

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

**IN RE: CITIZENS TELECOMMUNICATIONS COMPANY OF  
TENNESSEE, LLC D/B/A FRONTIER COMMUNICATIONS OF  
TENNESSEE, LLC TARIFF TO ESTABLISH DIRECTORY ASSISTANCE  
RATES**

**DOCKET NO. 08-00021**

filed electronically 09/19/08

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**DIRECT TESTIMONY  
OF  
MICHAEL D. CHRYSLER**

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**September 19, 2008**

BEFORE THE  
TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE

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AFFIDAVIT

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I, Michael D. Chrysler, Regulatory Analyst, for the Consumer Advocate Division of  
the Attorney General's Office, hereby certify that the attached Direct Testimony represents  
my opinion in the above-referenced case and the opinion of the Consumer Advocate  
Division.

  
MICHAEL D. CHRYSLER

Sworn to and subscribed before me  
this 19 day of September, 2008.

  
NOTARY PUBLIC

My commission expires: 8/23/2011



My Commission Expires AUG. 23, 2011

1 **Q-1 Please state your name for the record.**

2 A-1 My name is Michael D. Chrysler.

3 **Q-2 By whom are you employed and what is your position?**

4 A-2 I am employed by the Consumer Advocate and Protection Division (“CAPD”) in  
5 the Office of the Attorney General for the State of Tennessee as a Regulatory  
6 Analyst.

7 **Q-3 What is your educational and work related background?**

8 A-3 Please reference attached Appendix A for education and work experience.

9 **Q-4 What is the purpose of your testimony?**

10 A-4 The purpose of my testimony is a recommendation that the company be required  
11 to provide an exemption for charges for local directory assistance for those with  
12 physical disabilities and those age 65 and older, consider the lack of DA  
13 alternatives for low income families, and to actively advertise and promote both  
14 the existence of and application process for the Directory Assistance “DA”. call  
15 exemptions.

16  
17 **I. The Need for Directory Assistance Exemption for Seniors**  
18

19 **Q-5 How long has the TRA required Tennessee telephone companies to provide**  
20 **an exemption for charges for local directory assistance for those with**  
21 **disabilities and those age 65 and older?**

1 A-5 The Tennessee Regulatory Authority ordered United Telephone-Southeast, Inc.<sup>1</sup> to  
2 provide an exemption from directory assistance charges for visually or physically  
3 impaired, as well as residential customers who are 65 years or older in 1997.

4 **Q-6 Is it your testimony that the TRA required Directory Assistance allowances**  
5 **for both the handicapped and Seniors 65 an older?**

6 A-6 Yes, in my opinion, the TRA order provides special consideration for granting  
7 Directory Assistance “DA” exemptions for both the handicapped and Senior  
8 Citizens and makes no exemption distinction between these two groups.

9  
10 **Q-7 Does the Citizens itself recognize the need to provide Directory Assistance for**  
11 **Social Security recipients ?**

12 A-7 Yes. The company itself understands the need to recognize special exemption  
13 needs for Social Security recipients<sup>2</sup>. However, recipients are limited to those that  
14 receive social security benefits “on the basis of blindness or physical disability”  
15 not those that are drawing social security benefits resulting from age. The  
16 company should extend the exemption to include customers who are 65 years or  
17 Older in compliance with the Order in TRA Docket No. 96-01423 previously  
18 discussed.  
19

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<sup>1</sup> United Telephone-Southeast, Inc. Tariff No. 96-201 To Reflect Annual Price Cap Adjustment, Docket No. 96-01423, p. 16 paragraph 3 (CAPD Exhibit MDC1)

<sup>2</sup> Citizens Telecommunications Company of Tennessee, General Customer Services Tariff, Original Page 39.3, Section 3.6.5 Directory Assistance Service B. 4.c. (CAPD Exhibit MDC2)

## II. Directory Assistance For Low Income Families

**Q-8 Could you comment with respect to Directory Assistance options for low income families?**

**A-8** Yes, my testimony in a related docket 07-00269<sup>3</sup>:

“If the call allowance for D.A. is lowered, it will be the households not so abundantly blessed that would have few if any alternatives to traditional directory assistance service. The central problem is that alternatives such as the Internet require computer ownership and subscriber status, which is sometimes out of reach for those households with more immediate priorities. In addition, wireless D.A. is not free, it requires a long term contract with monthly services fee.”

**Q-9 Would you further discuss additional background regarding the DA alternatives (or lack thereof with respect to low income and the disadvantaged?)**

**A-9** Yes, while I do not dispute that alternatives exist from which consumers may obtain commercial and residential phone listings, it cannot be taken for granted that consumers have ready access to such alternatives<sup>4</sup>. Internet search engines are a viable tool for searching for listings; however, access to the Internet requires a computer and Internet subscriber status (previously referenced).

**Q-10 Can you provide statistical references that assists in the development of this lacking alternative for the low income and disadvantaged?**

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<sup>3</sup> In RE: United Telephone-Southeast, Inc. d/b/a/ Embarq Corporation Tariff filing To Increase Rates in Conjunction With the Approved 2007 Annual Price Cap Filing. A-15

<sup>4</sup> Other alternatives include wireless 411, which is not free and 1-800 D.A. style services which are not well known or advertised.

1 A-10 Recent survey data conducted by Connected Tennessee, a non-profit organization that  
2 develops and implements strategies for technology deployment, illustrates that not all  
3 Tennesseans have access to the Internet or own a computer. The 2007 Technology Assessment  
4 of Tennessee Residential Consumers confirms what many believe (myself included) in that a  
5 digital divide remains in this state.<sup>5</sup> The survey data correlation in terms of access to technology  
6 (i.e., consumer ownership and Internet subscriber status) and level of a household's income.<sup>6</sup>

7  
8 The lower the income, the less likely one is to own a computer or have an Internet  
9 connection at home. There is a similar correlation between the level of education obtained and  
10 computer ownership and Internet subscriber status.<sup>7</sup> The less education one has the less likely  
11 that they will have access to such technology. There is also data indicating a disparity in terms of  
12 race as it pertains to Internet access and computer ownership.<sup>8</sup> As I said previously, there is no  
13 dispute that alternatives exists, the important consideration here is the opportunity for all  
14 consumers to have access to those alternatives.

### 15 16 **III. The Need To Provide Sufficient Public Notice**

17 **Q-11** Assuming that the TRA Orders Citizens to provide a DA exemption for Senior Citizens,  
18 is the existence of the exemption for Seniors and the handicapped enough to meet the

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<sup>5</sup> See attached excerpts from the 2007 Technology Assessment of Tennessee Residential Consumers (**CAPD Exhibit MDC 3**). A full copy can be found on Connected Tennessee's website and also attached to my direct testimony at MDC-1 filed in Docket 07-00269 on July 1, 2008.  
<http://www.state.tn.us/tra/orders/2007/0700269ah.pdf>

<sup>6</sup> *Id.*, 104,107

<sup>7</sup> *Id.*, 86,88.

