

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 25, 2004

IN RE:

PETITION OF BELL SOUTH
TELECOMMUNICATIONS, INC. FOR
EXEMPTION OF CERTAIN SERVICES

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DOCKET NO.
03-00391

ORDER SHORTENING TIME FOR RESPONSES

On June 16, 2003 BellSouth Telecommunications, Inc. ("BellSouth") and Citizens Communications, Inc. filed a *Petition for Exemption of Certain Services* ("Petition") in this docket requesting exemption from regulation of their intraLATA toll service and primary rate ISDN service ("PRI"). This matter is before the Hearing Officer for consideration of the *Consumer Advocate and Protection Division's Motion to Compel Discovery and File Supplemental Testimony* ("Motion") filed on October 22, 2004.

The Hearing Officer entered an order establishing the procedural schedule in this docket on July 30, 2004. Pursuant to the scheduling order a hearing regarding intraLATA exemption issues was held on August 30, 2004. The scheduling order provided for discovery responses to be filed regarding PRI exemption issues by September 13, 2004 and for the filing of testimony on those issues to be completed by October 18, 2004. Consistent with the scheduling order, all rebuttal testimony in this docket was filed with the Authority on October 18, 2004. A hearing regarding PRI exemption issues is currently set for November 8, 2004.

In its *Motion* the Consumer Advocate states that it has received only a portion of the information responsive to its August 30, 2004 discovery request and suggests that BellSouth is in

possession of additional responsive information; that it has been prejudiced by receiving late and incomplete responses to its discovery request; that it became aware of the insufficiency of BellSouth's response to its discovery requests only upon the filing of BellSouth's rebuttal testimony; and that the conclusions presented in the testimony the Consumer Advocate has already filed in this docket would have been different had the requested information been made available to the Consumer Advocate in accordance with the above-referenced procedural schedule.¹ The Consumer Advocate has attached supplemental testimony to its *Motion* it states would have been filed earlier had it received a timely response to its discovery.²

The Consumer Advocate has asked the Authority to (1) either strike certain previously-filed testimony or allow the filing of the supplemental testimony attached to its *Motion*; (2) compel BellSouth to fully respond to the discovery described in the Consumer Advocate's *Motion*; (3) allow the Consumer Advocate to file additional testimony resulting from its review of any additional discovery responses received from BellSouth and (4) schedule a pre-hearing conference to address the issue of postponing the Hearing on the merits of the PRI exemption issue if BellSouth does not fully supplement its discovery responses by October 27, 2004.³

TRA Rule 1220-1-2-.06 states that a response in opposition to a motion shall be filed within seven (7) days after service of the motion and that the Hearing Officer may shorten the time for responding to the motion.⁴

¹ *Motion*, p. 4 (October 22, 2004).

² *Motion*, p. 4 (October 22, 2004).

³ *Motion*, pp 4-5 (October 22, 2004).

⁴ Tenn Comp. R & Regs. 1220-1-2- 06(2).

The Hearing Officer finds that, given the timeframe described in the above-referenced procedural schedule, the Consumer Advocate filed its *Motion* within a reasonable time after receiving the rebuttal testimony filed on behalf of BellSouth on October 18, 2004. The Hearing Officer also finds that, given that the Hearing of this matter is presently set for November 8, 2004, a shortening of the time for responding to the consumer Advocate's *Motion* is warranted.

IT IS THEREFORE ORDERED THAT:

1. Any party opposing the *Consumer Advocate and Protection Division's Motion to Compel Discovery and File Supplemental Testimony* or any of the relief requested therein, shall file a response by 4:30 p.m. on or before Wednesday, October 27, 2004.


Randal L. Gilliam, Hearing Officer