

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 29, 2011

IN RE:

**EXAMINATION OF ISSUES SURROUNDING
BELLSOUTH TELECOMMUNICATIONS, INC.
D/B/A AT&T TENNESSEE'S NOTICE OF JUNE 28,
2011 CONCERNING BLC MANAGEMENT, LLC
D/B/A ANGLES COMMUNICATION SOLUTIONS,
DPI TELECONNECT, LLC, GANOCO, INC. D/B/A
AMERICAN DIAL TONE, IMAGE ACCESS, INC.
D/B/A NEWPHONE, AND ONETONE TELECOM,
INC.**

**DOCKET NO.
11-00109**

**ORDER REFLECTING ACTION TAKEN AT STATUS CONFERENCE,
ESTABLISHING A PROCEDURAL SCHEDULE AND GRANTING PETITION TO
INTERVENE**

This matter is before the Hearing Officer to establish a procedural schedule and to resolve certain preliminary matters.

TRAVEL OF THE CASE

On June 28, 2011, the Tennessee Regulatory Authority ("Authority" or "TRA") received a letter from BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T Tennessee ("AT&T") notifying the TRA that it intended to disconnect local resold service to BLC Management, LLC d/b/a Angles Communication Solutions, dPi Teleconnect, LLC, Ganoco, Inc. d/b/a American Dial Tone, Image Access, Inc. d/b/a NewPhone, and OneTone Telecom Inc. (the "Resellers"), for non-payment of outstanding balances.¹ TRA General Counsel requested the

¹See *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 Communication Solutions*, Docket No. 10-00008, *AT&T's Response To Letter From Richard Collier*, Exhibit A (July 1, 2011).

parties file a response explaining why AT&T's actions referenced in the letter were not governed by current Authority Order in Docket Number 10-00008, and therefore, not in compliance with Authority directive.² AT&T and BLC Management, LLC d/b/a Angles Communication Solutions ("Angles") submitted filings on this issue.³ In its letter, Angles requested that the parties be able to come before the directors at the next conference to address the actions of AT&T.

At a regularly scheduled Authority Conference on July 11, 2011, the parties appeared before Chairman Eddie Roberson, Director Kenneth C. Hill, Director Sara Kyle and Director Mary W. Freeman. After hearing from both parties, the directors voted to open a docket and appoint Director Hill to serve as Hearing Officer for the purpose of preparing this matter for hearing, including handling preliminary matters and establishing a procedural schedule.

STATUS CONFERENCE

In an effort to expedite the proceedings in this docket, a Status Conference was held on **July 13, 2011, at 10:00 a.m.** In attendance at the Status Conference were the following parties represented by counsel:

BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee –
Guy M. Hicks, Esq., 33 Commerce Street, Suite 2101, Nashville,
Tennessee, 37201-3300.

BLC Management, LLC d/b/a Angles Communication Solutions,
dPi Teleconnect, LLC, Ganoco, Inc. d/b/a American Dial Tone,
Image Access, Inc. d/b/a NewPhone, and OneTone Telecom Inc. –

² 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 Communication Solutions*, Docket No. 10-00008, *Letter From Richard Collier To Guy Hicks And Henry Walker Requesting Information* (June 28, 2011), referencing *Order Holding Dockets In Abeyance, Convening A Consolidated Docket And Appointing A Hearing Officer*, Docket No. 10-00008 (July 8, 2010).

³ AT&T stated that Docket No. 10-00008 encompasses only three discrete issues, and the order holding the docket in abeyance only applies to those three issues. The Lifeline credit issue is a separate issue, and thus AT&T stated that it was free to pursue any right or relief available, including termination of service for non-payment. Angles' reply did not explicitly address the 10-00008 Order, but the Resellers have not made any statement that would contradict AT&T's position.

Henry M. Walker, Esq., Bradley, Arant, Boult, Cummings, LLP,
1600 Division Street, Suite 700, Nashville, Tennessee, 37203.⁴

Consumer Advocate and Protection Division (“CAPD”) – **Vance Broemel, Esq.** and **Scott Jackson, Esq.**, Office of the Attorney General, 425 5th Avenue North, John Sevier Building, P.O. Box 20207, Nashville, Tennessee, 37202.

CAPD Intervention

Following the Authority Conference on July 11, 2011, the Hearing Officer met briefly with counsel for the parties. Representatives of the CAPD were present and indicated that the CAPD may wish to intervene, but would need additional time to make that determination. Director Hill, acting as Hearing Officer, acknowledged this and decided, given the accelerated timeframe, that the CAPD should be allowed to attend the Status Conference to be held on July 13, 2011, while this determination was being made.

At the Status Conference, the CAPD stated that it had still not made a final determination on whether it would petition to intervene in the docket. However, counsel for the CAPD did request permission to file a brief in anticipation that intervention might occur, with the intent of narrowly focusing on the issues of consumer protection, particularly customer notification and transitional assistance should service disconnection occur. Counsel for AT&T had no objection to the CAPD’s limited intervention.⁵ Counsel for the Resellers did not object to the CAPD’s intervention, but did note that it was premature for the CAPD to state, pre-intervention, that it would not address the merits of the case.⁶

Subsequent to the Status Conference, on July 25, 2011, the CAPD filed a *Petition to*

⁴ At the Status Conference, both AT&T and the Resellers acknowledged that Image Access, Inc. d/b/a NewPhone had paid AT&T their portion of the disputed charges, and was therefore not subject to service termination. AT&T confirmed this in a follow-up letter. See *AT&T’s Confirmation That They Have Agreed To Extend The Service Termination Until August 18, 2011* (July 14, 2011).

