

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 14, 2010

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**

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**DOCKET NO.
10-00006**

**ORDER HOLDING DOCKET IN ABEYANCE, CONVENING A CONSOLIDATED
DOCKET AND APPOINTING A HEARING OFFICER**

This matter came before Director Mary W. Freeman, 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 June 7, 2010 for consideration of the *Joint Motion on Procedural Issues* ("Joint Motion") filed on May 12, 2010.

BACKGROUND

On January 8, 2010, Bellsouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee ("AT&T") filed a complaint in this docket against Image Access, Inc. d/b/a New Phone¹ ("New Phone"). 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 voted to convene a contested case in this docket and to appoint the 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

¹ AT&T filed similar complaints against other providers in Docket Nos. 10-00004, 10-00007 and 10-00008 (assigned to Chairman Sara Kyle, Director Roberson and Director Hill) and in Docket No. 10-00005 (assigned to Chairman Kyle, Director Hill, and Director Freeman).

Motion for Consolidation, and to prepare a recommendation to the panel on the *Motion for Consolidation*.²

On May 12, 2010, the *Joint Motion* was filed. The *Joint Motion* asks the Authority to (1) hold all other pending motions in abeyance and (2) convene a consolidated proceeding (“Consolidated Phase”) in which AT&T and the Respondents of all the related dockets are parties. AT&T and New Phone agree that the following three issues can 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.

After the Authority issues an order resolving the issues in the Consolidated Phase docket, the parties intend to pursue any remaining unresolved claims and counterclaims related to the Consolidated Phase, including a determination of dollar amounts owed or credits due each party. The *Joint Motion* also states that, either concurrent with or following the Consolidated Phase, any issue, claim or counterclaim, including related discovery that is not addressed in the Consolidated Phase may be pursued in this individual docket.³

FINDINGS AND CONCLUSIONS

The panel found that addressing the common issues of these related dockets in a Consolidated Phase 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:

1. hold this docket in abeyance pending the conclusion of the Consolidated Phase;
2. convene a new docket to resolve the following three issues:

² *Order Convening a Contested Case and Appointing a Hearing Officer* (April 13, 2010).

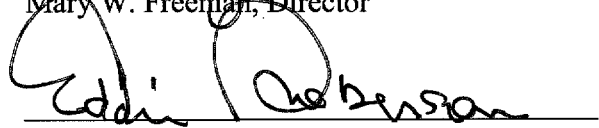
³ *Joint Motion*, pp. 1-3.


- a. the manner in which cash back credits to the resellers should be calculated;
 - b. whether the word-of-mouth promotion is available for resale and, if so, how the credits to resellers should be calculated; and
 - c. the manner in which credits to resellers for waiver of the line connection charge should be calculated; and
3. appoint General Counsel or his designee as Hearing Officer to prepare the new docket for hearing.

IT IS THEREFORE ORDERED THAT:

1. A new consolidated docket is hereby convened to resolve the three issues set out above.
2. This docket is hereby held in abeyance pending the conclusion of the newly convened consolidated docket.
3. General Counsel or his designee is appointed Hearing Officer of the new consolidated docket to prepare the docket for Hearing.


Mary W. Freeman, Director


Eddie Roberson, Director


Kenneth C. Hill, Director