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March 23, 2006

Mr. Richard Collier
General Counsel
c/o Ms. Sharla Dillon
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Notice of Rulemaking of General Public Utility Rules, Docket No. 04-00284

Dear Mr. Collier:

To complement the oral comments made at the rulemaking hearing on March 20, 2006, United Telephone-Southeast, Inc., Sprint Communications Company, L.P., and Sprint Long Distance, Inc. (collectively, "the Commentors") offer comments in this letter. In addition, the Commentors offer the suggested rule revisions in the attached mark-up to the rule amendments that have been proposed by the Authority Staff in this matter.

The majority of the Commentors' suggested revisions are found in the attached mark-up to the Staff's proposed rule amendments. The comments offered therein are an attempt to bring the amended rules even closer in line with the applicable statutes. However, for the purpose of providing a more complete record and to address some minor concerns the Commentors respectfully set forth in this letter a few additional remarks and revisions.

As stated in the March 20, 2006 rulemaking hearing, the Commentors suggest modifying the name of Authority Rule 1220-4-2-.55(2) from "Intrastate InterLATA services" to "Intrastate Interexchange services" to incorporate the provision of IntraLATA services by Interexchange Carriers. Also, in the attached suggested revisions, the Commentors have made very limited changes to the amendments proposed by Staff for Section (2)(b). The revisions suggested by the Commentors acknowledge that intrastate interexchange carriers may choose to file tariffs for rates but are not required to do so. This is a direct result of the 2001 amendment to Tenn. Code Ann. § 65-4-101(6)(I) setting forth that intrastate interexchange carriers are no longer subject to rate regulation under Tenn. Code Ann. §§ 65-5-101 and 65-5-103, and provides consistent treatment of rate tariffs among facilities-based IXC's, IXC resellers, and CLECs.

Additionally, in reviewing the rule in its entirety the Commentors note that subsection (c) of Authority Rule 1220-4-2-.55(2) should be deleted to bring the rule into compliance with Tenn. Code Ann. § 65-4-101(6)(I) as discussed above.

As a result of the revisions to subsection (b) of Authority Rule 1220-4-2-.55(2), the Commentors also believe it necessary to make amendments to subsection (d) and (e) of the rule as follows:

(d) Price Adjustments

1. Intrastate interexchange carriers are not required to file rate tariffs; however, if they choose to file tariffs, price adjustments shall become effective on the tariff filing date.
2. Whether or not the carrier includes rates in their tariffs, affected customers shall be notified in a conspicuous manner by direct mail or by publication of a notice in a newspaper of general circulation in the affected service area thirty (30) days prior to the effective date of any rate increases.

(Subparagraph 3 is deleted)

(e) New Services

1. Tariffs reflecting updates to terms and conditions will be filed, if appropriate, prior to or simultaneously with the offering of new services.

(Subparagraph 2 is deleted)

In addition to these suggested revisions the Commentors have deleted subsection (f) because it applies to special contracts used by interexchange carriers. Since interexchange carriers are no longer subject to rate regulation pursuant to Tenn. Code Ann. § 65-5-101, subsection (f) is obsolete.

Consistent with the relief from rate regulation in the above-referenced statute, Authority Rule 1220-4-2-.57, subsection 7(a) outlining rate regulation of operator service providers is obsolete and the Commentors recommend its deletion. Also, the Commentors recommend revisions to subsection 7(b) that delete the reference to “rates, tolls, charges” to be included in Authority or Staff requested tariffs. These suggested revisions to rule 1220-4-2-.57, subsection 7 ensure equitable rate regulation among providers of operator services and interexchange services.

In Authority Rule 1220-4-2-.61, the Commentors suggest deleting a portion of subsection 1 and deleting subsection 2 in its entirety. These suggested revisions take into account that the deleted language merely restates the transitional policies set forth under Tenn. Code Ann. § 65-37-103(a)(1) and that these transitional requirements have already been met.

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Finally, it is the Commentors hope that the suggested revisions contained in this letter and the attached mark-up are of value to the Authority. Please do not hesitate to contact me with any questions concerning the issues raised in this filing.

Sincerely yours,

A handwritten signature in cursive script that reads "Edward Phillips". The signature is fluid and extends to the right with a long, sweeping tail.

