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1 BEFORE THE TENNESSEE REGULATORY AUTHORITY

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9 TRANSCRIPT OF EXCERPT OF AUTHORITY CONFERENCE

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Monday, July 10, 2006

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IN RE: DOCKET NO. 06-00093

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Reported By:

25 Teri A. Campbell, RPR, CCR

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(The aforementioned Authority
2 Conference came on to be heard on Monday, July 10,
3 2006, beginning at approximately 1:00 p.m., before
4 Chairman Sara Kyle, Director Eddie Roberson, Director
5 Pat Miller, and Director Ron Jones. The following is
6 an excerpt of the proceedings that were had, to-wit:)

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MS. DILLON: Next we have Docket No.
9 06-00093, BellSouth Telecommunications, Inc. AT&T
10 Inc.'s proposed merger with BellSouth Corporation.
11 Consider joint application.

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CHAIRMAN KYLE: This matter came
before the Tennessee Regulatory Authority upon the
March 31st, 2006 joint filing of AT&T, Inc., BellSouth
Corporation, and BellSouth's certified Tennessee
subsidiaries regarding change of control in this
docket. In the joint filing, AT&T, Inc., BellSouth
Corporation, and BellSouth subsidiaries certificated to
provide telecommunication services in the state of
Tennessee requests the Authority's approval of the
change of control of the parent company of the
Tennessee subsidiaries of BellSouth Corporation to AT&T
as a result of an agreement and plan of merger executed
by AT&T and BellSouth Corporation on March 4, 2006.

Do my fellow directors have comments

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1 at this time?

2 CHAIRMAN JONES: Chairman Kyle, if
3 you're prepared to make a motion, I do have a motion.

4 CHAIRMAN KYLE: Fine. I do. I'll
5 just go ahead and put mine on the record.

6 The joint filing and the testimony
7 given during the recent hearing on this merger
8 presented many interesting issues to consider. As a
9 director of the Tennessee Regulatory Authority, I must
10 weigh the evidence while being mindful of the
11 Authority's responsibilities to promote the public
12 interest and facilitate a more competitive environment
13 by ensuring that Tennesseans have the opportunity to
14 choose among many telecommunications providers that
15 will offer consumers and businesses both high quality
16 service and the latest in technological advancements.

17 After careful consideration of the
18 evidence presented by the parties in this proceeding
19 and contained in the record, I believe this transaction
20 will serve the public interest, will enhance
21 competition in communications service markets, and
22 should result in a stronger, more effective responsive
23 and innovative company better able to meet the needs of
24 Tennessee consumers.

25 With those thoughts in mind, I have

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1 reviewed the testimony offered in this case and have
2 come to the conclusion that this change of
3 control/merger of AT&T and BellSouth will indeed bring
4 many benefits to the state of Tennessee and its
5 citizens. Certainly, as evidenced by the witnesses,
6 these two companies have the managerial, technical, and
7 financial capabilities to provide telecommunication
8 services at the highest levels in Tennessee.

9 The intervenors in this docket have
10 asked the Authority to impose many conditions upon the
11 merger. After careful review, I do not believe that
12 any conditions are warranted. I do not see a
13 connection between the conditions the intervenors seek
14 to have the Authority impose upon the merger and the
15 resulting benefit to the consumer or competition. I
16 did not find any compelling evidence that this merger
17 will harm competition in any way.

18 I am always deeply concerned when any
19 proposed merger could potentially result in the loss of
20 jobs in Tennessee. However, after careful
21 consideration and review of the record in this docket,
22 I believe that the likelihood of any job losses
23 directly affecting BellSouth employees in Tennessee is
24 minimal. I believe the new entity has high
25 expectations for both business growth and employment

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1 growth in the future. Witnesses for the merger, while
2 recognizing the risks inherent in today's
3 telecommunications marketplace, certainly have clear
4 visions of a company needing more employees to help
5 forge the way into new fields of video and data.

6 Based on the record and the facts in
7 this docket, I find the joint filing is compliant with
8 requirements of Tennessee Code Annotated Section
9 65-4-113. I am of the opinion that the approval of
10 this merger/change of control is in the public interest
11 and should be approved with no conditions contingent
12 only upon approval by the FCC and the Department of
13 Justice. I so move.

14 And I also move that the applicants be
15 required to file with the Authority any documentation
16 from the FCC or the Department of Justice regarding
17 subsequent action on the merger and/or change of
18 control. So move.

19 CHAIRMAN JONES: I have a different
20 outcome. But first I'd like to summarize exactly what
21 it is that I evaluated in this docket.

22 The first point that has to be
23 recognized is that AT&T's proposed merger with
24 BellSouth is a very, very big and very complex
25 transaction worth billions of dollars with many, many

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1 moving parts and considerations. Accordingly, several
2 federal agencies will commit a depth of resources in
3 considering this merger request. In Tennessee,
4 however, notwithstanding the sheer magnitude of the
5 proposed transaction, my evaluation is necessarily very
6 Tennessee centric, very Tennessee specific.

7 What that means is an attempt to
8 answer at a minimum the questions: Is the proposed
9 merger good for Tennesseans? Will Tennesseans be
10 better off postmerger, worse off postmerger, or the
11 same postmerger as they were premerger? Will the level
12 or balance of technological and competitive affluence
13 in Tennessee that has been painstakingly developed over
14 the last ten years or so become jeopardized by the
15 proposed merger or will they thrive? These are the
16 questions to be answered.

17 But, first, with respect to the
18 question of jurisdiction, it is my opinion that the
19 Authority has jurisdiction over this transaction
20 pursuant to Tennessee Code Annotated Section 65-4-113.
21 This section requires approval before a certificated
22 entity such as BellSouth Telecommunications, Inc. may
23 transfer all or any part of its authority to provide
24 service often referred to as a CCN to any corporation.
25 The BellSouth companies contend that this transaction

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1 does not include a transfer of a regulated utility CCN.
2 I disagree.

3 In the simplest case, Section 65-4-113
4 requires approval of transactions through which the
5 certificated entity relinquishes its right to provide
6 services and hands over its CCN to another entity. In
7 a complex transfer as we have here, the certificated
8 entity's ownership changes. In this case, the
9 certificated entity continues to provide service and
10 continues to be the named holder of the CCN, but the
11 transaction requires approval because the change of
12 ownership of the certificated entity results in a
13 transfer of the CCN to the new owner.

14 Thus, in the case before us, although
15 BellSouth Telecommunications, Inc. and BellSouth Long
16 Distance, Inc. will remain the named certificated
17 entities and will continue to provide service, control
18 over the CCNs will be transferred at least to some
19 degree to AT&T, Inc., the proposed new owner.
20 Therefore, approval is required.

21 Turning to the analysis of the
22 transfer under Section 65-4-113, I must consider three
23 factors: First, the suitability, financial
24 responsibility, and capability of AT&T, Inc. Second,
25 the benefit to the consuming public. And, third, the

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1 furtherance of the public interest.

2 The record establishes that AT&T, Inc.
3 is capable of controlling and is suited to control the
4 CCNs of the BellSouth Tennessee certificated entities.
5 AT&T, Inc. currently controls four other entities
6 certificated in Tennessee to provide telecommunications
7 services. Further, AT&T has the financial means to act
8 as the parent of the BellSouth Tennessee certificated
9 entities.

10 Consideration of the benefits of the
11 transaction to the consuming public is next. I view
12 this consideration very narrowly and without regard to
13 any potential harm to consumers as I will discuss that
14 aspect of this case later in my comments. AT&T, Inc.
15 and the BellSouth companies adamantly maintain that the
16 benefits to consumers will be great. Accordingly,
17 through these companies, consumers will receive more
18 effective disaster recovery efforts and enhanced
19 wireline, wireless, and video services through the
20 research efforts of AT&T labs in the integration of the
21 companies' networks and operations.

22 I must conclude from the evidence that
23 the proposed merger can likely result in such benefits
24 to the consuming public. This agency has on numerous
25 occasions recognized the advantages created through the

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1 combining of companies' resources.

2 The question now becomes whether the
3 proposed merger is injurious or harmful to the
4 consumers such that disapproval of the transfer or the
5 imposition of conditions is justified. The question
6 leads to the final consideration: Public interest.

