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September 19, 2007

VIA HAND DELIVERY

filed electronically in docket office on 09/19/07

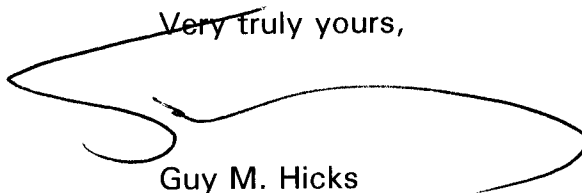
Hon. Eddie Roberson, Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *AT&T Tennessee's Petition for An Order to Eliminate State IntraLATA  
Toll Equal Access Scripting Requirements, Consistent with FCC Order  
on Interstate Requirements*  
Docket No. 07-00217

Dear Chairman Roberson:

Enclosed are the original and four copies of *AT&T Tennessee's Petition for  
An Order to Eliminate State IntraLATA Toll Equal Access Scripting Requirements,  
Consistent with FCC Order on Interstate Requirements*.

Very truly yours,



Guy M. Hicks

GMH:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

In re: *AT&T Tennessee's Petition for An Order to Eliminate State IntraLATA Toll Equal Access Scripting Requirements, Consistent with FCC Order on Interstate Requirements*

Docket No. \_\_\_\_\_

**AT&T TENNESSEE'S PETITION FOR AN ORDER TO  
ELIMINATE STATE INTRALATA TOLL EQUAL ACCESS  
SCRIPTING REQUIREMENTS, CONSISTENT WITH  
FCC ORDER ON INTERSTATE REQUIREMENTS**

**Introduction**

In 1999, the Tennessee Regulatory Authority (the "Authority" or "TRA") implemented 1 +/0 + dialing parity plan for intraLATA long distance services in order to foster intraLATA toll competition in Tennessee.<sup>1</sup> In so doing, the TRA adopted equal access scripting requirements proposed by BellSouth Telecommunications, Inc. ("BellSouth") that mirrored federal requirements created years before when the Federal Communications Commissions ("FCC") implemented dialing parity for interLATA long distance services.<sup>2</sup> Those federal requirements have now been eliminated by the FCC.

Recently, the FCC concluded that the equal access scripting requirements for interLATA long distance service are no longer justified in today's competitive environment, and granted the Regional Bell Operating Companies ("RBOCs")

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<sup>1</sup> See TRA Order Approving BellSouth Telecommunications, Inc.'s Second Revised IntraLATA Toll Dialing Parity Plan, entered June 22, 1999, in Docket No. 97-01399.

<sup>2</sup> Id. at p. 7.

forbearance from their continued application, finding that such requirements are in fact harmful and confusing to customers.<sup>3</sup> In this Petition, AT&T Tennessee respectfully requests that the Authority also adopt this same ruling for intraLATA services in Tennessee. As described below, the public interest served by elimination of these requirements applies equally at the federal and state levels, and the TRA should adopt the same approach ordered by the FCC.

### **Implementation of Long Distance Competition**

Following divestiture in 1984, the FCC imposed equal access requirements in order to implement dialing parity for newly competitive interLATA long distance services.<sup>4</sup> Under the equal access scripting requirements, incumbent local exchange carriers ("incumbent LECs" or "ILECs") had to inform new local exchange customers that they could obtain stand-alone long distance service from other carriers and offer to read the customers a list of carriers offering long distance service in their area. At that time, competition in the interstate long distance market was in its early stages. The equal access scripting requirement helped ensure that customers fully understood that they had a choice of interLATA long distance service providers.

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<sup>3</sup> See Petition of AT&T Inc. for Forbearance Under 47 U.S.C. §160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services, Report and Order and Memorandum Opinion and Order, WC Docket Nos. 02-112, 00-175, 06-120, August 31, 2007, at ¶117 (hereinafter "FCC's Long Distance Order")

<sup>4</sup> *United States v. Western Elec. Co., Inc.*, 578 F. Supp. 668, 670 (D.D.C. 1983) (equal access requirements were meant to abolish a "substantial disparity in dialing convenience" caused by end-users having to dial a multiple-digit access code to access interexchange carriers other than AT&T)

In 1999, the Authority approved BellSouth's dialing parity plan for intraLATA long distance service providers through equal access 1 +/0+ dialing presubscription. Like the FCC, the TRA imposed upon ILECs equal access scripting requirements in order to ensure that customers were adequately educated as to their ***new choices*** in the 1 +/0+ intraLATA long distance market. Section IV of the *Second Revised IntraLATA Toll Dialing Parity Plan* adopted by the TRA in its *Order* provides as follows:

***New Installation Customers***

BellSouth customer contact representatives will be provided discussion guidelines that will provide a new customer with the following information:

1. Inform the customer that a choice of intraLATA toll providers is now available to him or her.
2. ***Offer to read the customer a list of available carriers in randomly generated order.***
3. Advise the customer that various carriers provide intraLATA toll service and that BellSouth is one of those carriers.

Customers who do not make a positive choice for an intraLATA toll carrier will be notified that they will not be automatically defaulted to a carrier and will be required to dial an access code to place intraLATA toll calls until they make an affirmative choice for an intraLATA toll carrier. (emphasis added.)