<sup>8</sup> *Id.*, 124, 126.

1 needs of these ratepayers?

2 A-11 No, the company needs to provide sufficient public notice and promotions to make the  
3 existence and application procedure of such exemptions known to consumers.

4 **Q-12** Can you provide Company notice suggestions to meet this public need?

5 A-12 Yes, the company should provide frequent references in billing inserts to consumers and a  
6 prominent notice within its phone book of the Directory Assistance exemptions as well as the  
7 application procedure for compliance; finally, the company should actively work with the TRA  
8 and CAPD staff to develop effective means to continually publicize this important public benefit.

9 **Q-13 Does this conclude your testimony?**

10 A-13 Yes.

Before the

**TENNESSEE REGULATORY AUTHORITY**

**IN RE: CITIZENS TELECOMMUNICATIONS COMPANY OF TENNESSEE, LLC  
D/B/A FRONTIER COMMUNICATIONS OF TENNESSEE, LLC TARIFF TO  
ESTABLISH DIRECTORY ASSISTANCE RATES**

**DOCKET NO. 08-00021**

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**APPENDIX A**

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**September 19, 2008**



**MICHAEL CHRYSLER:  
EXPERT WITNESS QUALIFICATIONS & PRIOR TESTIMONY AND  
PUBLICATIONS**

**Regulatory Analyst**

**Education:**

Bachelor of Business Administration (Accounting)  
Ft. Lauderdale University, 1970

**TN AG (Consumer Advocate & Protection Division)**

**1998-Present**

Provided analysis in Energy and Water issues, rate cases as assigned  
Active in analysis related to Consumer Protection telephone issues  
Testified in Docket No. 02-00383 Petition of Chattanooga Gas Company For Approval of Change in Purchased Gas Adjustment  
Testified in Docket No. 03-00118 Petition of Tennessee-American Water Company To Change And Increase Certain Rates and Charges  
Testified In Docket No. 03-00313 Application of Nashville Gas Company, a Division of Piedmont Natural Gas Company, Inc. for an Adjustment of its Rates and Charges, the Approval of Revised Tariffs and the Approval of Revised Service Regulations  
Testified in Docket No. 04-0034 Petition of Chattanooga Gas Company for Approval of Adjustment of its Rates and Charges and Revised Tariff  
Testified in Docket No. 04-00288 Petition of Tennessee American Water Company to Change and Increase Certain Rates and Charges So as to Permit it to Earn a Fair and Adequate Rate of Return on its Property Used and Useful in Furnishing Water Service to its Customers.  
Testified in Docket No. 05-00258 Petition of the Consumer Advocate to Open an Investigation to Determine Whether Atmos Energy Corp. Should Be Required by the Tennessee Regulatory Authority to Appear and Show Cause That Atmos Energy Corp. Is Not Overearning in Violation of Tennessee Law and That it Is Charging Rates That Are Just and Reasonable  
Testified in Docket No. 06-00175 Petition of Chattanooga Gas Company to Increase Rates, Including a Comprehensive Rate Design Proposal and Revised Tariff  
Testified in Docket No. 06-00290 Petition of Tennessee American Water Company to Change and Increase Certain Rates and Charges So as to Permit it to Earn a Fair and Adequate Rate of Return on its Property Used and Useful in Furnishing Water Service to its Customers  
Testified in Docket No. 07-00105 Petition of Atmos Energy Corporation For Approval of a General Rate Increase  
- Internet Links to Testimony provided on following pages

**NRRI Research Advisory Committee (Natural Gas Issues)**  
**Chairman of NASUCA'S Gas Committee**  
**Chairman of NASUCA's Consumer Protection Committee**

**Present**  
**Present**  
**2004-2007**

NASUCA Committee Resolutions contributed to by Mike Chrysler (copies attached):

- *Energy Conservation and Decoupling Resolution* - sponsored
- *High Winter Energy Costs Resolution* regarding LIHEAP funding - sponsored
- *Uncollectible Accounts Resolution* regarding for State Authority's to resist expansion of definition - sponsored

- *Minimum Service Quality Standards Resolution* calling for regular reporting and industry standards - sponsored
- *Infrastructure Surcharge Resolution* calling for annual tracking adjustments - contributor

## **Northern Indiana Public Service Company (NISOURCE)**

**1973-1997**

Principal of Electric Business Planning: Electric Business Planning Department (1990-1997)  
Coordinated \$147 million Capital, \$101 million Expense, and \$789 million Margin budget development of The Electric Business, with subsequent monthly/quarterly explanation of variances reported to Senior Management.

- Provided consulting assistance to station/district planners for proper explanation of their Capital & Expense variances to Senior Management, then summarized for reporting.
- Assisted with O&M and Capital Budget ABM training (budget development and data entry in budgeting system); plus proper development of budgets for presentation and approval.
- Provided Electric Margin variance analysis by class on a monthly/quarterly basis to Senior Management.
- Developed a sophisticated computer model for the Director of Electric Production in Microsoft Excel, providing “what if” analysis along with historical data to reach a goal of \$16 per megawatt hour generation cost goal.
- Assisted the Vice President and General Manager, Electric Business in the development of written speeches as well as corresponding presentation slides.

### **Senior Consultant: Corporate Consulting Services (1989-1990)**

Responsible for providing expertise and assistance to various departments within the company, including training of management personnel on various productivity seminars and software programs.

- Researched “under-billing” of NIPSCO gas customers due to the variable of “Supercompressibility.” Quantified over \$200,000 of annual under-billing for the gas metering department.
- Interviewed NIPSCO management personnel to ensure compliance with “Automatic Time Reporting” program for Human Resources Department.

### **Senior Strategic Planning Analyst: Corporate Strategic Planning Department (1985-1989)**

Responsible for providing top-down, bottom-up communication of the Corporate Strategic Plan to all management levels.

- Assisted in the development, coordination of data and reporting of meaningful performance measures to Senior Management for each business unit.
- Assisted management employees with the training classes “Business Strategies” and “Operations Strategies.” This assistance included ensuring appropriate workbase study, drafting of the company strategic plan, involvement and understanding of principles and strategies in making business decisions to be entered in case studies and computer simulations.

### **Senior Rate Analyst: Rate and Contract Department (1978-1985)**

Responsible for supporting rate case development, and associated work papers and supporting materials for Case-In-Chief. Provided tracking updates, reflecting modification to rate filings until subsequent filing.

- Prepared filing and exhibits for purchase gas adjustment, fuel cost adjustment, purchase power tracking adjustments with the Indiana PSC/IURC
- Audited large gas and electric industrial bills prior to release on a monthly basis
- Billed large industrial gas and electric customers during union contract negotiations (approximately 60% of company revenue). Customers included U.S. Steel, Inland and Bethlehem Steel.
- Assisted in the preparation of testimony and exhibits for regulatory hearings.