7 In 1995, the Tennessee General
8 Assembly defined the term public interest in my opinion
9 through the declaration of the telecommunications
10 services policy in Tennessee Code Annotated Section
11 65-4-123. In that statute, the General Assembly
12 instructed this agency, quote, To foster the
13 development of an efficient, technologically-advanced
14 statewide system of telecommunications services by
15 permitting competition in all telecommunications
16 services markets, end quote.

17 The General Assembly further acclaimed
18 in this statute that our regulation, quote, Shall
19 protect the interests of consumers without unreasonable
20 prejudice or disadvantage to any telecommunications
21 service provider, end quote.

22 Thus, an action is in the public
23 interest for the purposes of telecommunications in
24 Tennessee if the action at a minimum permits
25 competition, protects consumer interests, and does not

0010

1 unreasonably disadvantage any telecommunications
2 service providers. With this standard in mind, I
3 evaluated the record in this case.

4 CLECs argue that the merger will
5 adversely affect competition for business customers and
6 thereby adversely affect the service provided to those
7 customers. The CLECs contend that the merged entity
8 will immediately acquire a market share of sufficient
9 size to allow it to force competitors out of the
10 business markets in Tennessee.

11 The CWA, AFL-CIO contends that job
12 loss and technical operation closures could harm
13 service quality. It is my opinion that while these
14 arguments raise substantial concerns, they alone do not
15 support denial of approval of the transfer of BellSouth
16 certificated entity CCNs to AT&T, Inc. The arguments
17 do, however, cause me to evaluate whether a need exists
18 to impose conditions on the transfer.

19 BellSouth asserts that conditions
20 should only be used to address concrete harms that are
21 a direct result of the merger. It is my opinion that
22 such a standard is far too rigid and fails to allow the
23 flexibility necessary for this agency to fulfill its
24 obligation to promote an environment that fosters and
25 sustains competition. If BellSouth's standards were

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1 adopted, it is likely, if not certain, that conditions
2 could never be justified under any circumstances.

3 AT&T, Inc. and the BellSouth companies
4 rely on studies and statistics used in similar merger
5 dockets along with the testimony of Dr. Aron to
6 establish that competition, particularly business
7 market competition, will not be adversely affected.
8 This evidence is compelling, but it does not address
9 the market dominance and resources that the merged
10 entities will immediately attain as a result of the
11 transfer.

12 The intervenors were compelling in my
13 opinion in their testimony that they potentially could
14 experience disadvantage and that no matter what the
15 nature of competition in a particular Tennessee market,
16 the transfer will make it more difficult postmerger for
17 a competitor to access that market.

18 In my opinion, Tennessee statute, the
19 declaration of telecommunications policy, imposes an
20 affirmative obligation to ensure that providers and
21 consumers alike suffer no direct, indirect, or
22 collateral disadvantage. Traditionally, competitors in
23 Tennessee are entitled to the same support as are
24 providers who are technologically differentiated.

25 It is only through the imposition of

0012

1 safeguards on access to the last mile and other
2 incumbent controlled facilities that the current
3 environment which I have concluded encourages
4 competition without regard to technology will flourish.
5 Moreover, the imposition of conditions to approval will
6 not hamper the merged entities' freedom to provide
7 consumers the benefits set forth as a justification for
8 this agency's approval of the transfer. In fact, past
9 megamerger conditions involving AT&T have not dampened
10 the approval process but have sought to strengthen the
11 competitive environment and consistent with the state
12 of Tennessee's declaration of telecommunications policy
13 will in my opinion do so here.

14 As to the arguments of the CWA,
15 AFL-CIO, I agree with the proposition that lost jobs
16 and operational closures can degrade the quality of
17 service received by customers. However, I'm unable to
18 find based on the record here that such a degradation
19 will or is likely to happen as a result of the merger.
20 The record is unclear as to the number of jobs that
21 will be lost in Tennessee or operations that will be
22 closed. Until further information which is in the
23 hands of AT&T, Inc. is received, necessary conditions,
24 if any, addressing this issue cannot be crafted.

