

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL**

APPLICATION OF THE CITIES : DOCKET NO. 07-03-34
OF BRIDGEPORT, DANBURY AND :
STAMFORD FOR A DECLARATORY :
RULING REGARDING THE SAFETY :
OF V-RAD BOXES :

DPUC REVIEW OF AT&T : DOCKET NO. 07-05-23
CONNECTICUT'S COMMUNITY :
ACCESS FUNDING REQUIREMENTS :

APPLICATION OF THE SOUTHERN : DOCKET NO. 07-10-04
NEW ENGLAND TELEPHONE :
COMPANY FOR A CERTIFICATE :
OF VIDEO FRANCHISE :
AUTHORITY : OCTOBER 24, 2007

**APPLICATION FOR A STAY OF CEASE AND DESIST ORDERS OF RICHARD
BLUMENTHAL, ATTORNEY GENERAL FOR THE STATE OF
CONNECTICUT**

Richard Blumenthal, Attorney General for the State of Connecticut (“Attorney General”), hereby respectfully requests that the Department of Public Utility Control (“DPUC” or “Department”) issue a limited stay of Orders 1, 3 and 4 of its October 15, 2007 Final Decision in the above-referenced dockets (“October 15 Final Decision”). The Attorney General requests this stay in order to allow the Southern New England Telephone Company d/b/a AT&T Connecticut (“AT&T” or “Company”) to continue to construct and install its U-verse cable video system and to continue to market and contract with additional customers pending the final resolution of the Company’s legal challenges now pending in state and federal courts. See Office of Consumer Counsel and New England Cable and Telecommunications Association, Inc. v. Southern New England Telephone Company d/b/a AT&T Connecticut, Inc. and Department of Public Utility Control of the State of Connecticut, Case No. 3:06cv1106 (JBA) (“OCC v. AT&T”) and

Southern New England Telephone Company d/b/a AT&T Connecticut, Inc. v. Connecticut Department of Public Utility Control, Civ. No. HHD-CV-07-4033448-S (“AT&T v. DPUC”).

The Attorney General believes that allowing AT&T to continue its rollout of U-verse cable system is consistent with the goals of both federal and state law and will serve to minimize the disruption to the emergence of true cable competition as the Company continues to pursue its pending legal actions at the United States District Court and the Superior Court for the State of Connecticut. Because federal and state franchising laws require cable companies, such as AT&T, to provide service to their entire service area, allowing AT&T to continue to provide such service while its legal actions continue will hasten statewide competition and compliance with state and federal law.

The Attorney General appreciates the effort and care the Department has placed in its Final Decision. The Attorney General fully supports the Department’s correctly reasoned October 15 Final Decision. In that Final Decision, the Department determined that AT&T was operating a cable system without proper authorization and that AT&T was not eligible for a certificate of video franchise authority under Public Act 07-253, An Act Concerning Certified Competitive Video Service (“PA 07-253” or “the Act”). The Department ordered AT&T: (1) to apply for a cable franchise; (2) to continue serving existing customers; (3) to cease and desist marketing and signing new customers until it has obtained a cable franchise; and (4) to cease installing new cable facilities in the State until it has received a cable franchise. Final Decision, 4.¹

¹ The Final Decision provided:
(1) AT&T shall apply for a cable franchise pursuant to Conn. Gen. Stat. §16-331 et. seq. no later than December 31, 2007.

After the Department issued its Final Decision, however, AT&T filed a Complaint seeking emergency and declaratory relief pursuant to Conn. Gen. Stat. § 52-29 with the Superior Court for the State of Connecticut. AT&T may also seek to appeal the District Court's ruling that AT&T is a cable company to the Second Circuit.

The Attorney General is fully confident that the federal court ruling and the Department's October 15 Final Decision will withstand any legal challenges or any appeal. The Attorney General is concerned, however, that AT&T's continued litigation over these issues creates the risk of a substantial delay in the full deployment of its cable service and the opportunity for meaningful competition for cable services. The Attorney General believes that prohibiting AT&T from deploying its U-verse during the pendency of AT&T's litigation will delay the eventual statewide deployment of U-verse, as required by federal and state franchise law.

Under federal law, AT&T is required to obtain a cable franchise and to "provide[] cable service to all households in a franchise area." 47 U.S.C. § 541(a)(4)(A). It is clear, however, that AT&T will require a reasonable timeframe to complete this buildout and that this time frame will likely extend past the termination of AT&T's court challenges to

(2) AT&T may continue to serve its existing video subscribers until such time as the Department rules upon an application for cable franchise submitted pursuant to Order No. 1.

(3) AT&T shall cease and desist from marketing to or contracting with any additional customers for its cable programming operations in the State of Connecticut until such time as AT&T has obtained a duly authorized cable franchise pursuant to Conn. Gen. Stat. §16-331 et. seq.

(4) AT&T shall cease and desist from constructing or installing any additional facilities in the State of Connecticut that are intended solely for the purpose of transmitting or distributing video programming until such time as AT&T has obtained a duly authorized cable franchise. This order does not prohibit AT&T from continuing to construct or install facilities that are intended for purposes of transmitting or distributing voice and data services.

the Department' October 15 Final Decision. As a result, the Attorney General believes that the cease and desist orders, which were entirely appropriate when imposed, will now have the practical effect of delaying the introduction of competition and the eventual statewide buildout, all inconsistent with the stated goals of PA 07-253 and 47 U.S.C. § 541(a)(4)(A). Conversely, allowing AT&T to continue its U-Verse deployment during these legal proceedings will get Connecticut that much closer to its goals for cable competition and statewide buildout once the Department's October 15 Final Decision and the federal court ruling are upheld.

Connecticut's cable customers have endured years of high prices and poor service. As the Attorney General has argued for more than two years, AT&T's U-verse service can provide much needed competition to Connecticut's legacy cable companies. The Attorney General fully supports the speediest buildout of U-verse service as is possible. The Attorney General therefore requests that the Department stay its Orders 1, 3 and 4 of its October 15, 2007 Final Decision and allow AT&T to continue its deployment of U-verse and to sign up new subscribers. As I stated in my letter to AT&T, I believe this is the best way to "advance[] our common goal of achieving the broadest, most robust service and competition" with the most minimal disruption both to customers and to AT&T employees.

WHEREFORE, for the reasons stated herein, the Attorney General respectfully requests that the Department stay its Orders 1, 3 and 4 of its October 15, 2007 Final Decision and allow AT&T to continue its deployment of U-verse and to sign up new subscribers.

Respectfully submitted,

RICHARD BLUMENTHAL
ATTORNEY GENERAL

By: _____

Michael C. Wertheimer
John S. Wright
Assistant Attorneys General
Attorney General's Office
10 Franklin Square
New Britain, CT 06051
(Tel) 860-827-2620
(Fax) 860-827-2893

Service is hereby certified
To all parties and intervenors
On this agency's service list
For this proceeding.

John S. Wright
Assistant Attorney General
Attorney General's Office
10 Franklin Square
New Britain, CT 06051
(Tel) 860-827-2620
(Fax) 860-827-2893