

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 1, 2011

IN RE:

**BELLSOUTH TELECOMMUNICATIONS, INC.
D/B/A AT&T SOUTHEAST D/B/A AT&T
TENNESSEE COMPLAINT AND PETITION
FOR RELIEF VS. BUDGET PREPAY, INC. D/B/A
BUDGET PHONE FKA BUDGET PHONE, INC.**

**DOCKET NO.
10-00004**

**ORDER GRANTING JOINT MOTION TO DISMISS
FILED BY AT&T AND BUDGET PHONE**

This docket was commenced upon the filing of *AT&T Tennessee's Complaint and Petition for Relief* by BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee ("AT&T") on January 8, 2010. On February 25, 2010, Budget Prepay, Inc. d/b/a Budget Phone ("Budget Phone") filed its *Defenses and Answer, and Counter-Claim of Budget Phone*. This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Kenneth C. Hill of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on March 22, 2010, at which time the panel voted unanimously to convene a contested case proceeding and to appoint the Authority's General Counsel or his designee to serve as Hearing Officer for the purpose of handling any preliminary matters, including pending motions, and preparing the matter for a hearing before the panel.

On January 8, 2010, AT&T also filed complaints against Tennessee Telephone Service, LLC, Image Access, Inc., dPi Teleconnect, LLC and BLC Management, LLC d/b/a Angles

Communications Solutions.¹ On May 12, 2010, AT&T and Budget Phone, along with parties in Docket Nos. 10-00005, 10-00006, 10-00007 and 10-00008 filed a *Joint Motion on Procedural Issues* asking the Authority to hold all other pending motions in abeyance and convene a consolidated proceeding in which AT&T and the respondents of all the related dockets would be parties. All parties jointly designated the following three issues, initially raised by AT&T and Budget Phone in this docket, to be resolved in a single consolidated proceeding:

- a. how cash back credits to the resellers should be calculated;
- b. whether the word-of-mouth promotion is available for resale; and
- c. how credits to resellers for waiver of the line connection charge should be calculated.

FINDINGS AND CONCLUSIONS

At a regularly scheduled Authority Conference on June 7, 2010, the panel voted to consider the three common issues set forth above in a consolidated docket, No. 10-00152.² Thereafter, the parties filed a *Joint Motion of Procedural Schedule* on June 15, 2010 and a *Joint Status Report* on November 1, 2010, in which the parties reported on the status of proceedings in other states. On February 2, 2011, AT&T and Budget Phone jointly filed a *Motion to Dismiss* in this docket and the consolidated docket stating that the parties had amicably resolved their disputes and asking that all claims, demands and counter-claims asserted by the parties be dismissed with prejudice.

¹ See *In re: BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee Complaint and Petition for Relief vs. Tennessee Telephone Service, Inc. d/b/a Freedom Communications USA, LLC*, Docket No. 10-00005. See *In re: BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee Complaint and Petition for Relief vs. Image Access, Inc. d/b/a New Phone*, Docket No. 10-00006. See *In re: BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee Complaint and Petition for Relief vs. dPi Teleconnect, LLC*, Docket No. 10-00007. See *In re: BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee Complaint and Petition for Relief vs. BLC Management, LLC d/b/a Angles Communications Solutions*, Docket No. 10-00008.


² See *Order Holding Dockets in Abeyance, Convening a Consolidated Docket and Appointing a Hearing Officer*, Docket Nos. 10-00004, 10-00007 and 10-00008 (July 8, 2010).

Based on the *Motion to Dismiss* filed by AT&T and Budget Phone, the Hearing Officer finds that this docket and all claims, demands and counter-claims asserted herein should be dismissed with prejudice to AT&T and Budget Phone.

IT IS HEREBY ORDERED THAT:

1. This docket and all claims, demands and counter-claims asserted herein are dismissed with prejudice to AT&T and Budget Phone.

2. Because Budget Phone's participation in Consolidated Docket No. 10-00152 was predicated on AT&T's Complaint and Petition for Relief and Budget Phone's Answer and Counterclaims thereto, and because all such claims, demands and counterclaims are hereby dismissed in this docket, this Order shall serve to dismiss and remove Budget Phone as a party from the Consolidated Docket No. 10-00152. A copy of this Order shall be filed in Docket No. 10-00152.


J. Richard Collier
Hearing Officer