

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 5, 2007

IN RE:

**PETITION FOR APPROVAL OF THE RIGHT-OF-WAY,
CONDUITS AND POLE ATTACHMENTS AGREEMENT
BETWEEN BELL SOUTH TELECOMMUNICATIONS, INC.
AND AMERICAN FIBER SYSTEMS, INC.**

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**DOCKET NO.
07-00122**

**ORDER APPROVING THE RIGHT-OF-WAY, CONDUITS
AND POLE ATTACHMENTS AGREEMENT**

This matter came before Director Pat Miller, Director Sara Kyle, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on July 23, 2007 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the right-of-way, conduits and pole attachments agreement negotiated between BellSouth Telecommunications, Inc. ("BellSouth") and American Fiber Systems, Inc. filed on May 15, 2007.

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 a means for alternative sources of telecommunications services within BellSouth's service area.
- 3) The agreement is not discriminatory to telecommunications service providers that are not parties thereto.

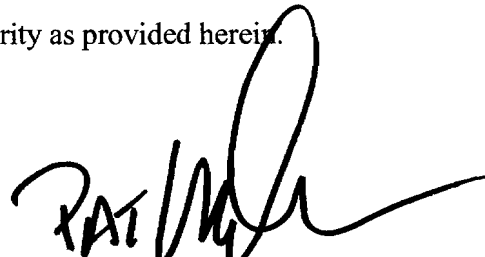
4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike negotiated agreements, a state commission may reject an arbitrated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. § 251.¹ The Authority finds that neither ground for rejection of a negotiated agreement exists.

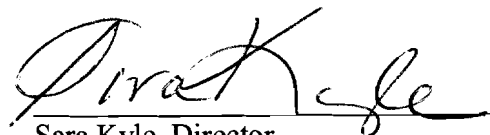
5) No person or entity has sought to intervene in this docket.

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 right-of-way, conduits and pole attachments agreement negotiated between BellSouth Telecommunications, Inc. and American Fiber Systems, Inc. is approved and is subject to the review of the Authority as provided herein.



Pat Miller, Director

Sara Kyle, Director

Ron Jones, Director

¹ See 47 U.S.C. § 252(e)(2)(B).