Edward Phillips

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Attachments

Chapter 1220-4-1

General Public Utility Rules

Amendments

Rule 1220-4-1-04 Tariff Changes Require 30 Days Notice to the Authority is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended the rule shall read

- (1) All tariffs, rate schedules or supplements thereto containing any change in rates tolls charges or rules and regulations must be filed with the Authority at least thirty (30) days before the effective date of such changes except as hereinafter provided. Upon application and for good cause shown the Authority may waive the thirty (30) day time limit or any portion thereof
- (2) Incumbent local exchange telephone companies' tariffs, rate schedules or supplements thereto containing any changes in rates, tolls or charges that are valid for more than one hundred eighty (180) days including tariffs extending rates terms or conditions beyond one hundred and eighty (180) days as defined in Tenn Code Ann § 65-4-101 (4) shall become effective twenty-one (21) days after filing. Upon application and for good cause shown the Authority may waive the twenty-one (21) day period or any portion thereof
- (3) Incumbent local exchange telephone companies' tariffs, rate schedules or supplements thereto containing any changes in rates, tolls or charges that are valid for one hundred eighty (180) days or less as defined in Tenn Code Ann § 65-4-101(4) shall become effective one (1) business day after filing.

Authority Tenn Code Ann § 65-2-102 65-5-101(c)

Paragraph (4) of rule 1220-4-1-06 Changes in Tariff is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that, as amended the paragraph shall read

- (4) All tariffs and supplements affecting Tennessee intrastate business except those tariffs filed pursuant to 1220-4-1-04(a) and 1220-4-1-04(b) shall be filed with the Tennessee Regulatory Authority at least thirty (30) days before the date upon which they are to become effective unless upon application and for good cause shown the Authority may waive the thirty (30) day time limit or any portion thereof

Authority Tenn Code Ann § 65-2-102, 65-5-101(c) 65-5-103(a)

Rule 1220-4-1- 07 Special Contracts is amended by deleting the text of the rule in its entirety and substituting instead the following language so that as amended the rule shall read

- (1) Special contracts between public utilities and certain customers prescribing and providing rates services and practices not covered by or permitted in the general tariffs schedules or rules filed by such utilities are subject to supervision, regulation and control by the Authority. A copy of such special agreements shall be filed subject to review and approval except as provided hereinafter.
- (2) Rates and terms contained in special contracts negotiated between public utilities that are telecommunications providers and business customers shall be presumed valid and

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(b) Tariffs rate schedules or supplements thereto containing any changes in rates tolls or charges that are valid for more than one hundred eighty (180) days including tariffs extending rates terms or conditions beyond one hundred and eighty (180) days filed by incumbent local exchange telephone companies as defined in Tenn Code Ann § 65-4-101 (4) shall become effective twenty-one (21) business days after filing Upon application and for good cause shown the Authority may waive the twenty-one (21) day period or any portion thereof¶

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this presumption shall only be set aside by the Authority for the specific reasons set forth in Tenn Code Ann § 65-5-101(b).

- (a) Records of such rates and terms shall be retained by the telecommunications provider for the length of time that such rates and terms apply but shall not be filed with the Authority. Such rates shall become effective upon execution by the parties.

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Authority Tenn Code Ann §~ 65-2-102 and 65-5-101(b)

Part 3 of subparagraph (a) of paragraph (2) of rule 1220-4-1-10 Reports-Uniform Financial Report Forms is amended by deleting the text of part 3 in its entirety and substituting instead the following language so that as amended part 3 shall read

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(2) Type of Public Utilities

(a) Telephone Utility Companies

- 3 Under the requirements of Tenn. Code Ann. § 65-37-104, the Authority will not establish or impose upon price-regulated carriers regulated under Tenn. Code Ann. 65-5-109 state-specific financial information or financial reporting requirements or a uniform system of accounts. Price-regulated carriers operating pursuant to Tenn Code Ann §65-5-109 may be required to file with the Authority only that financial information or financial reports that are required to be filed with the Federal Communications Commission. Such filing requirements may be satisfied by the carrier by the submission of a letter explicitly identifying a publicly-available government website on which the information is posted. The inspection control and supervision fee established in Tenn Code Ann § 65-4-301 shall be based on the financial information contained in such federal reports.

