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January 13, 2010

VIA HAND DELIVERY

filed electronically in docket office on 01/13/10

Hon. Sara Kyle, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: *BellSouth Telecommunications, Inc. dba AT&T Southeast dba AT&T Tennessee vs. Budget Prepay, Inc. dba Budget Phone fka Budget Phone, Inc.*
Docket No. 10-00004

BellSouth Telecommunications, Inc. dba AT&T Southeast dba AT&T Tennessee vs. Tennessee Telephone Service, LLC dba Freedom Communications, LLC, dba Freedom Communications USA, LLC
Docket No. 10-00005

BellSouth Telecommunications, Inc. dba AT&T Southeast dba AT&T Tennessee vs. Image Access, Inc. dba New Phone
Docket No. 10-00006

BellSouth Telecommunications, Inc. dba AT&T Southeast dba AT&T Tennessee vs. dPi Teleconnect, LLC
Docket No. 10-00007

BellSouth Telecommunications, Inc. dba AT&T Southeast dba AT&T Tennessee vs. BLC Management, LLC dba Angles Communication Solutions
Docket No. 10-00008

Dear Chairman Kyle:

Enclosed are the original and four copies of *AT&T Tennessee's Motion for Consolidation*. A copy has also been provided electronically.

A copy has been provided to agents for service of process for all defendants.

Sincerely yours,



Guy M. Hicks

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BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *BellSouth Telecommunications, Inc. dba AT&T Southeast dba AT&T Tennessee vs.
Budget Prepay, Inc. dba Budget Phone fka Budget Phone, Inc.*
Docket No. 10-00004

*BellSouth Telecommunications, Inc. dba AT&T Southeast dba AT&T Tennessee vs.
Tennessee Telephone Service, LLC dba Freedom Communications, LLC, dba
Freedom Communications USA, LLC*
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dPi Teleconnect, LLC*
Docket No. 10-00007

*BellSouth Telecommunications, Inc. dba AT&T Southeast dba AT&T Tennessee vs.
BLC Management, LLC dba Angles Communication Solutions*
Docket No. 10-00008

AT&T TENNESSEE'S MOTION FOR CONSOLIDATION

BellSouth Telecommunications, Inc. dba AT&T Tennessee ("AT&T Tennessee")
respectfully requests that the Tennessee Regulatory Authority (the "TRA" or "Authority")
consolidate these dockets for the limited purposes of expeditiously resolving the two common

issues set forth below.¹ At a minimum, this limited consolidation will result in a more manageable set of issues for resolution in each of the five individual dockets, and it may even eliminate the need for further proceedings in the individual dockets.

I. LAW

The Tennessee Rules of Civil Procedure provide that “[w]hen actions involving a common question of law or fact are pending before a court, the court may order all the actions consolidated or heard jointly, and may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delays.”² Similarly, the Authority may, on its own motion or the motion of any party, consolidate cases in order to further the just, efficient and economical disposition of cases.³ For the reasons set forth below, the Authority should exercise its discretion to grant AT&T Tennessee’s motion to consolidate.⁴

II. ARGUMENT

These five dockets currently address, in the aggregate, more than \$2 million of past-due and unpaid balances, and that amount grows each month. Each month, AT&T Tennessee sends the Defendant Resellers⁵ bills for services they purchase for resale, and each month the Defendant Resellers refuse to pay a significant portion of those bills. The substantial majority of the amounts the Defendant Resellers have withheld, and continue to withhold, are subject to

¹ These common issues, and a summary of AT&T Tennessee’s position on them, are set forth in Section V. of the respective Complaints and Petitions.

² See Tennessee R. Civ. P. 42.01.

³ See TRA Rule 1220-1-2-.22.

⁴ Cf. *Van Zandt v. Dance*, 827 S.W.2d 786, 787 (Tenn. Ct. App. 1991). A motion to consolidate may be made whenever a common issue appears. The court has broad discretion to order consolidation after weighing the advantages of savings of time and effort against any extra expense, delay, inconvenience, or prejudice which might be caused by joint trial.