⁵ Status Conference Transcript, p. 9 (July 13, 2011).

⁶ *Id.* at 9-10.

Intervene. In the *Petition*, the CAPD stated that its purpose in intervening was to ensure that “the customers of the Resellers...are given adequate notice of the possible impending termination of their telephone service and are given further assistance in securing new phone service, particularly Lifeline service, should it become necessary.”⁷ No objections have been filed, and the *Petition* is therefore granted.

Procedural Schedule

Without objection, the procedural schedule was set as follows:

Initial Briefs shall be filed no later than **4:30 p.m. on Wednesday, July 20, 2011.**

Reply Briefs shall be filed no later than **4:30 p.m. on Tuesday, July 26, 2011.**

Oral argument before the panel shall occur during the Authority Conference on **Monday, August 1, 2011**. Each party will have ten minutes to present their case.

Further, Director Hill ordered that if the CAPD ultimately intervened, it would be bound by this schedule.

Escrow Account(s) and Effective Date(s) of Termination of Service to Resellers

The Hearing Officer next addressed the issue of pending termination of service by AT&T to the Resellers. In its letter of June 28, 2011, AT&T notified the TRA and the Resellers that it intended to disconnect service on July 28, 2011. Since this docket will not be resolved until August 1, 2011, the Hearing Officer asked AT&T if it was amenable to moving the scheduled date of termination. The Hearing Officer proposed that the date of termination be moved until

⁷ *Petition to Intervene*, p. 2 (July 25, 2011).

thirty (30) days following the Authority's deliberations in the docket.⁸ AT&T stated that it would consider delaying termination if the Resellers agreed to put some of the disputed amount into an escrow account, as a gesture of good faith.⁹ The Resellers stated that they had no issue with putting into escrow any disputed amount relating to the Lifeline credit issue that might be accrue from July 13, 2011 until the matter was resolved by the Authority.¹⁰ However, they strongly objected to putting any more than the forward-looking monies into escrow.¹¹

Following the Resellers' inability to offer any security that was acceptable to AT&T, the Hearing Officer consulted with TRA Staff to determine what time frame the TRA requires in order to properly notify customers as required by TRA Rules.¹² Staff stated that if the Authority ruled in favor of AT&T on August 1, 2011, Staff would need approximately ten to fourteen days to ensure that customers were properly notified.¹³ After a recess, AT&T ultimately agreed to the Hearing Officer's request that the company postpone the prospective termination date of July 28, 2011, until August 18, 2011.¹⁴

⁸ Status Conference Transcript, p. 11-12 (July 13, 2011).

⁹ *Id.* at 13.

¹⁰ *Id.* at 15.

¹¹ *Id.* at 13-54.

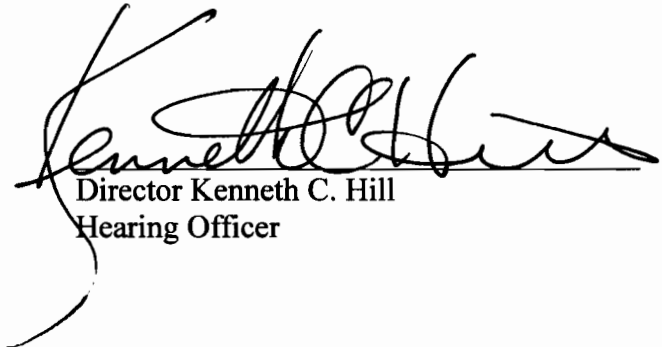
¹² *Id.* at 43-54. TRA Rule 1220-4-2-.40 pertains to the obligations of resellers and underlying carriers upon the termination of service. Rule 1220-4-2-.40(3)(a) requires the underlying carrier to notify the reseller and the TRA no less than thirty (30) days before service is to be terminated. Rule 1220-4-2-.40(3)(b) requires the reseller to notify its customers of termination no less than fourteen (14) days before disconnect occurs. Finally, Rule 1220-4-2-.40(c) requires the TRA to notify the reseller's customers of termination of service no less than seven (7) days before disconnect occurs, in the event that the reseller fails to notify its customers. AT&T's letter of June 28, 2011 provided the thirty days' notice that it was required to give. However, given the procedural schedule, unless AT&T agreed to move the proposed date of termination of service, the TRA would be forced to provide notice to the Resellers' customers of termination before the Authority could make a determination on the issue of whether AT&T was allowed to terminate service.

¹³ *Id.* at 50-54.

¹⁴ *Id.* at 56. AT&T also clarified that the Resellers' ordering capability would be suspended beginning at 11:59 p.m. on July 14, 2011. See *AT&T's Confirmation That They Have Agreed To Extend The Service Termination Until August 18, 2011* (July 14, 2011).

IT IS THEREFORE ORDERED THAT:

1. The Consumer Advocate and Protection Division is granted limited leave to intervene on the issues of customer notice and transitional assistance, and shall receive copies of any notices, orders or other documents herein.
2. The Procedural Schedule, as established above, is hereby adopted and is in full force and effect.
3. By consent, the prospective date of termination of service from AT&T to the Resellers is hereby moved to August 18, 2011.



Director Kenneth C. Hill
Hearing Officer