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Authority Tenn Code Ann §§ 65-2-102, 65-4-401, 65-4-101, 65-4-104, 65-4-111, 65-5-109 and 65-37-104

Chapter 1220-4-2

Regulation for Telephone Companies

Amendments

Parts 1 2 and 3 of subparagraph (b) of paragraph (2) of rule 1220-4-2-55 Regulatory Reform is included for public comment to determine if revisions are necessary to ensure that IXC's and CLECs are treated similarly to other carriers

(2) Intrastate Interexchange services

(b) Tariff Rules and Regulations

- 1 Pricing of intrastate interexchange services has been deregulated under Tenn. Code Ann. § 65-4-101 (6) (I). Facility-based providers of intrastate interexchange services shall file tariffs for intrastate services which shall include terms and conditions.

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Additionally parts 1 and 2 of subparagraph (f) of paragraph (2) of rule 1220-4-2- 55 Regulatory Reform is amended by deleting in its entirety the text of parts 1 and 2 and substituting instead the following language so that as amended parts 1 and 2 shall read

Authority Tenn Code Ann §§ 65-2-102 65-4-104, 65-4-111 65-4-201 65-5-102 65-5-101(b) and 65-5-103

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3 Tariff filings involving new services or rate increases may be suspended by the Authority only upon a showing of good cause ¶

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(f) Special Services or Contracts ¶

¶
1 Rates and terms contained in special contracts negotiated between interexchange carriers and business customers shall be presumed valid and this presumption shall only be set aside by the Authority for the specific reasons set forth in Tenn Code Ann § 65-5-101(b) ¶

¶
2 Records of such rates and terms shall be retained by the interexchange carriers for the length of time that such rates and terms apply but shall not be filed with the Authority Such rates shall become effective upon execution by the parties ¶

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New Rule

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1220-4-2-59 Promotional Incentives

- (1) All telecommunications providers shall be permitted to offer promotional incentives for telecommunications services including rebates and limited free service offerings, provided that
- (a) Such promotions not extend more than six (6) months
 - (b) Any such free service promotions shall not provide more than one (1) month of free local exchange service in any twelve (12) month period
 - (c) Any such free service promotion available for the full six (6) month period may not be reinstituted for thirty (30) days after expiration of such period

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Authority Tenn Code Ann § 65-37-101

New Rule

1220-4-2-60 Price Differences Among Retail Telecommunications Customers

- (1) Price differences among retail telecommunications customers shall be strictly prohibited to the extent that such differences are attributable to race, creed, color, religion, sex, or national origin.
- (2) All other differences in pricing among retail telecommunications customers shall be presumed to be a function of the competitive market. This presumption may be rebutted by evidence of price discrimination as prohibited by Tennessee law.
- (3) In determining whether differences in pricing among retail telecommunications customers constitute price discrimination as prohibited by Tennessee law, all relevant factors shall be considered including, but not limited to, the following:
 - (a) whether customers have been or will be injured as a result of the alleged price differences
 - (b) whether there is a legitimate business reason to distinguish between the customers who are being treated differently
 - (c) whether the customers who are being treated differently are similarly situated
 - (d) whether customers may choose a functionally equivalent service from an alternative service provider at substantially the same price and terms and
 - (e) whether the TRA has determined previously that existing and potential competition is an effective regulator of the price of the service that is the subject of the complaint

Authority Tenn Code Ann § 65-37-102

New Rule

1220-4-2-61 Bundled Services

- (1) The Authority shall assert regulatory jurisdiction over retail offerings except retail offerings of combinations or bundles of products or services whether or not comprised of products or services provided by a local exchange carrier alone or with another company. Nothing in this rule shall require any company to engage in joint marketing with another company when it does not choose to do so.
- (2) Nothing in this rule shall alter or expand the Authority's jurisdiction to hear complaints alleging price discrimination as prohibited by Tennessee law or anticompetitive practices regarding the provision of retail telecommunications services. Claims of anti-competitive practices in any retail telecommunications services market will be evaluated by applying applicable federal or state law and considering all relevant factors under Tenn. Code Ann. § 65-37-103.
- (3) Nothing in this rule shall alter the Authority's jurisdiction to review price regulation filings or conduct rate of return ratemaking analysis, as applicable, for ILEC telecommunications providers. Revenue for telecommunications services provided in combinations or bundles shall be considered regulated revenue for purposes of price regulation or rate of return rate analysis.
- (4) Nothing in this rule shall affect, alter or be construed to affect or alter the applicability of state or federal antitrust law or federal telecommunications law or the TRA's authority under federal telecommunications laws.

