

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

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*IN RE. Petition for Exemption of Certain  
Services*

) Docket No 03-00391  
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**COMMENTS OF AT&T COMMUNICATIONS OF THE SOUTH CENTRAL  
STATES, LLC**

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AT&T Communications of the South Central States, LLC ("AT&T") submits the following comments in response to the "Proposal Regarding Relief Sought" filed June 28, 2004, by BellSouth Telecommunications, Inc. ("BellSouth") and Citizens Communications Company of Tennessee, LLC ("Citizens"). In addition to filing these comments, AT&T further asks for a hearing in order to present oral argument concerning the issues raised by these filings.

This matter arises from the Petition filed by BellSouth and Citizens (the "ILECs") seeking partial deregulation of the carriers' intraLATA toll services. Such deregulation is permitted by T.C.A. § 65-5-208(b), where the Authority finds that "competition is an effective regulator of the price of those services."

As noted previously in AT&T's Comments filed January 12, 2004, incorporated herein by reference, AT&T does not oppose the Petitioners' request for limited deregulation of intraLATA toll rates provided that: (1) the carriers continue to file intraLATA toll tariffs under the rules applicable to incumbent local exchange carriers,

and (2) the carriers' intraLATA toll services remain subject to all applicable Authority rules and statutes other than the price cap restrictions set forth in T.C.A. § 65-5-209

Initially, AT&T understood that the request of BellSouth and Citizens for partial deregulation was essentially consistent with AT&T's proposed limitations. BellSouth, for example, filed a "Proposal Regarding Procedural Schedule" on December 18, 2003 in which BellSouth stated that its "position is that the Authority should exempt intraLATA toll service from regulatory requirements such that intraLATA toll service would be treated just as interLATA toll service is currently treated by the Authority. BellSouth does not seek any further exemptions relating to the treatment of intraLATA toll services." In later pleadings, BellSouth also acknowledged that it did not seek relief from the "price floor" requirements set forth in T.C.A. § 65-5-208(c). See Petitioners' Comments Regarding Exemption From Regulation Regarding IntraLATA Toll Service, filed January 16, 2004. T.C.A. § 65-5-208(c), which applies only to incumbent local exchange carriers, prohibits incumbent carriers from charging retail rates that are less than the carriers' costs of providing the service.

Now, however, as this phase of the proceeding nears its end, BellSouth and Citizens are seeking much broader relief than they originally requested. They now propose using a "price list" instead of tariffs, eliminating the ability of the agency to suspend a proposed tariff, even if it appears to violate the price floor statute, and having the ability to raise rates without any notice to the carriers' customers. The carriers essentially ask that the Authority surrender its ability to carry out its statutory obligations to protect consumers and promote competition.

Under the Authority's current rules, all carriers are required to file tariffs, and those tariffs, according to state law, are legally binding upon both the carriers and their customers. InterLATA carriers, though no longer subject to rate regulation, must still file tariffs at the TRA. Under the agency's rules for interLATA carriers, price reductions and tariffs to introduce new services become effective on the date filed, but price increases and proposed changes in the terms and conditions of service must be filed thirty days in advance. Instead of following the same rules applicable to interLATA carriers, as BellSouth originally requested, BellSouth and Citizens now propose, instead of filing tariffs, to file a "price list" with the TRA which "shall not constitute a tariff." The carriers' tariffs will reference the price list, but not include any rates. Any changes to this price list "shall be effective upon filing."

Nowhere do the carriers attempt to explain or justify this proposal. Neither state law nor the TRA's rules recognize a "price list," but the carriers' insistence that it is "not a tariff" appears to imply the list is not a legally binding obligation on either customers or carriers. On the other hand, if it is a legally binding document, then it is, in fact, no different from a "tariff" and there is no logical reason (and none offered by the carriers) for creating this new category of filings.

Equally problematic and unjustifiable is the Petitioners' proposal that all price changes become effective immediately, thus depriving customers of advance notice of rate increases, and depriving competitors and the TRA of the ability to investigate a tariff and, in appropriate cases, to suspend a tariff before it goes into effect. BellSouth and Citizens concede that they are still be bound by the "price floor" statute, but in the next breath, render that statute ineffective by asking the agency to hamstring its enforcement

powers. If, for example, BellSouth files an intraLATA toll rate that appears less than the “price floor” statute permits, under BellSouth’s proposal, the agency would have no power to suspend the tariff pending an investigation. It seems inconceivable that the agency would willingly surrender the tools it requires to enforce the statutes under its jurisdiction

The Authority should continue with the sound practice of requiring ILECs to file tariffs in advance of their effective dates. As explained above, this is especially important in the case of price reductions because advance notice gives the Authority and competitors time to determine whether the proposed reduction complies with the “price floor” provisions and the other pricing restrictions set forth in T.C.A. § 65-2-208 (c). If BellSouth can effect immediate intraLATA toll price reductions via a price sheet, at a price below cost, it can implement a price squeeze causing permanent damage to the ability of competitors to retain customers. This is precisely the wrong time for the Authority to even consider such a drastic step. BellSouth has presented no grounds to warrant this change.

### **CONCLUSION**

For the reasons set forth above, AT&T contends that the appropriate outcome for the portion of this case pertaining to limited deregulation of BellSouth’s intraLATA toll rates is to require that: (1) BellSouth must continue to file intraLATA toll tariffs under the time limits applicable to ILECs and (2) BellSouth’s intraLATA toll service remains subject to all applicable Authority rules and statutes other than the price cap restrictions set forth in T.C.A. § 65-5-209. AT&T requests the opportunity to present oral argument on these issues at the first regularly scheduled agenda conference in August

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2004, a copy of the foregoing document was served on the following parties, via U S. mail.

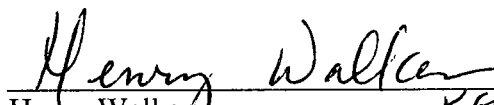
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