

BEFORE THE TENNESSEE REGULATORY AUTHORITY AT

NASHVILLE, TENNESSEE

April 17, 2007

IN RE:

**TARIFF FILING BY BELL SOUTH
TELECOMMUNICATIONS, INC. TO INCREASE
DIRECTORY ASSISTANCE AND OPERATOR
SERVICE RATES - Tariff Number 2006-00431**

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**DOCKET NO.
06-00232**

ORDER GRANTING BELL SOUTH TARIFF NO. 2006-00431

This matter came before Director Eddie Roberson, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the “Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on September 25, 2006 for consideration of the Tariff Filing to Increase Directory Assistance and Operator Service Rates – Tariff Number 2006-00431 filed by BellSouth Telecommunications, Inc. (“BellSouth”).

HISTORY OF DIRECTORY ASSISTANCE CHARGES IN TENNESSEE

Prior to 1997, Directory Assistance (“DA”) was free to all consumers in Tennessee. A majority of the Directors¹ initially approved directory assistance charges at the request of United Telephone Southeast (“UTSE”) in 1997 in Docket No. 96-01423, based on the majority’s determination that directory assistance is a non-basic service under state law.² Following a contested case proceeding, the Authority approved UTSE’s tariff for a \$0.29 DA charge and required UTSE to amend its tariff to provide six (6) free DA inquiries per month rather than three

¹ Director Kyle concluded that directory assistance service was appropriately classified as an essential basic service and did not vote with the majority.

² Tenn. Code Ann. § 65-5-109 (f) (Supp. 2005), passed as a part of the Tennessee Telecommunications Act of 1995, prohibits a basic service from being increased during the initial four years after an incumbent local exchange company elects to fall under price regulation.

as proposed by UTSE, based upon the finding that many telephone numbers were not published in the printed telephone directory.³

The TRA's decision in Docket No. 96-01423 was appealed to the Tennessee Court of Appeals by the Consumer Advocate Division of the Office of the Attorney General for the State of Tennessee ("Consumer Advocate"). While UTSE agreed with the TRA's decision that DA is a non-basic service, UTSE pursued its own appeal, arguing before the Court that the TRA had exceeded its authority by requiring UTSE to amend its tariff. The Court issued its opinion on July 18, 2002, finding that the TRA had correctly determined that DA is a non-basic service and that UTSE could charge for DA. The Court rejected UTSE's argument and held that the TRA acted within its statutory authority in requiring UTSE to file an amended tariff to provide for six DA inquiries per month and free unlimited DA for disabled customers and residential subscribers age sixty-five or older. The Court affirmed that the TRA had acted within its power to establish such requirements citing Tenn. Code Ann. 65-4-117(3) (2004), which states that the Authority has the power to:

After hearing, by order in writing, fix just and reasonable standards, classifications, regulations, practices and services to be furnished, imposed, observed and followed thereafter by any public utility.

In sum, the Court held that while DA is a non-basic service and ILECs can set rates accordingly, the TRA retains the power to establish the appropriate safeguards and requirements that it deems necessary.

In 1999, BellSouth filed a tariff to begin charging for DA. The Consumer Advocate filed a petition and complaint for declaratory and injunctive relief. As BellSouth's tariff included the

³ See United Telephone Southeast, Inc. Tariff No. 96-201 to Reflect Annual Price Cap Adjustment, Docket No. 96-01423, *Order Approving in Part and Denying in Part Tariff 96-201* (September 4, 1997).

same \$0.29 charge, six call allowance and identical terms and conditions as previously approved for UTSE, the Authority declined to convene a contested case, approved the tariff and denied the Consumer Advocate's Petition.⁴ The Consumer Advocate appealed the TRA's decision to approve the tariff, seeking a reversal of the Authority decision on several grounds, including that the Authority abused its discretion by refusing to convene a contested case. After rejecting the other grounds asserted by the Consumer Advocate, the Tennessee Court of Appeals addressed the contested case issue, holding in favor of the TRA. Subsequently, BellSouth's DA charge was increased to \$0.29 per call, and the existing exemptions were maintained.

