

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 17, 2012

IN RE:)	DOCKET NO. 11-00181
)	
PETITION OF TELMATE, LLC FOR)	
CERTIFICATE OF AUTHORITY TO)	
RESELL TELECOMMUNICATIONS)	
SERVICES IN TENNESSEE)	
)	
IN RE:)	DOCKET NO. 11-00182
)	
PETITION OF TELMATE, LLC FOR)	
AUTHORITY TO)	
PROVIDE COCOT SERVICES)	
IN TENNESSEE)	

PETITION OF PAY-TEL TO SUBMIT DISCOVERY

Pursuant to TRA Rule 1220-1-2-.11, "any party to a contested case may petition for discovery." Pay-Tel Communications, Inc. ("Pay-Tel") is now a party to this docket as a result of the Authority's oral decision on September 10, 2012. Pay-Tel's participation is limited to the issue of whether Telmate, LLC is required to apply for a certificate of convenience and necessity pursuant to T.C.A. § 65-4-201 (a "CLEC application") or whether Telmate may apply instead for a "Reseller" certificate pursuant to TRA Rule 1220-4-5-2-.57. Since Pay-Tel's participation is limited to that one issue, PayTel's discovery request is similarly limited to questions that are relevant to that issue.

Telmate contends that its "Reseller" application and response to Staff data requests collectively provide "all of the information that would have been included in a CLEC application." Telmate Brief filed August 28, 2012, at pp. 10-11. In order to demonstrate that Telmate has not provided all the information that would be required in a CLEC application and

that the missing information is important and relevant to the determination of whether Telmate should be granted authority to operate, Pay-Tel asks that Telmate:

1. Provide pre-filed testimony of any witness Telmate expects to present at the company's application hearing.

Had Telmate filed a CLEC application, the application would have included sworn pre-filed testimony describing the services to be provided and the applicant's technical, managerial and financial abilities to provide the services offered. See, "Telecommunications Division Requirements for Competing Telecommunication Services Provider Application." Even if Telmate is allowed to apply for a Reseller certificate, Pay-Tel asks—and the TRA reseller rules require—that the Authority conduct a hearing on the application. See Rule 1220-4-5-2-.57(b) ("Any party" to a Reseller application may "request a hearing.") Therefore, Telmate should be required to pre-file testimony, as other parties to a contested case are normally required to do, because "doing so would be in the public interest and would be conducive to a fair and expeditious disposition of the proceeding." TRA Rule 1220-1-2-.16(4).

Pay-Tel also asks that Telmate:

2. Provide a sample bill for each of the following calls:

- (a) A ten-minute local call within the Nashville local calling area;**
- (b) A ten minute toll call from Nashville to Memphis; and**
- (c) A ten minute toll call from Nashville to Atlanta.**

Include in the sample bill all charges and surcharges identified in the company's tariff and on the company's website including, but not limited to, "regulatory fees" and/or "local, county, state and federal surcharges and assessments."

In its responses to Staff data requests, Telmate has described what it characterizes as "local, county, state and federal surcharges and assessments" and/or "regulatory fees" which are added to a customer's bill at certain times. To demonstrate that Telmate should have been required to file a CLEC application, which would have included a sample customer bill, and to demonstrate the importance and relevance of this rate information, Pay-Tel asks that Telmate be required to produce a sample bill in response to this discovery request.¹

Finally, Pay-Tel asks that Telmate:

3. Provide a copy of any agreement between Telmate and AireSpring concerning the provision of telephone service in Tennessee.

In order for Pay-Tel to determine whether Telmate can qualify as a Reseller under the TRA's rules, Pay-Tel asks leave to determine whether Telmate is, in fact, reselling the services of "AireSpring" by requiring Telmate to provide a copy of its resale agreement with AireSpring. Moreover, Telmate has represented that it will rely on its "partner" AireSpring to "handle and brand" local, collect calls made by inmates at facilities served by Telmate. The Authority should review the terms and conditions of that resale arrangement before it determines whether Telmate has the ability to offer the proposed service. Therefore, to determine whether Telmate is a reseller of telephone service as claimed in its application and to verify that Telmate's "partner" will provide the proposed service, Pay-Tel asks that Telmate be required to produce its contract with AireSpring.

¹ Even if Telmate applies for a Reseller certificate, the TRA's rules state that the Authority may consider the applicant's "proposed rates" in deciding whether to grant the application. Rule 1220-4-5-2-.57(2).

Conclusion

To demonstrate that Telmate should be required to file a CLEC application instead of a Reseller application, Pay-Tel asks leave to submit these three discovery questions. Since Telmate's application is scheduled to be heard on October 15, 2012, Pay-Tel asks that Telmate be ordered to produce answers to these questions by no later than October 8, 2012.

Respectfully submitted,

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By: 


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CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of September, 2012, a copy of the foregoing document was served on the parties of record, via hand-delivery, overnight delivery or U.S.

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