

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

January 29, 2007

IN RE:

**PETITION FOR APPROVAL OF THE INTERCONNECTION,
COLLOCATION AND RESALE AGREEMENT BETWEEN
UNITED TELEPHONE-SOUTHEAST, INC. D/B/A EMBARQ
AND ACCESS POINT, INC.**

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**DOCKET NO.
06-00302**

**ORDER APPROVING THE INTERCONNECTION,
COLLOCATION AND RESALE AGREEMENT**

This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on January 8, 2007 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the interconnection, collocation and resale agreement negotiated between United Telephone-Southeast, Inc. d/b/a Embarq ("Embarq") and Access Point, Inc. filed on December 4, 2006. Collocation is one of the elements of interconnection included in 47 U.S.C. § 251 and, as such, collocation agreements require state approval pursuant to 47 U.S.C. § 252.

Based upon a review of the agreement, 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 agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within Embarq's service area.

3) The agreement 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 negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ 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 agreement 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 agreement 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 interconnection, collocation and resale agreement negotiated between United Telephone-Southeast, Inc. d/b/a Embarq and Access Point, Inc. is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


Eddie Roberson, Director


Pat Miller, Director

¹ See 47 U.S.C. § 252(e)(2)(B).