STATE OF TENNESSEE

Office of the Attorney General

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Consumer Advocate and Protection Division
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January 23, 2002

VIA FACSIMILE & U.S. MAIL

Mr. David Waddell
Executive Secretary
460 James Robertson Parkway
Nashville, TN 37243-0505

RE: ***In the matter of Rulemaking Amendment of Regulations for Telephone Service Providers*, Docket No. 00-00873**

Dear Mr. Waddell:

We are in receipt of a copy of BellSouth Telecommunications, Inc.'s ("BellSouth") letter to you dated December 5, 2001. In response to this letter, the Consumer Advocate and Protection Division of the Attorney General's Office urges the Tennessee Regulatory Authority ("Authority") to implement the proposed regulations as soon as possible. The Authority has been gracious and allowed interested parties to file comments in this matter on numerous occasions. However, at this juncture, we feel that far too much time has elapsed and service in Tennessee continues to decline. Therefore, it is imperative that the rules be adopted and implemented expeditiously.

Since November 2000, the TRA has invited and allowed the industry to make comments concerning the service standards. All information that was pertinent was filed in the various comments by the industry. In addition, the TRA allowed four separate workshops to discuss the service standards and understand the factual bases and concerns of the industry. The industry has already been afforded ample opportunities to provide the necessary evidence in this matter. It would be improper to grant an evidentiary hearing based on a request by an industry member because the comment period has concluded. Further, it is incumbent upon the TRA to finalize and implement the rules.

Furthermore, we disagree with BellSouth's claim that the service standards would significantly modify the way telecommunications companies operate in Tennessee. During the past 20 years, there have been technological leaps and bounds in telecommunications led by innovations in computer technology, advances and improvements in switching technology and the transfer from copper to fiber optic technology. However, there are many items related to the operation of telephone systems that still must be performed by people.

The rules that were applicable 20 years ago were established in an era where cost-cutting reductions in employee levels were unheard of and district managers were called into the home office to explain service interruptions rather than budget variances. BellSouth states in its comments dated October 26, 2001 that ". . . the TRA should, instead, allow the marketplace to continue to provide the incentive for excellent service." Although there is some merit to this statement, it should be noted that in an actual marketplace there are usually multiple competitors selling similar quality goods. Since prices for goods are fixed, sellers can only control any profit they make by keeping their costs below their revenue received. The "incentives of the marketplace" translate into controlling cost (by the seller).

Further, technology in the telecommunications arena is continuously making significant advances and it is imperative that the service standard rules established by a regulatory body reflect both the technological advances and current trends and conditions of the industry.

The notion of "controlling cost" translates into a reduction in "controllable expenses." The largest of these expenses are salaries and wages and plant maintenance expenses. Both of these categories have a direct effect on quality of service/quality of the product sold. Since moving to "price cap regulation" in 1995, BellSouth has followed through with reductions in its work force. Additionally, since this past summer BellSouth has laid-off 273[1] employees in Tennessee. Essentially, BellSouth is cutting costs to improve margins by cutting employees which will result in diminished service quality. Without the new service standards, it is likely that BellSouth will continue to reduce its workforce. Additional reduction in the workforce will further affect service quality in Tennessee.

On the revenue side of this matter, price cap regulation does not provide that savings incurred by the company (a reduction in expenses) flow through to price reductions for the benefit of consumers. However, since 1995 BellSouth has been able to produce a certain level of revenue (capped at a particular level), while profits (revenue less expenses) have been increasing due to the reduction in expenses. Without a relationship between revenues and expenses that typically follow in rate of return regulation, BellSouth has managed to improve its financial position since 1995 through price cap regulation. Without question, full competition has yet to manifest itself on the residential class of service and BellSouth has managed to keep the

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1 *BellSouth will cut 1,200 more jobs*, The Tennessean, Dec. 15. 2001, at E1.

commercial-industrial class of customer through its unrelenting "CSA process". When there is no downward pressure on the revenue side, quality of service erodes to improve profits.

Since many capabilities were unknown in 1995 for the period of the rate structure, the standards in place were expected to be continued under the era of price cap regulation at the 1995 levels. Also, those new areas (unknown in 1995) were expected to provide Tennessee consumers with comparable services as new services became available. For example, dial up modems were just beginning to be utilized by consumers in 1995, and because of the computer expectations in speed and quality would increase such that quantification of speed levels for prospective years was impossible to be provided; however, expectations assumed "comparable" levels with other RBOCs.

The recent actions taken by the industry, as a whole, indicates that there is minimal consideration for some consumers. There have been many layoffs of key service positions not just for BellSouth, but for many other telecommunications providers across the country. In our opinion, these layoffs will negatively impact consumers more than implementation of service standards by the Authority. Therefore, it is essential that the proposed rules be implemented so that consumers receive quality telephone service.

BellSouth claims that the implementation of the rules will negatively impact competition. The industry's own action has already negatively impacted consumers even without the implementation of revised rules. Essentially, business customers, who have competitive alternative service providers, will be more at risk for BellSouth under the new rules at the current employee levels. BellSouth can afford to let service quality decline for residential users while devoting its resources to consumers that have competitive alternative service providers. The new rules level the playing field for all competitors and attribute some consequences to dereliction of service.

Furthermore, the exhibits to our comments dated October 26, 2001 clearly reflect that competition has already been negatively impacted because the prior version of the rules did not provide enough protection to the competitive local exchange carriers (CLECs) that are attempting to enter the market. According to recent reports, BellSouth continues to control 73% of local telephone service market in Tennessee.[2]

BellSouth stated in its letter that the rules that are implemented should effectively safeguard consumers. However, consumers have suffered because the present version of the rules do not provide the necessary sanctions that would stimulate the telecommunications service providers to ensure that consumers do not receive substandard service. Therefore, it is crucial that the rules be updated and implemented swiftly so that the problems that currently plague consumers are alleviated.

Moreover, the actions of the industry continue to undermine any hope that the industry is concerned about customers receiving adequate service. On December 15, 2001, BellSouth

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[2] *BellSouth ends bids to add long-distance service in South*, The Tennessean, Dec. 21, 2001, at E1.

publicly announced that it would be cutting non-management network operations jobs from its nine-state region.[3] Essentially, these are jobs that include technicians who install and maintain telephone wires. Since October 2001, BellSouth has cut 4,200 jobs (3,000 management and 1,200 technicians).

Lastly, the Consumer Advocate and Protection Division of the Attorney General's Office reiterates that this docket was opened on October 4, 2000. It has been over one year since the rulemaking docket was opened. We strongly urge the TRA to implement the rules immediately so that the consumers in the State of Tennessee are provided with adequate and reliable telecommunications services.

We appreciate the opportunity to participate in this matter. If you have any questions, please feel free to call us. Thank you for your time and attention in this regard.

Sincerely,

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3 *BellSouth will cut 1,200 more jobs*, The Tennessean, Dec. 15. 2001, at E1.

CERTIFICATE OF SERVICE

I hereby certify that on January 23, 2002, a copy of the foregoing document was served on the parties of record, via the United States Mail:

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