panel made approval of the interconnection agreement contingent on KMC being reinstated by the Tennessee Secretary of State by October 31, 2005 and providing the Authority with proof of its reinstatement by November 1, 2005.² The Authority also determined that “failure of KMC Telecom V, Inc. to obtain reinstatement by October 31, 2005 will result in the agreement being deemed rejected as of October 17, 2005 without further action by the panel.”³

¹ The original interconnection agreement was filed and considered in TRA Docket No. 05-00208.

² See *In re: Petition for Approval of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and KMC Telecom V, Inc., Order Approving the Interconnection Agreement*, Docket No. 05-00208, November 9, 2005.

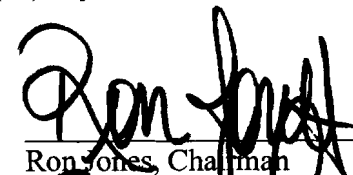
³ *Id.* at 2.

The agreement and amendment in this docket are reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104 (2004). Section 252(e)(2)(A) of Title 47 of the United States Code 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.” The agreement and amendment thereto are contrary to the public interest in that one party to the agreement, KMC, is not properly authorized to transact business in the State.

During the April 3, 2006 Authority Conference, the panel determined that KMC had not been reinstated by the Tennessee Secretary of State. Based upon a review of the amendment, the record in this matter, and the failure of KMC to meet the contingency of reinstatement by the Tennessee Secretary of State as determined in Docket No. 05-00208, the panel voted unanimously to reject the amendment to the interconnection agreement in TRA Docket 06-00003.

IT IS THEREFORE ORDERED THAT:

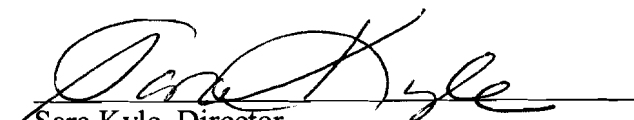
1. The *Petition For Approval Of The Amendment to the Interconnection Agreement between BellSouth Telecommunications, Inc. and KMC Telecom V, Inc.* is rejected.
2. Any party aggrieved by the Authority’s decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order.



Ron Jones, Chairman



Pat Miller, Director



Sara Kyle, Director