

**BEFORE THE TENNESSE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In re:)	
)	
Petition for Regulatory Exemption)	Docket No. 08-00192
Pursuant to T.C.A. § 65-5-108(b))	
to Increase Regulatory Parity and)	
Modernization)	

**BRIEF OF THE TENNESSEE CABLE TELECOMMUNICATIONS ASSOCIATION
ADDRESSING THE AUTHORITY'S JURISDICTION TO EXEMPT AT&T'S BUNDLES
UNDER T.C.A. § 65-37-101, ET. SEQ.**

In accordance with the *Order Establishing List of Issues and Setting a Procedural Schedule*,¹ the Tennessee Cable Telecommunications Association ("TCTA") hereby files this Brief addressing whether the TRA has jurisdiction to exempt AT&T from the statutory requirements contained in Tenn. Code Ann. § 65-37-101, *et seq.* regarding AT&T's bundles. For the purposes of brevity, TCTA will not restate here the travel of this case or the entire list of issues to be adjudicated by the Authority in this matter.

AT&T, in its Petition, has asked the Authority to exempt bundles from price regulation, but seeks such deregulation by citing to Tenn. Code Ann. § 65-5-108(b). That code section allows for the TRA to adjudicate potential exemption of "a telecommunications service for which existing and potential competition is an effective regulator of the price of those services." This jurisdiction only extends to individual telecommunications services. Bundles of telecommunications services are addressed in an entirely different chapter of the title: Tenn. Code Ann. § 65-37-101, *et. seq.* "The Tennessee regulatory authority (TRA) shall retain regulatory jurisdiction established in this title for specific, individual telecommunications

¹ *Order Establishing List of Issues and Setting a Procedural Schedule*, January 23, 2009 ("Issues Order").

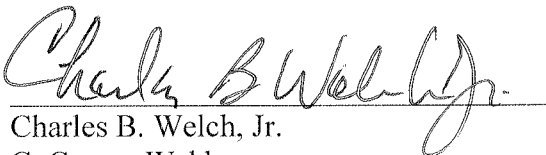
services. Except as provided in this section, the TRA **shall not assert regulatory jurisdiction over the retail offering of combinations or bundles of products or services[.]**” Tenn. Code Ann. § 65-37-103(a)(1). (Emphasis added).

In its Petition, AT&T argues, “bundles are already subject to little TRA jurisdiction.”² That jurisdiction, though, is dictated by the remainder of the subsections within Tenn. Code Ann. § 65-37-103, which mandate specific regulations dealing with the advertisement, distribution and taxation of bundles. As pointed out above, in subsection (a)(1), the TRA’s jurisdiction to review the regulatory restrictions on bundles ends there. As a result, even if we were to accept as true every fact asserted by AT&T regarding sufficient market competition to effectively regulate the prices for bundled services, such a finding would do nothing to expand the TRA’s jurisdiction to even consider regulatory exemption for those bundled services.

Based upon the foregoing, the TCTA must concur with the Hearing Officer’s opinion that “AT&T’s inclusion of a request for exemption from the regulatory requirements in Tenn. Code Ann. § 65-37-101, *et seq.* appears to be beyond the scope of the relief afforded in Tenn. Code Ann. § 65-5-108(b).”³

Respectfully submitted,

Tennessee Cable Telecommunications Association

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² *Petition for Regulatory Exemption Pursuant to T.C.A. § 65-5-108(b) to Increase Regulatory Parity and Modernization*, (October 9, 2008).

³ *Issues Order* at 22.

CERTIFICATE OF SERVICE

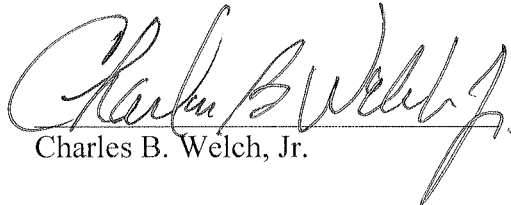
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<input type="checkbox"/> Overnight	Nashville, Tennessee 37201
<input checked="" type="checkbox"/> Electronic	gh1402@att.com

<input type="checkbox"/> Hand	Paul F. Rice
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