

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

**September 11, 2008**

<b>IN RE:</b>	)	
	)	
<b>PETITION FOR APPROVAL OF THE INTERCONNECTION, COLLOCATION AND RESALE AGREEMENT BETWEEN UNITED TELEPHONE SOUTHEAST LLC D/B/A EMBARQ AND BANDWIDTH.COM CLEC, LLC</b>	)	<b>DOCKET NO. 08-00118</b>
	)	
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**ORDER APPROVING THE INTERCONNECTION,  
COLLOCATION AND RESALE AGREEMENT**

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This matter came before Chairman Tre Hargett, Director Eddie Roberson and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 8, 2008 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the interconnection, collocation and resale agreement negotiated between United Telephone Southeast LLC d/b/a Embarq ("Embarq") and Bandwidth.com CLEC, LLC filed on July 10, 2008. Collocation is one of the elements of interconnection included in 47 U.S.C. § 251 and, as such, collocation agreements require state approval pursuant to 47 U.S.C. § 252.

Based upon a review of the agreement, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104 (2004).
- 2) The agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within Embarq's service area.

3) The agreement is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>1</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the agreement is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

5) No person or entity has sought to intervene in this docket.

6) The agreement is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104 (2004).

**IT IS THEREFORE ORDERED THAT:**

The Petition is granted, and the interconnection, collocation and resale agreement negotiated between United Telephone Southeast LLC d/b/a Embarq and Bandwidth.com CLEC, LLC is approved and is subject to the review of the Authority as provided herein.



Tre Hargett, Chairman



Eddie Roberson, Director



Sara Kyle, Director

<sup>1</sup> See 47 U.S.C. § 252(e)(2)(B).