**Junior Accountant: Customer Accounting Department (1973-1978)**

Responsible for communicating corporate billing and office procedures to district commercial offices. Provided special data analysis regarding billing to corporate accounting.

- Provided vacation relief for district office managers. These responsibilities included supervision of meter readers, application credit, billing and cash representatives.
- Calculated source reports and reported to Accounting Department including gas cost, fuel cost, purchase power adjustment and other revenue amounts on a monthly basis.

**Internet Links to Expert Testimony of Michael D. Chrysler on behalf of CAPD**

**TRA Docket 07-00269**

Direct Testimony Filed 7/01/07: <http://www.state.tn.us/tra/orders/2007/0700269ah.pdf>

**TRA Docket 07-00105**

IN RE: PETITION OF ATMOS ENERGY CORPORATION FOR APPROVAL OF A GENERAL RATE INCREASE

Direct Testimony Filed 8/22/07: <http://www2.state.tn.us/tra/dockets/0700105.htm>

**TRA Docket 06-00290**

IN RE: PETITION OF TENNESSEE AMERICAN WATER COMPANY TO CHANGE AND INCREASE CERTAIN RATES AND CHARGES SO AS TO PERMIT IT TO EARN A FAIR AND ADEQUATE RATE OF RETURN ON ITS PROPERTY USED AND USEFUL IN FURNISHING WATER SERVICE TO ITS CUSTOMERS

Direct Testimony Filed 3/5/07: <http://www.state.tn.us/tra/orders/2006/0600290ca.pdf>

**TRA Docket No. 05-00258**

IN RE: PETITION TO OPEN AN INVESTIGATION TO DETERMINE WHETHER ATMOS ENERGY CORPORATION SHOULD BE REQUIRED BY THE TRA TO APPEAR AND SHOW CAUSE THAT ATMOS ENERGY CORPORATION IS NOT OVEREARNING IN VIOLATION OF TENNESSEE LAW AND THAT IT IS CHARGING RATES THAT ARE JUST AND REASONABLE

Direct Testimony filed 7/17/06: <http://www.state.tn.us/tra/orders/2005/05258by.pdf>

**TRA Docket 04-00034**

IN RE: PETITION OF CHATTANOOGA GAS COMPANY FOR APPROVAL OF ADJUSTMENT OF ITS RATES AND CHARGES AND REVISED TARIFF.

Direct Testimony filed 7/26/04: <http://www.state.tn.us/tra/orders/2004/0400034dn.pdf>

**TRA Docket 04-00288**

IN RE: PETITION OF TENNESSEE AMERICAN WATER COMPANY TO CHANGE AND INCREASE CERTAIN RATES AND CHARGES SO AS TO PERMIT IT TO EARN A FAIR AND ADEQUATE RATE OF RETURN ON ITS PROPERTY USED AND USEFUL IN FURNISHING WATER SERVICE TO ITS CUSTOMERS.

Direct Testimony filed 12/3/04: <http://www.state.tn.us/tra/orders/2004/0400288bl.pdf>

**TRA Docket 03-00313**

IN RE: APPLICATION OF NASHVILLE GAS COMPANY, A DIVISION OF PIEDMONT NATURAL GAS COMPANY, INC. FOR AN ADJUSTMENT OF ITS RATES AND CHARGES, FOR APPROVAL OF REVISED TARIFFS AND APPROVAL OF REVISED SERVICE REGULATIONS.

Direct Testimony filed 8/18/03: <http://www.state.tn.us/tra/orders/2003/0300313x.pdf>

**TRA Docket 03-00118**

IN RE: PETITION OF TENNESSEE AMERICAN WATER COMPANY TO CHANGE AND INCREASE CERTAIN RATES AND CHARGES SO AS TO PERMIT IT TO EARN A FAIR AND ADEQUATE RATE OF RETURN ON ITS PROPERTY USED AND USEFUL IN FURNISHING WATER SERVICE TO ITS CUSTOMERS.

Direct Testimony filed 5/30/03: <http://www.state.tn.us/tra/orders/2003/0300118bo.pdf>

**TRA Docket 02-00383**

IN RE: PETITION OF CHATTANOOGA GAS COMPANY FOR APPROVAL OF CHANGE IN PURCHASE GAS ADJUSTMENT

Direct Testimony filed 5/21/03: <http://www.state.tn.us/tra/orders/2002/0200383m.pdf>

**THE NATIONAL ASSOCIATION OF  
STATE UTILITY CONSUMER ADVOCATES  
RESOLUTION 2007-01**

**NASUCA ENERGY CONSERVATION AND DECOUPLING RESOLUTION**

Whereas, the provision and promotion of energy efficiency measures are increasingly viewed by state commissions as a necessary component of utility service;

Whereas, many states are now encouraging rate-regulated utilities to adopt energy efficiency programs and other demand-side measures to decrease the number of units of energy each utility's customers purchase from the utility;

Whereas NASUCA has long supported the adoption of effective energy efficiency programs;

Whereas recent proposals by rate-regulated public utilities for the initiation or expansion of energy efficiency measures have featured utility rate incentives or revenue "decoupling" mechanisms that guarantee utilities a predetermined amount of revenues regardless of the number of units of energy sold;

Whereas, the utilities proposing decoupling measures seek guarantees from public utilities commissions that they will receive their allowed level of revenues;

Whereas, these utilities justify this departure from traditional rate-making principles on the theory they are being asked to help their customers purchase fewer energy units from them by promoting energy efficiency measures and other demand-side measures, thereby reducing their revenues and, consequently, their returns to their shareholders, and that decoupling mechanisms compensate utilities for revenues lost due to conservation;

Whereas, these utilities contend that because these measures reduce their revenues, they have a disincentive to encourage programs that aid their customers in purchasing fewer units of energy;

Whereas, historically, rates have been set in periodic rate cases by matching test-year revenues with test-year expenses, adding pro forma adjustments and allowing the utilities an opportunity to earn a reasonable rate of return on their investments in exchange for a state-protected monopoly;

Whereas revenue guarantee mechanisms allow rate adjustments to occur based upon one element that affects a utility's revenue requirement, without supervision or review of other factors that may offset the need for such a rate change;

Whereas, historically, rate-regulated utilities were not guaranteed they would earn the allowed return; rather, earnings depended on capable management operating the utilities in an efficient manner;

Whereas, many utilities proposing revenue decoupling request compensation for revenue lost per customer, implying that sales volumes are declining, when in fact these utilities' total energy sales revenues are stable or increasing;

Whereas, there are a number of factors that may cause a utility to sell fewer units of energy over a period of time, including weather, changing economic conditions, shifts in population, loss of large customers and switches to other types of energy, as well as energy efficiency and other demand-side measures;

Whereas many utilities have been offering cost-effective energy efficiency programs and actively marketing these programs for years without proposing or implementing rate incentives or revenue guarantee mechanisms such as decoupling, and have continued to enjoy financial health;

Whereas past experience has shown that revenue guarantee mechanisms such as decoupling may result in significant rate increases to customers;