Effective September 15, 2003, BellSouth increased its DA rate from \$0.29 per call to \$0.40 (TRA Tariff 2003-902). Thereafter, on September 10, 2004, BellSouth increased its DA rate from \$0.40 per call to \$0.59 per call (TRA Tariff 2004-1029). On October 1, 2005, BellSouth increased its DA charge to the present rate of \$0.98 (Tariff 2005-00818).

On December 1, 2004, BellSouth filed Tariff Number 2004-1434 ("Tariff") with a proposed effective date of December 31, 2004. Through this Tariff, BellSouth sought to reduce the number of free DA requests from six per month to three per month. As a result, BellSouth subscribers would be assessed the DA fee beginning with the fourth DA request each month. Physically and/or visually impaired persons and residential subscribers who are sixty-five years or older would continue to receive unlimited DA requests free of charge. The Tariff also provided BellSouth's Directory Assistance Call Completion ("DACC") service⁵ to customers with physical and/or visual disabilities free of charge; otherwise, the tariff rate for DACC service of \$0.45 per completed call would be applicable to these disabled consumers.

⁴ See BellSouth Telecommunications, Inc. Tariff to Implement a \$0.29 Directory Assistance Charge, Docket No. 99-00391, *Order Approving Tariff and Denying Consumer Advocate's Petition* (July 29, 1999).

⁵ DACC service allows subscribers to have telephone numbers requested via DA automatically dialed by the Operator System.

At the regularly scheduled Authority Conference held on January 10, 2005, the panel voted unanimously to allow BellSouth's Tariff to go into effect concluding that the Consumer Advocate had not requested a suspension of the tariff nor did a sufficient reason exist for suspending the tariff on its own motion under Tenn. Code Ann. § 65-5-101(c) (Supp. 2005). On March 14, 2005, a majority declined to convene a contested case as requested by the Consumer Advocate and concluded that the tariff as a whole did not harm the public interest.

TARIFF 2006-00431

On September 8, 2006 BellSouth filed Tariff No. 2006-00431 which increases rates for DA⁶ and various operator services. The tariff also reduces the number of monthly free DA requests from three to one. The effective date of the tariff is October 1, 2006; however, the new rates will not be billed until the billing cycle beginning November 1, 2006. The Company provided customer notification of the Tariff via publication in newspapers of general circulation.

Pursuant to this Tariff, the rate for DA will be increased from \$0.98 to \$1.14 and the number of free DA requests per month will be reduced from three to one. Therefore, beginning with the second DA request in any one month, residential and business consumers will be assessed a charge of \$1.14 per call. Physically and/or visually impaired persons and residential subscribers who are 65 years or older will continue to receive unlimited DA calls free of charge. Additionally, the rates for operator services are increased as follows: (1) Calling Card, from \$0.80 to \$1.25; (2) Operator assistance, from \$2.25 to \$2.50; (3) Person-to-Person, from \$4.90 to \$5.00; (4) Call Verification, from \$1.50 to \$6.45; and, (5) Call Interruption, from \$3.00 to \$12.90.

⁶ BellSouth's DA service can be accessed by dialing 411 or 1-411.

DISCUSSION

Initially, the TRA approved a six DA call allowance in 1997 due to the fact that many telephone numbers were not published in the printed directory. Some numbers had been excluded in the printed directory at a subscriber's request (i.e., a non-published listing), and some were inaccurate or did not appear because new numbers were obtained after the directory was printed (e.g., a new customer or customer move). Accordingly, it was necessary that customers call DA in order to obtain telephone numbers for those subscribers whose numbers did not appear in the printed directory but were still available via directory assistance.

While some telephone numbers are not available in the printed directory today, the evolving dynamics of the communications environment enables many, if not most, consumers to obtain subscribers' telephone numbers, not available in the printed directory, by alternative modes. For example, many telephone numbers are available through various internet search engines. Additionally, ever expanding bases of consumers have cellular telephones and electronic mail addresses (e-mail) by which they can be contacted in the event of a change to their landline telephone number. These expanding avenues of communication facilitate the acquisition of landline telephone numbers, and reduce dependency on DA for the procurement of telephone numbers that are not in the printed directory.