Authority Tenn Code Ann § 65-37-103

Deleted: whether or not such combinations or bundles of products or services are subject to a tariff or other regulatory filing with the TRA and

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(2) As part of the terms and conditions for bundles or combinations telecommunications carriers shall provide customers with the following notice "This offer contains telecommunications services that are also available separately. Should you desire to purchase only the telecommunications services included in this offer without additional products or services you may purchase those telecommunications services individually at prices posted on ¶

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New Rule¶

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1220-4-2-61 Bundled Services¶

Deleted: (1) The Authority shall assert regulatory jurisdiction over retail offerings except retail offerings of combinations or bundles of products or services whether or not such combinations or bundles of products or services are subject to a tariff or other regulatory filing with the TRA and whether or not comprised of products or services provided by a local exchange carrier alone or with another company. Nothing in this rule shall require any company to engage in joint marketing with another company when it does not choose to do so¶

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Deleted: As part of the terms and conditions for bundles or combinations telecommunications carriers shall provide customers with the following notice "This offer contains telecommunications services that are also available separately. Should you desire to purchase only the telecommunications services included in this offer without additional products or services you may purchase those telecommunications services individually at prices posted on ... [1]

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(b) the number and relative longevity of companies providing functionally-equivalent services¶
(c) the relative gain or loss of ... [2]

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Chapter 1220-4-8
Regulations for Local Telecommunications Providers

Amendments

Subparagraph (b) of paragraph (2) of rule 1220-4-8-07 Tariff and Pricing Requirements for Competing Local Telecommunications Service Providers Local Service is included for public comment to determine if revisions are necessary to ensure that IXC's and CLECs respectively are treated similarly to other carriers

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(2) Pricing

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- (b) Price increases for all local services that are within the range of prices for a service on file with the Authority shall become effective thirty (30) days following notification by direct mail to affected customers or by publication of a notice for the increase in a newspaper of general circulation in the affected service area. New price increases that are not within such range shall not become effective until a new informational tariff is filed with the Authority.

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Additionally paragraph (3) of rule 1220-4-8- 07 Tariff and Pricing Requirements for Competing Local Telecommunications Service Providers Local Service is amended by deleting the text of the paragraph in its entirety and substituting instead the following language so that as amended the paragraph shall read

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(3) Special Contract Provisions

- (a) Rates and terms contained in special contracts negotiated between competing carriers and business customers shall be presumed valid and this presumption shall only be set aside by the Authority for the specific reasons set forth in Tenn Code Ann § 65-5-101(b).
- (b) Records of such rates and terms shall be retained by the competing carriers for the length of time that such rates and terms apply but shall not be filed with the Authority Such rates shall become effective upon execution by the parties.

Authority Tenn Code Ann §~ 65-2-102 65-5-101 65-5-102 65-5-103 65-5-104 and Chapter 408 of Public Acts of 1995

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Subparagraph (d) of paragraph (2) of rule 1220-4-8- 09 Consumer Complaints, Anti-Competitive Complaints and Violation of Applicable State Law and Authority Rules is amended by deleting the text of the subparagraph in its entirety because it did not comply with the new language in Tenn Code Ann § 65-37-102. The new language added in 1220-4-2-60 applies to all telecommunications providers making this section of the rules unnecessary.

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As part of the terms and conditions for bundles or combinations telecommunications carriers shall provide customers with the following notice 'This offer contains telecommunications services that are also available separately Should you desire to purchase only the telecommunications services included in this offer without additional products or services you may purchase those telecommunications services individually at prices posted on [company website] or filed with the Tennessee Regulatory Authority"

(3)

- (a) the geographical and economic extent of commercial demand for functionally-equivalent services
- (b) the number and relative longevity of companies providing functionally-equivalent services
- (c) the relative gain or loss of revenues attributable to functionally-equivalent services and customers who purchase functionally-equivalent services
- (d) the relative increase or decrease in facilities-based investment attributable to providing functionally-equivalent services
- (e) the degree to which marketing, pricing and business strategies are utilized to acquire or maintain revenues attributable to functionally-equivalent services and customers who purchase functionally-equivalent services and
- (f) the relationship between pricing policies and costs of functionally-equivalent services