

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 28, 2002

IN RE:

BELLSOUTH TELECOMMUNICATIONS, INC. TARIFF  
TO INTRODUCE 2002 KEY CUSTOMER PROGRAM

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DOCKET NO.  
02-00625

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ORDER APPROVING TARIFF

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This matter came before the Tennessee Regulatory Authority ("Authority") at the regularly scheduled Authority Conference held on June 18, 2002, for consideration of BellSouth Telecommunications, Inc.'s ("BellSouth" or "BST") Tariff to Introduce 2002 Key Customer Program (the "Tariff") filed with the Authority on May 24, 2002, with a proposed effective date of June 24, 2002.

On June 4, 2002, the Consumer Advocate and Protection Division of the Office of the Attorney General (the "Consumer Advocate") filed the *Attorney General's Request for Clarification or in the Alternative Complaint and Petition to Intervene*. The Consumer Advocate stated that it is "not clear . . . whether the full amount of the avoided costs is reflected in BellSouth's representation of the wholesale discount" offered in the Tariff.<sup>1</sup> The Consumer Advocate further stated:

To the extent a reduction is made for less than all avoided costs, this would create a situation in which the price for resale fails to exclude the full measure of BST's avoided costs, thus resulting in an anti-

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<sup>1</sup> *Attorney General's Request for Clarification or in the Alternative Complaint and Petition to Intervene*, June 4, 2002, p. 2.

competitive wholesale price. This circumstance would not foster competition like the resale provisions should.<sup>2</sup>

The Consumer Advocate requested that the Authority clarify the wholesale price that would be used in BellSouth's tariff or grant intervention in this matter to the Consumer Advocate.

On June 14, 2002, BellSouth filed *BellSouth's Response to Petition for Clarification and Motion to Dismiss Complaint and Petition to Intervene*. BellSouth stated that if services discounted under the proposed Tariff are sold to a reseller, the retail rate to which the resale discount rate would be applied would be BellSouth's tariff rate minus the discount in the proposed tariff. BellSouth stated that this calculation is consistent with the Federal Communications Commission's ("FCC") Local Competition Order<sup>3</sup> and with the Authority's Orders in its Avoidable Costs Docket.<sup>4</sup>

On June 17, 2002, the Consumer Advocate filed the *Notice of Withdrawal of Attorney General's Request for Clarification or in the Alternative Complaint and Petition to Intervene*.

Upon careful consideration of the Tariff, the Authority made the following findings and conclusions:

1. The purpose of the Tariff is to offer qualifying business customers discounts on monthly billing for most service offerings provisioned in BellSouth's general and private line tariffs.

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<sup>2</sup> *Id.*

<sup>3</sup> See *First Report and Order, In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, FCC Docket No. 96-98 (August 8, 1996).

<sup>4</sup> See *Final Order in Docket No. 96-01331, In Re: The Avoidable Costs of Providing Bundled Service for Resale by Local Exchange Telephone Companies*, Docket No. 96-01331 (January 17, 1997).

2. The Tariff offers discounts for qualifying business customers in Rate Group 4 or Rate Group 5 wire centers who sign a contract between June 26, 2002 and December 31, 2002.
3. The Tariff requires monthly billing from seventy-five dollars (\$75.00) to three thousand dollars (\$3,000.00) per month, and excludes business customers who have annual statewide billing amounts that exceed thirty-six thousand dollars (\$36,000.00).
4. The Tariff requires business customers to execute a twenty-four (24) month or thirty-six (36) month service term contract. The discounts range from ten percent (10%) to twenty percent (20%), depending on the contract term and billed revenues. In addition, the Tariff offers a fifty percent (50%) hunting discount for the twenty-four (24) month service term and a one hundred percent (100%) hunting discount for the thirty-six (36) month service term.
5. The Tariff provides that if a customer terminates service under the contract prior to the expiration of the contract term, the customer is required to pay a termination charge equal to the lesser of (1) the total of the repayment of rewards received during the previous twelve (12) months of service and the repayment of the prorated amount of any waived or rewarded nonrecurring charges or (2) six percent (6%) of the total contract amount, in addition to tariffed termination liability charges for individual services, if applicable.

Based on the foregoing findings and conclusions, a majority<sup>5</sup> of the Directors

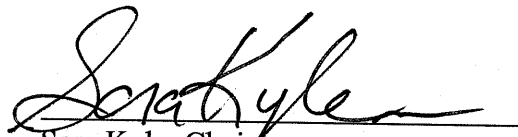
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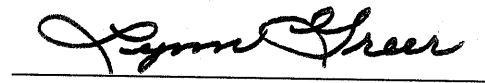
<sup>5</sup> Consistent with his position on a substantially similar plan, and in light of the Attorney General's May 31, 2002 opinion letter regarding the Authority's proposed rules concerning tariff term plans and special contracts, Director Malone did not vote to approve this Tariff. *See Dissenting Opinion of Director Malone to the Order Approving Tariff, In Re: BellSouth Telecommunications, Inc., Tariff to Introduce 2001 Key Business Discount Program*, Docket No. 01-00461 (February 8, 2002).

determined that this Tariff should be approved.

**IT IS THEREFORE ORDERED THAT:**


BellSouth Telecommunications, Inc.'s ("BellSouth") Tariff to Introduce 2002 Key Customer Program is approved.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

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Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary