

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE  
March 24, 2017**

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| <b>IN THE MATTER OF VERIFIED PETITION OF</b> | ) |                   |
| <b>AT&amp;T TENNESSEE FOR AN ORDER</b>       | ) | <b>DOCKET NO.</b> |
| <b>CONFIRMING RELINQUISHMENT OF ITS</b>      | ) | <b>16-00123</b>   |
| <b>ELIGIBLE TELECOMMUNICATIONS CARRIER</b>   | ) |                   |
| <b>DESIGNATION IN SPECIFIED AREAS</b>        | ) |                   |

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**ORDER CONFIRMING AT&T TENNESSEE'S RELINQUISHMENT  
OF ITS ELIGIBLE TELECOMMUNICATIONS CARRIER  
DESIGNATION IN SPECIFIED AREAS**

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This matter came before Chairman David F. Jones, Vice Chairman Robin L. Morrison and Director Herbert H. Hilliard of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on March 13, 2017, for consideration of the *Verified Petition of AT&T Tennessee for an Order Confirming Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas* (the "*Petition*") filed on October 27, 2016 by AT&T Tennessee<sup>1</sup> ("AT&T") ("Petitioner").

**BACKGROUND AND PETITION**

In Docket No. 97-00888, based upon the request of AT&T, the Authority designated AT&T as an Eligible Telecommunications Carrier ("ETC") in certain service areas within the State of Tennessee pursuant to 47 U.S.C. § 214(e)(2) and Section 254(e) of the Telecommunications Act of 1996 and Federal Communications Commission ("FCC") Order No.

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<sup>1</sup> BellSouth Telecommunications, LLC d/b/a AT&T Tennessee f/k/a BellSouth Telecommunications, Inc.

97-157.<sup>2 3</sup> On October 27, 2016, AT&T filed a *Verified Petition of AT&T Tennessee for an Order Confirming Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas*, in which AT&T seeks to relinquish its ETC designation in specified service areas.<sup>4</sup> In support of its *Petition*, AT&T submitted the following Exhibits to its *Petition*: Exhibit A – list of AT&T Tennessee wire centers; Exhibit B – list of Tennessee CAF II funded census blocks served by Tennessee wire centers (non-relinquishment area); Exhibit C – list of competitive ETCs (“CETCs”) designated to provide service to AT&T Tennessee’s Service Area; and, Exhibit D – Sample letters and billing messages for affected customer notification of change.<sup>5</sup>

AT&T further states in its *Petition* that pursuant to federal law, ETCs are eligible to receive federal universal service funding in exchange for which they are required to offer certain services and meet the obligations associated with the universal service programs in which they participate. Federal universal service funding includes “high cost” support to deploy and maintain networks in rural and other high cost areas, as well as reimbursement from the Lifeline Assistance Program (“Lifeline”) for offering services to eligible low-income consumers at discounted prices.<sup>6</sup> In addition to receiving federal support from the above programs, AT&T has also received funding from the FCC Connect America Fund (“CAF”) to support and deploy broadband-capable networks in certain service areas.<sup>7</sup> AT&T avers that due to the FCC making changes in the “high cost” portion of the universal service funding, changes to the CAF and

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<sup>2</sup> See Order entered on December 17, 1997, in TRA Docket No. 97-00888.

<sup>3</sup> *In re: Verified Petition for an Order from the Tennessee Regulatory Authority Confirming AT&T’s Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas*, Docket No. 16-00123, p. 1, ¶ 2 (October 27, 2016).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 2, ¶ 3.

<sup>7</sup> *Id.* at 2-3, ¶ 6 & at 4, FN 8.

changes in customers' service choices, AT&T now wishes to relinquish its Tennessee ETC status in certain areas (the "relinquishment area").<sup>8</sup>

#### **STANDARD FOR AUTHORITY APPROVAL**

AT&T filed its *Petition* pursuant to 47 U.S.C § 214(e)(4), which states, in part:

"A State commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier."

