

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:

August 5, 2009

PETITION OF BELL SOUTH REQUESTING
RELIEF FROM PAYING FINES ASSOCIATED
WITH REPOSTING SQM PERFORMANCE DATA

DOCKET NO.
09-00083

ORDER REQUIRING FILING OF INFORMATION BY AT&T AND PERMITTING FILING
OF COMMENTS BY INTERESTED PARTIES

This matter came before Chairman Sara Kyle, Director Kenneth C. Hill, and Director Mary W. Freeman of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on July 13, 2009, for consideration of the *Petition Requesting Relief from Paying Fines Associated with Reposting SQM Performance Data* ("Petition") filed by BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee ("AT&T") on June 11, 2009.

BACKGROUND

In the *Petition*, AT&T requests relief from the provisions of its Self-Effectuating Enforcement Mechanism ("SEEM") Administrative Plan that requires it to pay the Authority a fine of \$35,200 for reposting results to its Service Quality Measurement ("SQM") plan. AT&T explains that a coding error caused certain activity to be posted under Resale results instead of UNE results where it belonged. The SQM and SEEM plans were adopted as part of a Settlement Agreement that allowed AT&T to enter the intraLATA long distance market.¹ The SQM plan measures AT&T's wholesale service to competitive local exchange carriers ("CLECs"), and the SEEM plan enforces AT&T's compliance with the

¹ See *In re: Docket to Establish Generic Performance Measurements, Benchmarks and Enforcement Mechanisms for BellSouth Telecommunications, Inc.*, Docket No. 01-00193, *Final Order Accepting Settlement Agreement and Adopting Measurements, Benchmarks and Enforcement Mechanisms* (October 4, 2002). The plan was modified by the *Order Adopting Settlement Agreement* issued August 25, 2005 in Docket No. 04-00150.

standards for wholesale service levels to CLECs that are established in the SQM plan.² Tier 1 penalties are payable directly to CLECs, and Tier 2 penalties are payable to the Authority after three consecutive monthly failures to meet the standard.³ In addition, AT&T pays penalties to the Authority in the amount of \$400 per day for all reposted SQM and SEEM reports.⁴

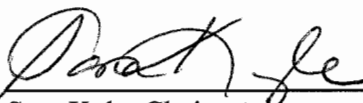
FINDINGS AND CONCLUSIONS

At the July 13, 2009 Authority Conference, the panel voted to order AT&T to file information by July 17, 2009 setting forth the fines it has paid as a result of incorrect posting of SQM data since 2003, together with an explanation of how such paid fines differ from the one that is subject of this docket. The panel further ordered that TRA Staff be designated as a party to work with the Company to determine if resolution can be reached in this matter. The panel additionally voted to permit interested parties to file comments regarding AT&T's *Petition* in this docket. The panel determined that interested parties should have twenty days to file such comments.

IT IS THEREFORE ORDERED THAT:

1. BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee shall file information by July 17, 2009 setting forth the fines it has paid as a result of incorrect posting of Service Quality Measurement data since 2003, together with an explanation of how such paid fines differ from the one that is subject of this docket. Further, the Company shall work with Staff of the Tennessee Regulatory Authority to determine if resolution of this matter can be reached.

2. Interested parties may file comments regarding the *Petition Requesting Relief from Paying Fines Associated with Reposting SQM Performance Data* by 2:00 p.m. on August 3, 2009.


Sara Kyle, Chairman


Kenneth C. Hill, Director


Mary W. Freeman, Director

² Minimum service levels represent either (1) analogs with the retail service that BellSouth provides to its retail customers or (2) performance levels established by the Authority where no retail analog exists.

³ See Tennessee SEEM Administrative Plan, Version 3.02 (Effective December 15, 2008), paras. 2 and 4.

⁴ *Id.*, para. 2.6.