25 Further, without this additional

0013

1 information, it cannot be determined that the
2 Authority's service quality rules alone afford
3 consumers sufficient protection. Thus, it is my
4 opinion that this issue be developed more fully in
5 future proceedings.

6 Based on the foregoing, it is my
7 opinion that the transfer should be approved pursuant
8 to Tennessee Code Annotated Section 65-4-113 contingent
9 upon approval by the Federal Communications Commission
10 and completion of the investigative processes of the
11 Department of Justice and Federal Trade Commission, but
12 that conditions should be placed on the incumbent to
13 ensure the continuation of quality service and an
14 environment that permits the level of competition that
15 Tennessee has enjoyed over the past ten years. It is
16 further my opinion that the Authority should defer any
17 decision establishing conditions until this transaction
18 is addressed by federal agencies.

19 In a 1930 speech, former President
20 Herbert Hoover said that, quote, Competition is not
21 only the basis of protection to the consumer but is the
22 incentive to progress, end quote. With his statement,
23 I agree. It is my hope that whatever the decision of
24 the panel today that the result is a marketplace of
25 technologically-advanced options for all types of

0014

1 consumers be they wholesale providers, retail, business
2 consumers, or residential subscribers. This is a
3 result mandated by the telecommunications services
4 policy of our state. I so move.

5 DIRECTOR MILLER: Based on the
6 representations made by BellSouth and AT&T in this
7 record, I've concluded that the merger has potential
8 for improving broadband deployment into rural areas of
9 our state by bringing to bear new technologies that are
10 not currently available to those customers. I also
11 think there's a potential for video services -- the
12 introduction of video services into this marketplace by
13 the merged company that offers the potential for
14 competition in the video market area that doesn't exist
15 today and would greatly benefit the consumers of the
16 state of Tennessee.

17 However, I have a hefty skepticism of
18 that deployment. When I was in third grade -- I think
19 that's about 1966 -- I went on a tour of a local
20 Western Electric plant and the centerpiece of that tour
21 was a preview of new AT&T technology to provide video
22 services. Well, my son graduated from third grade last
23 year and that technology hasn't been rolled out yet.

24 But based on the testimony in the
25 record and the new technology available through AT&T, I

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1 think that it would greatly serve the citizens of
2 Tennessee to have that technology available and in the
3 marketplace in Tennessee. I think that is -- will come
4 in the new future hopefully before my son's son
5 graduates from third grade.

6 And I think that deployment will
7 require an increase in the need for employees by
8 AT&T/BellSouth. I think that very much is in the
9 public interest especially to the citizens of the state
10 of Tennessee.

11 Finally -- well, first of all, I want
12 to address the conditions as set out by the intervening
13 parties. I find that there are adequate existing
14 safeguards in place today to protect the interests of
15 the competitors that are within our jurisdiction.

16 And, finally, the Attorney General's
17 Consumer Advocate Division's lack of participation in
18 this docket I think speaks volumes. It demonstrates
19 that they have little concern for the potential harm of
20 consumers of the state of Tennessee. And I agree with
21 that conclusion.

22 Therefore, I second Chairman Kyle's
23 motion and vote aye because, based on the record, I
24 believe this merger meets all the statutory
25 requirements and is in the public interest of all

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1 Tennessee consumers.

2 CHAIRMAN KYLE: Thank you.

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5 (Conclusion of exerpt.)
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REPORTER'S CERTIFICATE

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

I, Teri A. Campbell, Registered Professional Reporter, Certified Court Reporter, and Notary Public for the State of Tennessee, hereby certify that I reported the foregoing proceedings at the time and place set forth in the caption thereof; that the proceedings were stenographically reported by me; and that the foregoing proceedings constitute a true and correct transcript of said proceedings to the best of my ability.

I FURTHER CERTIFY that I am not related to any of the parties named herein, nor their counsel, and have no interest, financial or otherwise, in the outcome or events of this action.

IN WITNESS WHEREOF, I have hereunto affixed my official signature and seal of office this 11th day of July, 2006.

TERI A. CAMPBELL,
REGISTERED PROFESSIONAL
REPORTER, CERTIFIED COURT
REPORTER, AND NOTARY PUBLIC
FOR THE STATE OF TENNESSEE

My Commission Expires:
July 19, 2008