Tennessee law expressly states that the "Tennessee regulatory authority is authorized as a matter of state law to receive any jurisdiction delegated to it by the federal 1996 Telecommunications Act, in 47 U.S.C. § 214(e)<sup>9</sup> ...".

The TRA, therefore, has jurisdiction over a request to relinquish an ETC designation under both the federal law provision, 47 U.S.C § 214(e)(4), and the related Tennessee law provision, Tenn. Code Ann. § 65-5-109(m). Exercising jurisdiction in the consideration of a request to relinquish an ETC designation, the TRA is required to determine whether the area in which the petitioner seeks to relinquish such designation is served by other ETCs. The federal law differentiates "service area" as applied to an ETC designation from a carrier's entire service footprint within the state wherein it is designated an ETC.<sup>10</sup> The consideration of relinquishment of ETC designation is not, however, limited to an entire service area. The federal law provision permits relinquishment of the designation in "***any area*** served by more than one eligible

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<sup>8</sup> *Id.* at 2-3, ¶ 6 & 7.

<sup>9</sup> Tenn. Code Ann. § 65-5-109(m) (2015).

<sup>10</sup> 47 U.S.C. § 214(e)(2) provides: "A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State Commission."

47 U.S.C. § 214(e)(3) states: "The term "service area" means a geographic area established by a State commission (or the Commission under paragraph (6)) for the purpose of determining universal service obligations and support mechanisms."

telecommunications carrier.” (emphasis added).<sup>11</sup> Certain additional requirements are applicable where a request for relinquishment of an ETC designation includes indication that the carrier will cease to provide universal service.<sup>12</sup> Finally, in the consideration of a request to relinquish, if the TRA determines that the areas in which relinquishment is sought is served by other ETCs, then the federal law requires that request be granted.<sup>13</sup>

### **FINDINGS AND CONCLUSIONS**

After the hearing and upon consideration of the pleadings and the entire administrative record, the panel found:

AT&T filed a *Petition* requesting relinquishment of its ETC designation in specified areas identified in the Exhibits to its *Petition*. The TRA has jurisdiction over the matters in AT&T’s *Petition* pursuant to 47 U.S.C. § 214(e)(4) and Tenn. Code Ann. § 65-5-109(m). The relinquishment area of the ETC designation sought by AT&T is served by at least eight (8) remaining telecommunications carriers which have been designated as ETCs. AT&T will not cease providing universal service in the specified relinquishment area and therefore, additional requirements on remaining ETCs are not applicable. By its demonstration that the specified relinquishment area is currently served by more than one ETC, AT&T has met the requirement of federal law to relinquish its ETC designation in the relinquishment area. AT&T proposed an effective date of July 5, 2017 for the relinquishment of its ETC designation in the relinquishment

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<sup>11</sup> 47 U.S.C § 214(e)(4).

<sup>12</sup> 47 U.S.C. § 214(e)(4) also provides, in part:

Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission...shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.

<sup>13</sup> “A State commission *shall* permit an eligible telecommunications carrier to relinquish its designation ...” 47 U.S.C. § 214(e)(4) (emphasis added).

area. Federal law requires that the Authority shall permit AT&T to relinquish its ETC designation upon its finding that the area in which AT&T requests relinquishment is served by more than one ETC.

**IT IS THEREFORE ORDERED THAT:**

The *Verified Petition of AT&T Tennessee for an Order Confirming Relinquishment of Its Eligible Telecommunications Carrier Designation in Specified Areas* filed on October 27, 2016 by AT&T is granted. AT&T may relinquish its ETC designation in the specified relinquishment area pursuant to 47 U.S.C. § 214(e)(4), effective July 5, 2017.

**Chairman David F. Jones, Vice Chairman Robin L. Morrison, and Director Herbert H. Hilliard concur.**

**ATTEST:**



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**Earl R. Taylor, Executive Director**