Whereas some utilities have referenced the benefit of encouraging energy efficiency programs as a justification for revenue guarantee mechanisms without in fact offering any energy efficiency programs, indicating that the revenue guarantee mechanisms are attractive to utilities for reasons other than their interest in promoting energy conservation;

Whereas past experience has shown that rate increases prompted by revenue guarantee mechanisms such as decoupling are often driven not so much by reduced consumption caused by utility energy efficiency programs, as by reduced consumption due to normal business risks such as changes in weather, price sensitivity, or changes in the state of the economy;

Whereas utilities are better situated than are consumers or state regulators to anticipate, plan for, and respond to changes in revenue prompted by normal business risks, and the shifting of normal business risks away from utilities insulates them from business changes and reduces their incentive to operate efficiently and effectively;

Whereas the traditional ratemaking process has historically compensated utilities for experiencing revenue variations associated with normal business risks;

**NOW THEREFORE NASUCA RESOLVES:**

To continue its long tradition of support for the adoption of effective energy efficiency programs;

And to oppose decoupling mechanisms that would guarantee utilities the recovery of a predetermined level of revenue without regard to the number of energy units sold and the cause of lost revenue between rate cases;

**BE IT FURTHER RESOLVED:**

NASUCA urges Public Utilities Commissions to disallow revenue true-ups between rate cases that violate the matching principle, the prohibition against retroactive ratemaking, the prohibition against single-issue ratemaking, or that diminish the incentives to control costs that would otherwise apply between rate cases;

NASUCA urges State legislatures and Public Utilities Commissions to, prior to using decoupling as a means to blunt utility opposition to energy efficiency and other demand-side measures, (1) consider alternative measures that more efficiently promote energy efficiency and other demand side measures; (2) evaluate whether a utility proposing the adoption of a revenue decoupling mechanism has demonstrated a commitment to energy efficiency programs in the recent past; and (3) examine whether a utility proposing the adoption of a revenue decoupling mechanism has a history of prudently and reasonably utilizing alternative ratemaking tools;

If decoupling is allowed by any state commission, NASUCA recommends that the mechanism be structured to (1) prevent over-earning and provide a significant downward adjustment to the utilities' ROE in recognition of the significant reduction in risk associated with the use of a decoupling mechanism, (2) ensure the utility engages in incremental conservation efforts, such as including conservation targets and reduced or withheld recovery should the utility fail to meet those targets, and (3) require utilities to demonstrate that the reduced usage reflected in monthly revenue decoupling adjustments are specifically linked to the utility's promotion of energy efficiency programs.

NASUCA authorizes its Standing Committees to develop specific positions and to take appropriate actions consistent with the terms of this resolution to secure its implementation, with the approval of the Executive Committee of NASUCA. The Standing Committees or the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Approved by NASUCA:

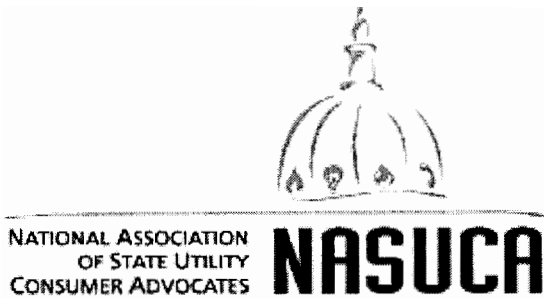
Submitted by:

Denver, Colorado

NASUCA Consumer Protection Committee

June 12, 2007

June 11, 2007



**The National Association of State Utility Consumer Advocates  
Resolution 2005-03**

**INFRASTRUCTURE SURCHARGE RESOLUTION**

**Calling upon state regulatory authorities and legislatures to refuse to allow, or to consider revoking, annual tracking adjustments to rates resulting from additional non-traditional gas, water, sewer or electric infrastructure replacement programs;**

Whereas, traditional ratemaking methodologies have allowed investor shareholders to earn a return on new and upgraded mains and electric plant through general rate case reviews allowing the ratepayers being charged for the prudent and necessary system upgrades to be represented in traditional contested rate proceedings in which all items of expense and capital investments are considered; and

Whereas, depreciation provides a "funding" mechanism for natural gas, water, sewer, and electric plant replacement because it reduces net operating income and increases the revenue required from rate payers for an acceptable rate of return during the formal rate proceeding; and

Whereas, traditional ratemaking processes have withstood the test of time, so that all parties represented have an opportunity to have their interests fairly represented; and

Whereas, parties representing the interests of shareholders and company managements may propose "short-circuit" methods focused on single categories of increased expense, in order to "speed up" the recovery of costs outside the normal regulatory process, and to provide regulators ways to avoid the rate review process; and

Whereas, utilities in several states have proposed, either in rate cases or as state legislation, various "tracking methodologies" which, if allowed, would enable them to increase rates through non-traditional ratemaking processes sometimes called DSIC (Distribution System Improvement Charge), DSR (Distribution System Replacement), AMRP (Accelerated Main Replacement Program) PRP (Pipeline Replacement Program) which would allow immediate rate recovery of capital investment for new projects on a year-by-year basis in order to replace certain rate base infrastructure through a surcharge; and



Whereas, if such tracking methodologies were allowed, regulatory authorities may not be able to review such capital investments for prudence, and may not be able to review possible offsetting contemporaneous cost reductions or revenue increases from other utility activities; and

Whereas, if such tracking methodologies are allowed ratepayers will become involuntary investors paying for unreviewed investments that will increase rates;

Whereas, at a time of rising commodity costs, regulators need to understand the potential significant new burden upon consumers caused by a tracking surcharge for plant additions;

THEREFORE BE IT RESOLVED, that NASUCA calls upon state regulatory authorities and legislators to refuse to impose on consumers, or to consider revoking, non-traditional infrastructure surcharges that would increase natural gas, water, sewer or electric utility bills without traditional opportunity for consideration of countervailing cost decreases and revenue increases, and review by all parties including appropriate consumer advocacy offices prior to implementation and to remain committed to traditional ratemaking principles fairly representing the interests of both consumers and stockholders.

