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December 8, 2000

VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Tariff Filing of BellSouth Telecommunications, Inc. to Reduce Grouping
Rates in Rate Group 5 and to Implement a 3% Late Payment Charge*
Docket No. 00-00041

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Response to
Motion to Compel. A copy has been provided to the Consumer Advocate Division.

Very truly yours,

Guy M. Hicks

GMH:ch
Enclosure

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *BellSouth Telecommunications, Inc.'s Tariff Filing to Reduce Grouping Rates in Rate Group 5 and to Implement a 3% Late Charge*

Docket No. 00-00041

RESPONSE TO MOTION TO COMPEL

BellSouth Telecommunications, Inc. ("BellSouth") respectfully submits this response to the following documents the Consumer Advocate Division ("CAD") filed on December 6, 2000: (1) "Motion to Compel, to Issue Subpoenas, Take Depositions, To Effect Discovery and to Audit, or a Motion in Limine" (originally filed April 13, 2000); and (2) "Discovery Requests to BellSouth Telecommunications" (originally filed March 22, 2000). Based on the majority vote during the September 26, 2000 hearing in this matter, the Tennessee Regulatory Authority ("Authority") should reject these documents and deny any Motion to Compel that the CAD purports to have filed.

I. BACKGROUND

Before the CAD prematurely filed a Petition for Review (which it then voluntarily dismissed), the majority of the Directors upheld their prior ruling that BellSouth's late payment charge is not a charge for a basic service. See Tr. of September 26, 2000 Director's Conference at 18. The Directors then decided to hold a hearing to address Issue No. 2 and to address whether BellSouth's filing complies with section 65-5-209(e). Tr. at 23-24. In order to address the discovery

issues that existed at that time, Director Greer moved "to direct the parties to file discovery requests related to the two outstanding issues" and stated that "it's probably a good idea to begin anew with discovery on the two remaining issues." Tr. at 34. Chairman Kyle agreed. Tr. at 35. After some discussion regarding the two outstanding issues, the Directors decided to allow the Hearing Officer to address any disputes regarding the new discovery on these two issues. Tr. at 66-67.

Before the parties could conduct this discovery, however, the CAD inexplicably filed a Petition for Review in the Court of Appeals. After the CAD voluntarily dismissed that Petition, the parties submitted a joint motion related to discovery, and the Hearing Officer issued an Order addressing that motion on November 28, 2000. That Order begins by confirming that "[a]t the September 26, 2000 Authority Conference, the Tennessee Regulatory Authority instituted a discovery schedule pertaining to the two outstanding issues articulated by the Directors at that Conference." Order at 1 (emphasis added). The Order then says that "[a]ny discovery requests or other pleading previously filed and requested to be incorporated in these discovery filing shall be re-filed in their entirety¹ pursuant to the above schedule." Order at 2 (emphasis in original).

In compliance with this Order, BellSouth filed its new discovery requests on December 6, 2000. The CAD also filed new discovery requests on BellSouth on the same date. It appeared, therefore, that these proceeding were finally back on

track. Unfortunately, the CAD has filed an additional document which again threatens the orderly process of these proceedings. The CAD's cover letter erroneously states that its April 13, 2000 Motion to Compel "is still pending," and it explains that it has re-filed that Motion to Compel and the Discovery Requests to which it related for the sole purpose of allowing the Hearing Officer to "more conveniently discern the issues which need to be resolved" with regard to the Motion.

II. THE CAD'S MOTION TO COMPEL SHOULD BE DISMISSED AS BEING MOOT

There are no "issues which need to be resolved" with regard to the Motion to Compel that the CAD originally filed more than seven months ago. That Motion relates to Discovery Requests which almost exclusively address Issue No. 1 -- an issue which has already been decided by the Directors. Moreover, the discovery-related motion made by Director Greer and seconded by Chairman Kyle states that "this procedure would render the outstanding motions to compel moot" Tr. at 35. There is no Motion to Compel, therefore, and there cannot be one yet because BellSouth has not yet responded to the only Discovery Request that are in this docket -- the thirty requests the CAD served on BellSouth on December 6, 2000.

III. CONCLUSION

The CAD has ignored the Directors' ruling on Issue No. 1, the Director's ruling to begin discovery anew, and the Order of the Hearing Officer by asking the

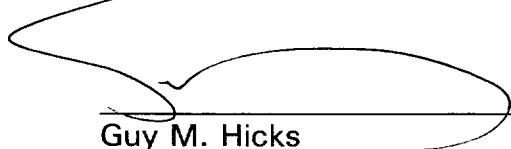
¹ This ruling rendered the "Discovery Requests to BellSouth Telecommunications" served by the CAD on November 16, 2000 (twelve days before the Order) void.

hearing officer to rule on a Motion to Compel BellSouth to answer discovery requests that were filed many months ago and which relate nearly exclusively to (resolved) Issue No. 1.

The CAD should not be allowed to delay a hearing in this proceeding. BellSouth, therefore, urges the Hearing Officer to summarily dismiss the CAD's Motion to Compel.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Guy M. Hicks", is written over a horizontal line. The signature is stylized with a large loop at the end.

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CERTIFICATE OF SERVICE

I hereby certify that on December 8, 2000, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

Timothy Phillips, Esquire
Office of Tennessee Attorney General
425 Fifth Avenue North
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