**The FCC's August 31, 2007 Order**

Since 1999, competition has evolved substantially in the telecommunications market. Customers are well aware today that they have choices for their telecommunications services, and there are multiple sources of telecommunications services providers.<sup>5</sup> On August 31, 2007, the FCC released an Order in which it

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<sup>5</sup> This awareness of competition has been recognized by the TRA. In 2005, the Authority granted BellSouth's petition to exempt IntraLATA toll services from price tariffing requirements on

established a new framework to govern the provision of in-region, long distance services by the Bell Operating Companies and their incumbent local exchange carrier affiliates. This new framework “replaces unnecessarily burdensome regulation with less intrusive measures that protect important customer interests while allowing the BOCs ... to respond to marketplace demands efficiently and effectively.”<sup>6</sup>

In the same August 31, 2007 Order, the FCC also granted AT&T, Inc.’s petition for forbearance from application of the Equal Access Scripting Requirement (“EA Scripting Requirement”).<sup>7</sup> The FCC concluded that such action served the public interest for several reasons. First, the EA Scripting Requirement was designed to foster fair competition in the provision of stand-alone long distance service at a time when competition in the provision of stand-alone long distance services was nascent, and there was little, if any, competition in the provision of local exchange service.<sup>8</sup> Over the years, competition in the telecommunications market has grown by leaps and bounds, and the nature of that competition has changed significantly. In particular, the FCC found that

the stand-alone long distance competition that the ... Scripting Requirement was designed to protect has largely given way to competition between service bundles that include both local exchange and long distance service or ‘any distance’ minutes that can be used for both local exchange and long distance service or ‘any distance’

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the basis of its finding that the service was competitive. *See Order Granting Exemption of Certain Services*, entered June 6, 2005 in Docket No. 03-00391.

<sup>6</sup> FCC’s Long Distance Order. at ¶1.

<sup>7</sup>Id. at ¶¶117-127.

<sup>8</sup> Id. at ¶120.

minutes that can be used for both local exchange and long distance calling.<sup>9</sup>

Moreover, the minority of customers that still take stand-alone long distance services now have additional options available for making long distance calls, including mobile wireless services and prepaid calling cards.<sup>10</sup>

Despite the development of these competitive alternatives, the FCC found that the EA Scripting Requirement focuses solely on alternative presubscribed wireline long distance providers. Thus, “instead of increasing consumer awareness of competitive alternatives, ... the artificially narrow focus of *the EA Scripting Requirement may, in fact, confuse or mislead consumers* and cause them not to investigate alternative means of making long distance calls.”<sup>11</sup>(emphasis added) For this reason, the FCC concluded that “competition for stand-alone long distance services would function better absent the potential market-place distorting effects of the current EA scripting requirement.”<sup>12</sup> Accordingly, the FCC granted forbearance from continued application of these rules effective August 31, 2007.<sup>13</sup>

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<sup>9</sup> Id. at ¶ 121 (for example, service bundles are increasingly available from cable operators and interconnected VoIP Providers; and wireless telephone subscribers also regularly use their “any distance” minutes for long distance calling).

<sup>10</sup> Id. at ¶122.

<sup>11</sup> Id.

<sup>12</sup> Id.; *see also* ¶¶ 123-24 (“current EA Scripting Requirement is likely to distort competition” and “harm consumers” “and thus we find that forbearance from that requirement is in the public interest”).

<sup>13</sup> Id. at ¶ 127.

### **Request for Relief**

For all of the reasons cited by the FCC in its August 31, 2007 Order, AT&T Tennessee requests that the Authority expeditiously eliminate the companion scripting at the state level for intraLATA long distance service. There is simply no logical basis for continuing to enforce scripting requirements for intraLATA long distance service while eliminating such requirements for interLATA long distance at a federal level. The intent behind both sets of requirements as implemented is no longer served by their continued application. Both the FCC and the TRA has recognized the vigorous competition in the telecommunications market today, and customers are well aware that they have choices.

Moreover, continued application of the scripting requirements at a state level, like those at the federal level, artificially focuses on one set of competitive alternatives at the expense of other less traditional options and, the FCC correctly determined that these scripting requirements can “confuse or mislead consumers and cause them not to investigate alternative means of making long distance calls.”<sup>14</sup> Finally, continued application of the scripting requirement for intraLATA long distance service, while removing it for interLATA service, will greatly confuse and frustrate customers, who for the most part no longer focus on stand-alone long distance services apart from local service, much less on out-moded distinctions between inter- and intrastate long distance service.

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<sup>14</sup> Id. at ¶ 122.

Indeed, continued enforcement of the equal access scripting requirements for intraLATA long distance service will effectively thwart the public interest intended to be served by the FCC's removal of such requirements for interLATA long distance service. Nothing at all will be gained if, consistent with the FCC's Long Distance Order, AT&T Tennessee removes the scripting requirement for interLATA long distance service only to be compelled to continue to include such messaging for intraLATA long distance service. If anything, the potential for customer confusion actually will increase. Thus, far from serving any continued public interest, continued application of the current state scripting, in light of the FCC action, will disserve the consuming public.

For the foregoing reasons, AT&T Tennessee respectfully requests that the Authority eliminate the intrastate scripting requirements incorporated in the Authority's June 22, 1999 *Order* to be consistent with the FCC's recent order eliminating these requirements for interstate services.

Respectfully submitted,

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