BE IT FURTHER RESOLVED, that NASUCA authorizes its Standing Committees to develop specific positions and to take appropriate actions consistent with the terms of this resolution to secure its implementation, with the approval of the Executive Committee of NASUCA. The Standing Committees or the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

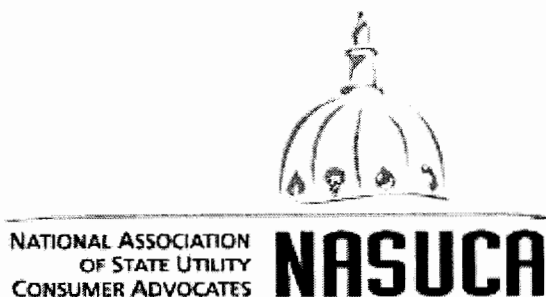
Submitted by:

Michael D. Chrysler, Chair, Consumer Protection Committee  
June 12, 2005

Approved by NASUCA

Place: New Orleans, LA  
Date: June 14, 2005

91974



**The National Association of State Utility Consumer Advocates  
Resolution 2005-04**

**MINIMUM SERVICE QUALITY STANDARDS RESOLUTION**

**Calling upon state regulatory authorities to establish regular reporting requirements for utilities on service quality and to establish minimum performance standards with appropriate enforcement provisions so that adequate, reliable, and safe service is achieved and maintained; and**

*Whereas*, adequate service quality from providers of gas, electric, water, and telecommunications services is essential to everyday life and affects almost every function of our society, and service inadequacies and interruptions frustrate or disrupt normal functions; and

*Whereas*, adequate service quality from such providers is also vital to our Nation's economy, our position in the global economy and to national security;

*Whereas*, gas, electric, water, and telecommunications service providers have a duty to provide service that is adequate, reliable, and safe; and

*Whereas*, consumers expect and should receive service that is consistently adequate, reliable, and safe; and

*Whereas*, utility industry developments over the past decade such as mergers, diversification, and changing economic conditions have encouraged utilities to cut costs, reduce staffs and outsource some utility operating functions, and such efforts to economize may have led to deterioration of service quality; and

*Whereas*, a gradual decline in performance may not be detected for some time if regulators do not keep informed as to service quality through regular monitoring; and

*Whereas*, by keeping informed, regulators are better able to recognize signs of deterioration and inadequacies so that they can take corrective action to avert major service quality problems that would otherwise be frustrating and disruptive to consumers; and

*Whereas*, standardized reporting requirements and regular reporting are necessary for regulators to be able to monitor service quality and changes in performance; and

*Whereas*, reports should address performance areas such as customer relations and billing (e.g., responsiveness of customer call centers, responsiveness to consumer complaints, timeliness of installations and repairs, and accuracy and frequency of billing and meter reading) and operating performance (e.g., frequency and duration of outages, and responsiveness to safety calls); and

*Whereas*, reporting requirements should be carefully designed to yield accurate data that is uniform and consistent; and

*Whereas*, in addition to keeping informed about service quality, regulators should establish measurable performance standards that must be met for providers to achieve and maintain a minimum quality of service, to the extent that quality of service is measurable, so that expectations are clear and problems are minimized; and

*Whereas*, performance standards should be supported by appropriate enforcement provisions; and

*Whereas*, service quality data and information should be available to the public to encourage companies to achieve good performance results, to assure that regulation is open and effective and to assist consumers who must choose among competitive providers;

THEREFORE BE IT RESOLVED, that NASUCA calls upon state regulatory authorities to establish regular service quality reporting requirements applicable to gas, electric, water, and telecommunications service providers, and to establish minimum performance standards with appropriate enforcement provisions to monitor and promote improvement toward a consistently high level of service quality for their gas, electric, water, and telecommunications customers.

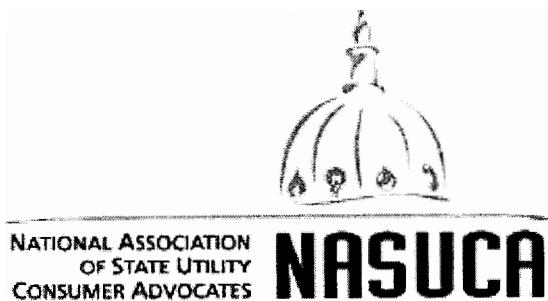
BE IT FURTHER RESOLVED, that NASUCA authorizes its Standing Committees to develop specific positions and to take appropriate actions consistent with the terms of this resolution to secure its implementation, with the approval of the Executive Committee of NASUCA. The Standing Committees or the Executive Committee shall notify the membership of any action taken pursuant to this resolution.

Submitted by:

Michael D. Chrysler, Chair, Consumer Protection Committee  
June 12, 2005

Approved by NASUCA:  
Place: New Orleans, LA  
Date: June 14, 2005

91972



## RESOLUTION

**Calling Upon State Regulatory Authorities to resist the efforts of Local Gas Distribution Companies to expand the interpretation of gas cost to include a calculated portion of their uncollectible accounts expense or other non-gas costs in purchased gas cost recovery mechanisms.**

Whereas, many natural gas Local Distribution Companies (LDCs) are permitted by State laws or regulations to change rates from time to time to track changes in the cost of natural gas supply and transportation through gas cost adjustments without a review of general rates;

Whereas, many such gas cost adjustment mechanisms provide for the periodic adjustment of rates to true up the difference between gas costs billed to consumers and gas costs incurred;

Whereas, the gas cost adjustment mechanisms have been found justified due to characteristics of the costs associated with purchasing and transporting gas to an LDC's distribution system; i.e., that such cost may make up a sizable portion of the total rate for natural gas service, that such costs are affected by many market conditions that are not within the control of the LDC, that such gas costs are volatile and may change significantly in a short time;

Whereas, some State regulatory authorities have been petitioned by LDCs to broaden the sort of expenses that may be recovered through gas cost adjustment mechanisms to include a portion of the expenses associated with uncollectible charges experienced by the LDC;

Whereas, the characteristics of uncollectible accounts are materially different from gas costs; i.e., while they are somewhat affected by variations in rates caused by changes in gas costs, uncollectible accounts expenses do not make up a sizeable portion of the total rate for natural gas service, they are affected by factors such as staffing and procedures within the control of the LDC, and the changes in uncollectible costs do not tend to be volatile;

Whereas, an expanded definition of gas costs would shift more risk to ratepayers and may remove traditional or performance based incentives for utilities to minimize costs;

THEREFORE BE IT RESOLVED, that NASUCA encourages state regulatory authorities to limit the use of gas cost adjustment mechanisms to the cost of purchasing and transporting natural gas supply to the LDC's distribution system.

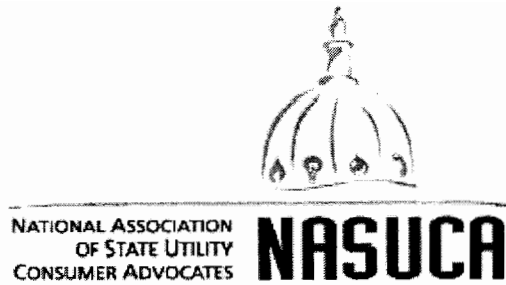
BE IT FURTHER RESOLVED, that the Gas Committee of NASUCA, with the approval of the Executive Committee of NASUCA, is authorized to take all steps consistent with this Resolution in order to secure its implementation.

