

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT
NASHVILLE, TENNESSEE**

March 5, 2008

IN RE:)	
)	
UNITED TELEPHONE-SOUTHEAST, INC. D/B/A)	DOCKET NO.
EMBARQ CORPORATION TARIFF FILING TO)	07-00269
INCREASE RATES IN CONJUNCTION WITH THE)	
APPROVED 2007 ANNUAL PRICE REGULATION)	
FILING)	

ORDER GRANTING TARIFF IN PART AND SUSPENDING TARIFF IN PART

This matter came before Chairman Eddie Roberson, Director Sara Kyle, 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 December 17, 2007 for consideration of the tariff filing to increase numerous rates, including Directory Assistance, filed by United Telephone-Southeast Inc. (“UTSE”) d/b/a Embarq Corporation (“Embarq” or “Company”) on November 19, 2007. On December 11, 2007, the Consumer Advocate Division of the Office of the Attorney General for the State of Tennessee (“Consumer Advocate”) filed a *Complaint and Petition to Intervene* (“*Petition to Intervene*”). Embarq filed a response to the Consumer Advocate’s *Petition to Intervene* on December 14, 2007.

HISTORY OF DIRECTORY ASSISTANCE CHARGES IN TENNESSEE

Prior to 1997, Directory Assistance (“DA”) was free to all consumers in Tennessee. The majority of the Directors¹ initially approved directory assistance charges at the request of UTSE in 1997 in Docket No. 96-01423, based on the majority’s decision that directory assistance is a

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

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 free DA inquiries per month rather than three 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. 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 which provides that the Authority has the power to:

(3) 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.

² Tenn. Code Ann. § 65-5-108(a), 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.

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).

At the December 4, 2006 Authority Conference in Docket No. 06-00288, *In re: Tariff Filing by United Telephone-Southeast, d/b/a Embarq, to Increase Residential and Private Line Rates, Increase Late Payment Charges and Decrease the Number of Call Allowances for Directory Assistance From Six (6) to Three (3)*, the Authority, by majority vote, approved Embarq's request to reduce the DA call allowance from six to three.⁴

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Embarq's tariff would increase residential local measured rates from \$15.45 to \$16.09 monthly; with the standard residential flat rate of \$17.50 not increasing. The tariff would increase the rate for DA from \$0.50 to \$0.95 per call and reduce the three free call allowances to one. Accordingly, customers would be charged for the second DA call in any one month. Free DA for visually or physically disabled persons and subscribers sixty-five years or older would remain intact.

FINDINGS AND CONCLUSIONS

The panel considered the tariff filing at its regularly scheduled Authority Conference on December 17, 2007. The panel voted unanimously to approve the rate increases in the tariff with the exception of Directory Assistance after finding that the Company has sufficient headroom based on its 2007 price regulation plan.⁵

As to the provisions of the tariff filing regarding DA, the panel found that the public interest required that the Authority research and review the impact on Tennessee consumers of reducing the call allowance from three calls to one call prior to making a decision on the Company's DA proposal. Therefore, the panel voted unanimously to suspend the portion of the tariff pertaining to call allowances, convene a contested case, appoint the General Counsel or his designee as hearing officer to prepare this matter for hearing and grant the Consumer Advocate's

⁴ Director Ron Jones voted against reducing the DA call allowance.

⁵ See *In re: United Telephone-Southeast d/b/a Embarq 2007 Annual Price Regulation Filing*, Docket No. 07-00220.

Petition to Intervene, Further, a majority of the panel voted to suspend the proposed DA rate increase pending a hearing.⁶ The Company was directed to refile the tariff with the DA exception.

IT IS THEREFORE ORDERED THAT:

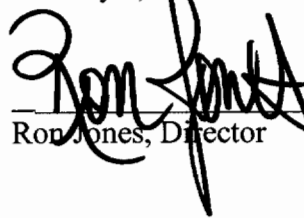
1. Tariff No. 2007-00456 filed by United Telephone-Southeast, Inc. d/b/a Embarq Corporation is approved except for the provisions relating to Directory Assistance. The Company shall refile the tariff consistent with this ruling.
2. The provisions of Tariff No. 2007-00456 regarding both the reduction in call allowances for Directory Assistance and the proposed rate increase for Directory Assistance are suspended pending a hearing.
3. A contested case is convened to address the issues regarding the Directory Assistance provisions of Tariff No. 2007-00456, and the General Counsel or his designee is appointed as hearing officer to prepare this matter for hearing before the panel.
4. The *Complaint and Petition to Intervene* of the Consumer Advocate Division of the Office of the Attorney General for the State of Tennessee is granted.



Eddie Roberson, Chairman



Sara Kyle, Director



Ron Jones, Director

⁶ Director Jones voted in opposition to the portion of the motion to suspend the Directory Assistance rate increase. In his opinion, the rate increase should be allowed to go into effect. Director Jones filed a separate opinion setting forth his analysis.