⁵ The Defendant Resellers are Tennessee Telephone Service, LLC dba Freedom Communications, LLC dba Freedom Communications USA, LLC; BLC Management, LLC dba Angles Communication Solutions; Budget Prepay, Inc. dba Budget Phone fka Budget Phone, Inc.; dPi Teleconnect; and Image Access, Inc. dba New Phone.

one or both of the following common issues between the Defendant Resellers and AT&T Tennessee: (1) whether AT&T Tennessee can apply the resale discount approved by the Authority to the cashback component of various promotional offers that AT&T Tennessee makes available for resale; and (2) whether AT&T Tennessee's customer referral marketing promotions (such as the "word-of-mouth" promotion) are subject to resale.

The facts associated with these common issues do not vary significantly (if at all) from one docket to the next, and few (if any) of those facts are in dispute. Moreover, the legal issues associated with these common issues are the same from docket to docket. Because the facts and law associated with these common issues are substantially similar across all five of these dockets, AT&T Tennessee respectfully requests that the Authority consolidate these five dockets for the limited purpose of expeditiously and efficiently resolving these common issues.

This limited consolidation will achieve the following benefits:

1. the Authority will have the benefit of hearing evidence (if any) and argument from all of the parties involved before issuing a decision on the merits of the two common issues;
2. addressing the two common issues in a single hearing (rather than in five separate hearings) will conserve the time and resources of the Authority, its Staff, and the parties;
3. addressing the two common issues in a single hearing (rather than in five separate hearings) will conserve space on the Authority's hearing calendar;
4. an expeditious resolution of the two common issues will break the existing stalemate that results in increasing receivables for AT&T Tennessee and increasing payables for the Defendant Resellers,
5. an expeditious resolution of the two common issues will provide business certainty for AT&T Tennessee and the Defendant Resellers on a going-forward basis; and

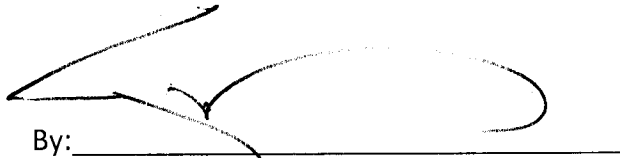
6. if it does not altogether eliminate the need for further proceedings in the individual dockets, this limited consolidation will result in a more focused and manageable set of issues for resolution in the individual dockets.⁶

CONCLUSION

For the reasons set forth above, AT&T Tennessee respectfully requests that the Authority consolidate these five dockets for the limited purposes of expeditiously resolving the three common issues set forth above.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.
dba AT&T SOUTHEAST dba AT&T TENNESSEE



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⁶ Once the two common issues are resolved, AT&T Tennessee and one or more of the individual Defendant Resellers likely can reach agreement on the amounts associated those issues. Additionally, once the two common issues are resolved, the remaining amounts due and owing in many cases will be relatively small and likely can be resolved by agreement of the parties. Even if that is not the case, however, the issues that remain after the two common issues are resolved are likely to be fewer, better-defined, and less overlapping than they would be absent the limited consolidation requested by AT&T Tennessee.

CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2010, a copy of the foregoing document was served on the following, via the method indicated:

☐ Hand
☒ Mail
☐ Facsimile
☐ Overnight
☐ Electronic

Budget Prepay, Inc.
National Registered Agents, Inc.
2300 Hillsboro Road, Suite 305
Nashville, TN 37212

☐ Hand
☒ Mail
☐ Facsimile
☐ Overnight
☐ Electronic

Mr. Bart W. Howard
Tennessee Telephone Service, LLC
220 Creekside Drive
Dickson, TN 37055

☐ Hand
☒ Mail
☐ Facsimile
☐ Overnight
☐ Electronic

Image Access, Inc.
CT Corporation System
800 S. Gay St., #2021
Knoxville, TN 37929

☐ Hand
☐ Mail
☐ Facsimile
☐ Overnight
☒ Electronic

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