Submitted by:

June, 15, 2004

Approved by NASUCA

91970



## **NASUCA RESOLUTION**

### **HIGH WINTER ENERGY COSTS RESOLUTION**

**WHEREAS** the cost of home heating energy has always burdened low income households disproportionately compared with households of all other income levels; and

**WHEREAS** one of the most effective means of measuring this disparity is to evaluate the energy burden of a household by dividing the cost of home energy by the gross income of the same household to determine the percentage of income needed to meet energy costs; and

**WHEREAS** in 2005, the National Energy Assistance Directors Association ("NEADA") determined that all low-income households used, on average, 15% of their gross household income for energy costs (6% for heat alone), while all households used, on average, only 3% of their gross household income for energy costs (1% heat alone); and

**WHEREAS** in 2004, elderly households in receipt of Supplemental Security Income paid nearly 19% of their income for energy, and households in receipt of Aid to Families with Dependent Children paid 26% of their income for energy; and

**WHEREAS** the Energy Information Administration ("EIA") has forecast dramatic increases in the cost of energy which will have an immediate and deleterious short term effect on the already disproportionate energy burden on low-income households; and

**WHEREAS**, based on EIA data from September 2005, the average family heating with oil could spend as much as \$1,666 during the winter of 2005-2006. This would represent an increase of \$403 over the costs for the winter of 2004-2005 and an increase of \$714 over the costs for the winter of 2003-2004; and

**WHEREAS** the EIA anticipates that heating fuel expenditure increases from the winter of 2004 to the winter of 2005 are likely to average 73% for natural gas in the Midwest; 19% for electricity in the South; 31% for heating oil in the Northeast; and 41% for propane in the Midwest; and

**WHEREAS**, the Center on Budget and Policy Priorities (“CBPP”), an independent, bipartisan research institute, calculated (<http://www.cbpp.org/10-6-05bud.htm>) that the average low income household (income below the greater of 150% of the federal poverty guidelines or 60% of the state median income) will incur an average heating bill increase of \$500 for the 2005-2006 winter; and

**WHEREAS** the easily predictable outcome of the combination of the extreme energy burden currently facing low-income households and the anticipated increase in home energy costs is the creation of a “perfect storm” which will result in an unparalleled challenge to the energy safety net below low-income households; and

**WHEREAS** these increased costs for home energy during the winter of 2005-2006 were predicated on the foreseeable actions in the marketplace based upon historically accurate and verifiable facts, factors, formulae and information; and

**WHEREAS** short-term and long-term effects of Hurricanes Katrina and Rita including the damage and destruction to the production, storage, transportation and infrastructure of the natural gas and crude oil industries, and the resulting escalation of home energy costs as a result of the depletion of reserves and the inability of the industries to quickly recover from the devastation remains to be calculated; and

**WHEREAS** the severe constraints on state and local government budgets already strain the ability of those entities to reinforce the low income safety net; and

**WHEREAS** the nonprofit, faith-based, and other community-based organizations, secondarily charged with the task of assisting low-income households with problems such as the imminent energy crisis are similarly constrained by limited resources and increasing energy costs; and

**WHEREAS** the Low Income Home Energy Assistance Program (“LIHEAP”) is a federally-funded, state-administered energy plan designed to provide funding to the states to assist low-income households in meeting the costs of home energy; and

**WHEREAS** since the winter of 2001-2002, the national appropriation for LIHEAP has wholly failed to match the pace of the increase in home heating costs; and

**WHEREAS** the anticipated funding for the 2005-2006 LIHEAP Year fails to keep pace with inflation and would fail to be even minimally adequate to compensate for the anticipated spikes in home energy and home heating energy now predicted by the EIA; and

**WHEREAS** in 2005, NEADA determined that LIHEAP funding between the 2001-2002 and 2004-2005 fiscal year increased by 21.4%, but the share of a low-income households’ heating expenditures met by the average LIHEAP grant fell from 49.4% to 25.2% for heating oil, from 52.3% to 33.4% for natural gas, and from 35.5% to 23.1% for propane; and

**WHEREAS** in 2005, NEADA determined that between 2001-2002 and 2004-2005 the price of oil for heating increased by \$624, and the price of natural gas for heating increased by \$352, and the price of propane for heating increased by \$489, yet, the average LIHEAP grant increased by \$3; and

**WHEREAS**, according to the EIA, while the average cost of home heating fuel for the coming winter may rise precipitously: heating oil by 98%, propane by 55%, and natural gas by 58%, the national appropriation for LIHEAP, since the winter of 2001-2002, has risen by only about 20%; and

**WHEREAS** the proposed 2005-2006 executive federal budget appropriation called for a decrease in funding of approximately \$250 million with no emergency contingency funding; and

**WHEREAS** the House of Representatives Labor-HHS-Education Appropriations Committee has proposed FY 2006 LIHEAP funding at \$2.006 billion in regular funding and no emergency contingency funding; and

**WHEREAS** the Senate Appropriations Committee has proposed FY 2006 LIHEAP funding at \$1.8 billion in regular funding and \$300 million in emergency contingency funding; and

**WHEREAS** the CBPP calculates that, in order to maintain 2005-2006 LIHEAP purchasing power, taking into consideration general inflation, at the same level as 2004-2005 LIHEAP, the national appropriation should increase to \$3.025 billion; and

**WHEREAS** the CBPP calculates that a mere 5% increase in the number of eligible applicants for LIHEAP assistance would require additional national 2005-2006 LIHEAP funding in the amount of \$150 million; and

**WHEREAS** the CBPP calculates that to hold beneficiaries of LIHEAP assistance harmless in the face of the entire expected price increase would require additional 2005-2006 LIHEAP funding in the amount of \$2.033 billion; and

**WHEREAS** the CBPP calculates that the total minimum federal appropriation required for the 2005-2006 LIHEAP is \$5.208 billion; and

**WHEREAS** LIHEAP remains a targeted block grant program with the built-in flexibility and an established federal-state partnership to effectively and efficiently deliver the funding necessary to ease the crisis on increasingly unaffordable energy costs for low-income households; and

**WHEREAS** the current appropriations and proffered amendments clearly are insufficient to deal with the anticipated increases in home energy costs; *now therefore be it*

**RESOLVED** that NASUCA urges Congress to appropriate FY 2006 LIHEAP regular funding of at least \$5.208 billion, as recommended by CBPP, and to appropriate an additional \$500 million for emergency contingency funding to assist low-income households in meeting the exorbitant home energy costs anticipated for the winter of 2005-2006; and



**BE IT FURTHER RESOLVED** that NASUCA authorizes its Standing Committees to develop specific positions and to take appropriate actions consistent with the terms of this resolution to secure its implementation, with the approval of the Executive Committee of NASUCA. The Standing Committees or the Executive Committee shall notify the membership of any action taken to this resolution.

