

BEFORE THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

October 2, 2008

IN RE:

**UNITED TELEPHONE-SOUTHEAST, INC.
D/B/A EMBARQ CORPORATION TARIFF FILING
TO INCREASE RATES IN CONJUNCTION
WITH THE APPROVED 2007 ANNUAL PRICE
REGULATION FILING**

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**DOCKET NO.
07-00269**

PRE-HEARING ORDER

This matter came before the Hearing Officer during a Pre-Hearing Conference held on October 2, 2008, which by the request of the parties, was held telephonically. The Petitioner, United Telephone-Southeast, Inc.¹ d/b/a Embarq Corporation (“Embarq”), was represented by Edward Phillips, Esq. The Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer Advocate”), an intervenor in this proceeding, was represented by Ryan McGehee, Assistant Attorney General.

BACKGROUND

At a regularly scheduled Authority Conference held on December 17, 2007, the voting panel of the Tennessee Regulatory Authority (“Authority” or “TRA”) assigned to consider the tariff filing in this docket, suspended the portion of the tariff concerning directory assistance while approving the balance of the tariff. The directory assistance (“DA”) portion of the tariff consists of two elements, which raise two distinct issues: (1) the number of free DA allowances, and (2) the rate for each call in excess of the DA allowance. The panel voted unanimously to

¹ After this docket was opened, United Telephone-Southeast changed its corporate designation from Inc. to LLC.

suspend, in the public interest² and pending a hearing, the issue concerning the number of DA allowances. A majority of the panel voted to suspend the proposed rate increase on calls that exceed the appropriate DA allowance.³ A contested case was convened to consider the directory assistance portion of the tariff, a hearing officer appointed, the intervention of the Consumer Advocate into such contested case was granted, and Embarq was directed to refile its tariff as approved.⁴

Embarq filed a *Petition for Appeal of the Hearing Officer's Initial Order* on February 29, 2008 and a *Petition for Reconsideration of March 5, 2008 Order* on March 14, 2008. Both petitions, *inter alia*, essentially appealed the determination that the rate increase for DA should be suspended pending the hearing on the merits. On March 24, 2008, at a regularly scheduled Authority Conference, two members of the panel voted to lift the suspension of the proposed DA rate increase.⁵ That decision effectively eliminated the second issue; therefore, the sole remaining issue in this case is to determine the appropriate number of free DA allowances.

PRE-HEARING CONFERENCE

The Hearing Officer first queried whether the parties had any pre-trial motions. No motions were proffered; however, Embarq stated that it was working on a stipulation with the Consumer Advocate concerning the admission of certain exhibits and would offer that stipulation at the appropriate time during the hearing.

² See Tenn. Code Ann. § 65-5-101(c)(3)(iii)(B); as part of her motion, Director Kyle stated “I think I owe it to Tennessee consumers to pause right now and take the time to research, to review evidence, and to build a record about how they will be impacted by reducing the call allowance from three to one. Also I would like to hear from the Consumer Advocate on this issue. So I would be in favor of suspending the portion of the tariff concerning directory assistance so we could have a hearing.” Transcript of Authority Conference, p. 14 (December 17, 2007).

³ Director Jones stated that absent a change to the number of DA allowances, if the tariff simply proposed a rate increase on excess DA calls, he would vote to approve it, given that DA is a non-basic service and it is well settled that the company has the ability to make an adjustment in its rates under the price regulation regime.

⁴ The remaining sections of the tariff, the contested case, appointment of a hearing officer and the Consumer Advocate's intervention were all unanimously approved by the panel. See Transcript of Authority Conference, pp. 13-20 (December 17, 2007).

⁵ Director Kyle, consistent with her previous position, voted to maintain the suspension of both the call allowance and the rate increase.

The parties requested brief opening statements (not to exceed 10 minutes) and the order of proof was then discussed. The following order of the hearing was then established and agreed upon:

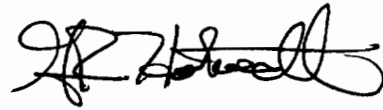
Opening Statement	Embarq
Opening Statement	Consumer Advocate
Petitioner’s (Embarq) witness	Mark C. Hunter
Cross-examination	Consumer Advocate
Questions	TRA Staff ⁶
Re-direct examination	Embarq
Intervenor’s (Consumer Advocate) first witness	Terry Buckner
Cross-examination	Embarq
Questions	TRA Staff
Re-direct examination	Consumer Advocate
Intervenor’s (Consumer Advocate) second witness	Michael D. Chrysler
Cross-examination	Embarq
Questions	TRA Staff
Re-direct examination	Consumer Advocate
Comments from the public	if any

⁶ While the Directors may ask questions at any time, both parties agreed to allow Staff of the TRA to directly question a witness between cross and re-direct examination.

The parties agreed that any of the above witnesses would be subject to recall for rebuttal purposes. Closing statements were waived, provided that the Authority allowed for post-hearing briefs. The parties agreed to file post-hearing briefs in two weeks from the filing of the transcript of the hearing.

IT IS THEREFORE ORDERED THAT:

1. The order of the hearing is adopted as set forth above;
2. The Hearing on the merits of this matter will commence on Monday, October 6, 2008 at 10:00 a.m.

A handwritten signature in black ink, appearing to read 'G. Hotvedt', written over a horizontal line.

Gary Hotvedt, Hearing Officer