

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**July 16, 2010**

<b>IN RE:</b>	)	
	)	
<b>BELLSOUTH TELECOMMUNICATIONS, INC.</b>	)	
<b>D/B/A AT&amp;T SOUTHEAST D/B/A AT&amp;T</b>	)	<b>DOCKET NO.</b>
<b>TENNESSEE COMPLAINT AND PETITION</b>	)	<b>10-00005</b>
<b>FOR RELIEF VS. TENNESSEE TELEPHONE SERVICE,</b>	)	
<b>INC. D/B/A FREEDOM COMMUNICATIONS USA, LLC</b>	)	

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**ORDER STAYING ACTION BY AT&T TENNESSEE UNDER *NOTICE OF*  
JUNE 21, 2010 AND SETTING STATUS CONFERENCE FOR ORAL ARGUMENT**

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This matter is before the Hearing Officer in this docket for consideration of the *Notice of Commencement of Treatment Pursuant to Current Interconnection Agreement* (“*Notice*”) filed by BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee (“AT&T”) in this docket on June 21, 2010. In its *Notice*, AT&T informs Freedom Communications, USA, LLC (“Freedom”) that AT&T will “...suspend, discontinue, and/or terminate Freedom’s service in Tennessee...” unless Freedom pays in full, by July 21, 2010, all amounts Freedom owes to AT&T pursuant to the interconnection agreement between AT&T and Freedom.<sup>1</sup> AT&T asserts that each month Freedom pays only “a fraction” of the amounts billed by AT&T for the services Freedom purchases for resale under the interconnection agreement and that Freedom’s unpaid balance “. . . grows steadily each month and as of May 2010 is substantially more than the balance due even as recently as February 2010.”<sup>2</sup>

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<sup>1</sup> *Notice of Commencement of Treatment Pursuant to Current Interconnection Agreement with EveryCall Communications, Inc.*, p. 1 (June 21, 2010).

<sup>2</sup> *Id.*

Freedom did not file a Response to the *Notice* in this docket. Nevertheless, on July 9, 2010 Freedom did file a *Complaint of Tennessee Telephone d/b/a Freedom Communications Against AT&T Tennessee and Motion for Emergency Relief to Prevent Disruption of Service* (Docket No. 10-00138) in which Freedom asked the TRA to prohibit AT&T from taking action pursuant to its *Notice* pending resolution of “substantially similar” complaint cases filed by AT&T before the TRA that also involve billing disputes between AT&T and other telecommunications service providers.<sup>3</sup>

### **BACKGROUND**

On January 8, 2010, AT&T filed a Complaint in this docket against Tennessee Telephone Service, Inc. d/b/a Freedom Communications USA, LLC (“Freedom”). Various motions, claims and counterclaims have been filed in this docket, including AT&T’s *Motion for Consolidation*. At the Authority Conference on March 22, 2010, the panel convened a contested case in this docket and appointed General Counsel or his designee as Hearing Officer to handle any preliminary matters and to prepare the matter for a hearing before the panel. The panel instructed the Hearing Officer to rule on pending motions, other than AT&T’s *Motion for Consolidation*, and to prepare a recommendation to the panel on the *Motion for Consolidation*.<sup>4</sup>

On May 12, 2010, the parties filed the *Joint Motion on Procedural Issues* (“*Joint Motion*”). In the *Joint Motion*, the parties asked the Authority to (1) hold all other pending

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<sup>3</sup> See in re: *BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee's Complaint and Petition for Relief vs. Budget Prepay, Inc. d/b/a Budget Phone f/k/a Budget Phone, Inc.* (Docket No. 10-00004), *BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee's Complaint and Petition for Relief vs. Tennessee Telephone Service, Inc. d/b/a Freedom Communications USA, LLC* (Docket No. 10-00005), *BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee's Complaint and Petition for Relief vs. Image Access, Inc. d/b/a New Phone* (Docket No. 10-00006), *BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee's Complaint and Petition for Relief vs. dPi Teleconnect, LLC* (Docket No. 10-00007), *BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee's Complaint and Petition for Relief vs. BLC Management, LLC d/b/a Angles Communications Solutions* (Docket No. 10-00008).

<sup>4</sup> *Order Convening a Contested Case and Appointing a Hearing Officer* (April 5, 2010).

motions in abeyance and (2) convene a consolidated proceeding in which AT&T and the Respondents in all of the related dockets are parties. AT&T and the Respondents, including Freedom, agreed that the following three issues could be most efficiently and expeditiously resolved in a single 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.

The *Joint Motion* came before the panel assigned at a regularly scheduled Authority Conference held on June 7, 2010. The panel found that addressing the common issues of these related dockets in a Consolidated Docket would be efficient and expeditious. Further, the panel found that this approach would ensure a consistent resolution for all concerned. Thereafter, based on these findings, the panel voted unanimously to hold all matters in the Complaint dockets in abeyance pending the conclusion of the Consolidated Docket. Following the conclusion of the Consolidated Docket, the Authority will proceed to consider pending matters in the individual dockets. The Authority's decision to hold matters in abeyance applies directly to this docket as well as to the related dockets.

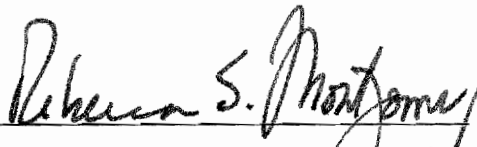
The Hearing Officer *finds* that the *Notice* filed by AT&T on June 21, 2010 may be in direct contravention to the Authority's Order that matters in this docket, as well as the related dockets, should be held in abeyance pending the resolution of the Consolidated Docket. For this reason, the Hearing Officer *orders* AT&T not to proceed with any action to suspend, disconnect or terminate service to Freedom until it can be determined whether the alleged bases for AT&T's *Notice* are grounded in the very issues that are before the Authority for determination in the Consolidated Docket and this docket.

AT&T's Notice filed in this docket requires that action be taken in this docket to make such a determination. The Hearing Officer is hereby scheduling a Status Conference in this docket for **July 26, 2010** following the Authority Conference scheduled for that date. The purpose of this Status Conference is to have the parties to this docket present argument as to whether AT&T's *Notice* and the actions proposed there under should be further stayed because the issues raised by the *Notice* are intertwined with the issues in this docket and the Consolidated Docket. Because AT&T initiated this docket as a Complaint against Freedom and because AT&T desired consolidation of the issues in this docket with the issues in the related dockets, it appears to the Hearing Officer that an effort to pursue self help against Freedom without the matter being considered by this Hearing Officer or the Authority in context of an open proceeding encroaches on the concept of fundamental fairness.

**IT IS THEREFORE ORDERED:**

1. AT&T's *Notice* filed in this docket is under the stay imposed by the Authority in this docket and AT&T ***shall refrain*** from taking any action that would suspend, disconnect or terminate the provision of service to Freedom under the Interconnection Agreement of the parties.
2. A Status Conference is hereby set for **Monday, July 26, 2010** following the Authority Conference scheduled for that date. The parties shall be prepared to present cogent arguments as to whether the issues presented in the *Notice* shall be considered in this Docket or in the Consolidated Docket; whether the *Notice* shall be further stayed; and whether some form of alternative relief should be afforded to the parties.

3. Any persons desiring to intervene in this proceeding and participate in the Status Conference shall file an appropriate petition to intervene no later than **Wednesday, July 21, 2010 at 2:00 p.m. (CDST)**.

  
Rebecca Montgomery, Hearing Officer