Submitted by:

Michael D. Chrysler, Chair, Consumer Protection Committee  
November 16, 2005

Approved by NASUCA

91969

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

**IN RE: CITIZENS TELECOMMUNICATIONS COMPANY OF  
TENNESSEE, LLC D/B/A FRONTIER COMMUNICATIONS OF  
TENNESSEE, LLC TARIFF TO ESTABLISH DIRECTORY ASSISTANCE  
RATES**

**DOCKET NO. 08-00021**

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**EXHIBITS  
OF  
MICHAEL D. CHRYSLER**

\*\*\*\*\*

**September 19, 2008**

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

SEP - 4 1997

**NASHVILLE, TENNESSEE**

**IN RE:**

	)	
	)	
<b>UNITED TELEPHONE-SOUTHEAST, INC.</b>	)	<b>Docket No.</b>
<b>TARIFF NO. 96-201 TO REFLECT ANNUAL</b>	)	<b>96-01423</b>
<b>PRICE CAP ADJUSTMENT</b>	)	

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**ORDER APPROVING IN PART AND DENYING IN PART TARIFF NO. 96-201**

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This matter is before the Tennessee Regulatory Authority ("Authority") upon receipt of the above captioned tariff filing by United Telephone-Southeast, Inc. ("United" or the "Company"). The tariff was originally filed September 12, 1996, with a proposed effective date of October 15, 1996. By various Orders of the Authority, the tariff was suspended until June 6, 1997.

The filing was made pursuant to Tenn. Code Ann. § 65-5-209(e). This Section permits price regulated telephone companies such as United to adjust prices for Non-Basic services so long as the annual adjustments do not exceed certain limitations imposed by Tennessee law. The filing sought approval of revenue adjustments which result from a proposed charge for directory assistance and proposed reductions in certain access charge rates.

Petitions to intervene were filed by the Consumer Advocate Division, Office of the Attorney General ("Consumer Advocate" or "Advocate"), Citizens Telecommunications Company of Tennessee, L.L.C. ("Citizens"), BellSouth Telecommunications, Inc., ("BellSouth"), and AT&T Communications of the South Central States, Inc. ("AT&T"). All of the Petitions to intervene were granted.

By Order and Notice dated December 5, 1996, the Authority appointed Chairman Lynn Greer as Hearing Officer. Pre-Hearing Conferences were held in the above-captioned matter on Tuesday, December 10, 1996, Tuesday, December 17, 1996, and Tuesday, January 14, 1997, in Nashville, Tennessee. The parties were represented by counsel as follows:

JAMES B. WRIGHT, Senior Attorney, United, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900, appearing on behalf of United.

L. VINCENT WILLIAMS, Consumer Advocate, 426 Fifth Avenue N., 2nd Floor, Cordell Hull Building, Nashville, Tennessee 37243-0500, appearing on behalf of the Consumer Advocate.

GUY M. HICKS, General Counsel-Tennessee, BellSouth Telecommunications, Inc., 333 Commerce Street, Suite 2101, Nashville, Tennessee 37201-3300, appearing on behalf of BellSouth.

RICHARD M. TETTELBAUM, Associate General Counsel, Citizens Telecommunications Company of Tennessee, L.L.C., Suite 500, 1400 16th Street, N.W., Washington, DC 20036, appearing on behalf of Citizens.

JOHN KNOX WALKUP, and VAL SANFORD, Gullett, Sanford, Robinson & Martin, 230 Fourth Avenue North, 3rd Floor, Nashville, TN 37219-8888, and JIM LAMOUREAX, Attorney, AT&T Corporation, 1200 Peachtree Street, NE, Atlanta, GA 30309, appearing on behalf of AT&T.

At the December 10, 1996, Pre-Hearing Conference, the parties agreed that a Protective Order was appropriate for use in this proceeding. A proposed Protective Order was submitted to the parties herein for approval. Subsequent to approval by the parties, the Protective Order was approved by the Authority at its December 17, 1996, Agenda Conference. Extensive discovery was conducted by the parties throughout the proceedings pursuant to agreed upon schedules.

The parties met informally on different occasions in an attempt to reach agreement with respect to the methodology for calculating the maximum annual price adjustment.

Preliminary agreement as to methodology was reported to the Hearing Officer at the December 17, 1996, Pre-Hearing Conference. By letter dated January 27, 1997, a written Stipulation among all the parties as to certain aspects of methodology was submitted to the Hearing Officer for approval. The Stipulation was recommended for approval by the Hearing Officer in his Initial Order dated January 27, 1997, and approved by the Authority at its February 4, 1997, Authority Conference.

On January 28, 1997, United filed revised tariffs and supporting data to reflect the agreed upon methodology contained in the Stipulation. In the revised filing, United calculated a maximum annual adjustment of \$67,151. United's revised tariffs proposed a directory assistance charge of 29 cents per inquiry for residence and business access lines, with an allowance of three inquiries per billing period without a charge. A customer could inquire and receive two numbers during each inquiry. The directory assistance charge was designed to increase revenues by \$1,167,063.

United also proposed a reduction in certain access charges. The Company proposed a reduction in the switched access interconnection charge of \$296,252 decreasing the rate from .00348 cents to .002058 cents per minute of use. United additionally proposes a reduction in the carrier common line terminating rate of \$803,660 decreasing it from .025110 cents to .018570 cents per minute of use. The parties prefiled testimony pursuant to an agreed schedule. Direct testimony was filed February 14, 1997, rebuttal testimony was filed February 21, 1997, and surrebuttal testimony was filed February 26, 1997. A hearing was held on March 11, 1997, pursuant to the Authority's February 28, 1997, Order and as set forth in the Authority's February 24, 1997, Notice of Hearing.

At the close of the March 11, 1997, hearing, the parties were instructed to file post-hearing briefs regarding the legislative history of Tenn. Code Ann. § 65-5-208 as it related to directory assistance. In response to the Authority's request, various briefs, motions and other pleadings and documents were filed by the parties. The resolution of the motions and the disposition of the briefs and other pleadings were addressed in the Authority's Order dated May 1, 1997. The May 1, Order limited the filing of post-hearing briefs to the directory assistance issue as originally requested by the Authority.

On May 20, 1997, the Directors considered the issues raised in this case. Chairman Greer, as Hearing Officer, read the charges of law to the Directors pursuant to the provisions of Tenn. Code Ann. § 4-5-301. The Hearing Officer identified eight issues. The Directors' discussion, findings of fact, and conclusions of law as to the standards to be followed under the price regulation statutes, the appropriate annual revenue adjustment and the eight identified issues were as follows:

### **Price Regulation**

United elected to be regulated as a price regulated company effective October 15, 1995, as set forth in the Tennessee Public Service Commission's Orders dated September 20, 1995, and October 13, 1995, in Docket No. 95-02615. This election was authorized by the enactment of Public Chapter 408 that became effective on June 6, 1995 (the "Act").

The maximum annual increase in rates permitted by United as a price regulated company is governed by Tenn. Code Ann. § 65-5-209(e) which reads as follows:

(e) A price regulation plan shall maintain affordable Basic and Non-Basic rates by permitting a maximum annual adjustment that is capped at the lesser of one half (1/2) the percentage

change in inflation for the United States using the gross domestic product-price index (GDP-PI) for the preceding year as the measure of inflation, or the GDP-PI from the preceding year minus two (2) percentage points. An incumbent local exchange telephone company may adjust its rates for Basic local exchange telephone services or Non-Basic services only so long as its aggregate revenues for Basic local exchange telephone services or Non-Basic services generated by such changes do not exceed the aggregate revenues generated by the maximum rates permitted by the price regulation plan.