Further, the majority of BellSouth's competitors have no restrictions on the DA services they offer, including the number of call allowances. In fact, most competing local exchange company's ("CLECs") do not have call allowances and charge for every DA request. BellSouth's consumers are permitted one free DA call per month. Given the variety of existing methods from which to acquire telephone numbers in today's environment, the Authority finds the tariff reasonable and not adverse to the public interest. BellSouth will continue to provide its

DA service at no charge to physically and visually disabled customers, and to customers sixty-five years or older who request an exemption.

Regarding the price increase from \$0.98 to \$1.14, DA was originally categorized by the Authority as a non-basic service in Docket No. 96-01423 – a decision later affirmed by the Tennessee Court of Appeals. Pursuant to the price regulation statutes, BellSouth has the ability to price non-basic services as it deems appropriate. Tenn. Code Ann. § 65-5-109 (h) (Supp. 2005) specifically provides, “Incumbent local exchange telephone companies subject to price regulation may set rates for non-basic services as the company deems appropriate” Accordingly, BellSouth has the statutory authority to increase the price of DA.

Rates for operator services, which are also categorized as non-basic services, are also increasing. Most of the increases are relatively minor, except those for Call Verification and Call Interruption, which are increasing from \$1.50 to \$6.45 and \$3.00 to \$12.90 respectively. Call Verification Service allows customers to contact the operator and determine if a particular line is in use; Call Interruption Service is used by customers to interrupt (through the operator) a conversation in progress on a called line. BellSouth does not assess charges for these requests from emergency agencies or where the caller identifies the request to be related to an official public emergency, an emergency medical number, or a suicide, drug, alcohol or runaway crisis reporting center. Furthermore, the BellSouth operator informs the caller of the amount of the charges before a call is verified or interrupted and any charge incurred, at which time, the customer has the option to proceed with or to decline the verification or interruption.

BellSouth’s filing indicates that there was low consumer demand for call verification and call interruption services during the past year. Accordingly, the low volume of use, coupled with the fact that, (1) BellSouth does not assess the charges in most emergency situations, and (2)

customers are informed prior to the application of the charges, greatly mitigates potential concern regarding the larger rate increases.

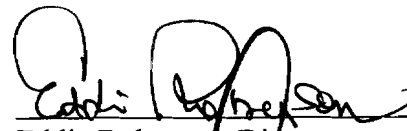
Finally, the net impact of this tariff is an overall revenue increase of approximately \$9.6 million annually. An examination of BellSouth's previously approved price cap plan and current price cap calculations shows that BellSouth has the available revenue headroom for the proposed revenues increase; i.e., BellSouth's revenues after this increase will not exceed the maximum allowed pursuant to the price cap statutes and approved TRA methodology.

SEPTEMBER 25, 2006 AUTHORITY CONFERENCE

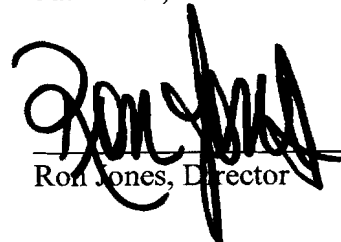
At a regularly scheduled Authority Conference held on September 25, 2006, after hearing comments from a BellSouth representative, the majority of the voting panel assigned to this docket voted to approve Tariff No. 2006-00431.⁷

IT IS THEREFORE ORDERED THAT:

Tariff No. 2006-00431 filed by BellSouth Telecommunications, Inc. is approved.


Eddie Roberson, Director


Pat Miller, Director


Ron Jones, Director

⁷ Director Jones did not vote with the majority as to the DA provisions in the Tariff. Citing his reasoning set out in the *Concurrence and Dissent to the Order Declining to Convene Contested Case as to Bellsouth's Tariff No. 2004-1434 and Denying Consumer Advocate's Complaint and Petition to Intervene* in Docket No. 04-00416, Director Jones voted to approve "the tariff filings for those services other than DA and deny in part the tariff filing that reduces the number of free DA calls from three to one."