This Section permits a price regulated company to increase rates for Basic or Non-Basic services by an amount equal to the lesser of one half the inflation rate or the inflation rate less two percent. Consistent with the Stipulation and based on the methodology approved by this Authority herein, the Authority finds that the maximum annual revenue adjustment for United for the twelve month period October 15, 1995, to October 14, 1996, is .4 percent or \$67,151 annually.

Although the foregoing Section of the Act permits increases in both Basic and Non-Basic services, another provision of Tennessee law prohibits a price regulated company from increasing Basic services for the first four years it operates under price regulation. This limitation is in Tenn. Code Ann. § 65-5-209(f). Since United is proposing increases relating to its second year as a price regulated company, the limitation in Tenn. Code Ann. § 65-5-209(f) applies to United's Basic service rates. It is thus critical to determine whether a service is Basic or Non-Basic in order to determine the amount of the maximum annual adjustment permitted for each category of service. Tenn. Code Ann. § 65-5-208(a) defines these terms as follows:

(1) **Basic local exchange telephone service** are telecommunications services which are comprised of an access line, dial tone, touch-tone and usage provided to the premises for the provision of two-way switched voice or data transmission over voice grade facilities of residential customers or business customers within a local calling area,

Lifeline, Link-Up Tennessee, 911 Emergency Services and educational discounts existing on June 6, 1995, or other services required by state or federal statute. These services shall, at a minimum, be provided at the same level of quality as is being provided on June 6, 1995. Rates for these services shall include both recurring and nonrecurring charges.

(2) **Non-Basic services** are telecommunications services which are not defined as basic local exchange services and are not exempted under subsection (b). . .

### **Issue 1: Methodology**

The parties to this docket filed a stipulation on January 27, 1997, in which they agreed to the methodology and formula for use in calculating the amount of the annual price cap adjustment pursuant to Tenn. Code Ann. § 65-5-209(e). The methodology set forth is essentially the same as proposed by the staff of the Tennessee Public Service Commission for proposed new rule Chapter 1220-4-8, the local competition rules in 1995.

The Authority approves the methodology and formula for use in calculating the amount of the annual price cap adjustment pursuant to T.C.A. 65-5-209(e) as stipulated to by the parties to this docket.

### **Issue 2: Five Line Tariff**

The first matter considered by the Directors on May 20, 1997, concerned a tariff filing by United, separate from this proceeding, which limited the number of access lines that could be charged a residential rate, to five per location.<sup>1</sup> A substantially identical proceeding involving a BellSouth tariff is pending in Docket No. 96-01422. The Directors

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<sup>1</sup> As background, the five-line tariff, tariff number 95-217 was approved by the Tennessee Public Service Commission in October of 1995.



concluded that the Consumer Advocate Division's concerns regarding United's five line tariff was not properly before the Authority in this proceeding and the Consumer Advocate Division could pursue its concerns regarding United's tariff in a separate complaint and/or in the pending Docket No. 96-01422.

### **Issue 3: Secretarial Lines**

When the Act went into effect on June 6, 1995, United had a tariff in effect regarding secretarial lines that provided, in Section U2.3.5(c)6, that a residence rate would apply to "secretarial line terminations of residence main service terminating as extension lines on the premises of a telephone answering bureau." On October 25, 1995, after United had entered into price regulation, the company revised its tariffs regarding residence and business classifications. This revision omitted the language previously contained in Tariff Section U2.3.5(c)6. The Authority finds that United is obligated to interpret and apply the provisions of Section U2.3.5 as contained in its October 25, 1995, tariff in a manner consistent with the tariff language contained in its tariff Section U2.3.5(c)6 as in effect on June 6, 1995.

### **Issue 4: ABC Service and Centrex Service**

United offered a central office based business service called Advanced Business Connection Service ("ABC Service") on the date the Act went into effect, that is, on June 6, 1995. As the result of a complaint filed by a United business customer, a contested case regarding United's ABC Service was initiated (Docket No. 96-00462). Following an investigation and a hearing, a final Order was rendered by the Authority on October 3,

1996. The Authority entered a Supplemental Order dated January 22, 1997, modifying and approving a stipulation between the parties regarding ABC Service. These Orders required United, among other things, to revise the terms of its central office based service offering. United filed a tariff in response to these Orders. The subsequent tariff included the grandfathering of ABC Service and a revised service offering called Centrex. This tariff was approved by the Authority in Docket No. 96-01492 by Order dated January 22, 1997.

Copies of United's proposed tariffs to obsolete ABC Service and to introduce Centrex Service were originally filed in September, 1996, with a revision filed in December, 1996. The initial filing was served on the Consumer Advocate Division when filed. The Consumer Advocate Division did not intervene or otherwise participate in these filings at the time they were under consideration by the Authority. The Consumer Advocate Division has now raised a concern regarding whether approval of the Centrex tariff constituted an improper increase of a Basic service contained in the ABC Service tariff. The Authority finds that the Centrex Service is a unique bundling of products and pricing arrangements and therefore was not a service offered on June 6, 1995. As a new service, the Centrex tariff was specifically considered and approved by the Authority in a prior Docket and not found to be contrary to law. Accordingly, there is no legal support for the concern raised by the Consumer Advocate, and its complaints regarding United's obsoleting ABC Service and introducing Centrex Service. Therefore, the Advocate's complaints are hereby denied.

## **Issue 5: 911 Services**

United proposed treating certain service elements of 911 Emergency Services as Non-Basic services. Specifically, United treated Automatic Number Identification (ANI), Automatic Location Identification (ALI), and Selective Routing as Non-Basic services. The Consumer Advocate contended all elements of 911 emergency services were Basic services under the Act, which specifically listed 911 emergency services as a basic local exchange service under Tenn. Code Ann. § 65-5-208. Section 65--5-208(a) of the Act states in relevant part:

***“Basic local exchange telephone services” are telecommunications services which are*** comprised of an access line, dial tone, touch-tone and usage provided to the premises for the provision of two-way switched voice or data transmission over voice grade facilities of residential customers or business customers within a local calling area, ***Lifeline, Link-Up Tennessee, 911 Emergency Services and educational discounts existing on June 6, 1995, or other services required by state or federal statute.*** These services shall, at a minimum, be provided at the same level of quality as is being provided on June 6, 1995. Rates for these services shall include both recurring and nonrecurring charges. (Emphasis Added”).

United's position was that in order for a service to be Basic service, it must have an access line, dial tone, touch-tone and usage. Since ANI, ALI and Selective Routing are features which do not contain all four elements, United concluded they could not be a part of Basic Services. United further argued that this provision sets forth everything that competing telecommunications service providers must offer when offering Basic local exchange service, and the only requirement with respect to 911 is to provide access to 911 emergency service, and not other elements or features. As a consequence, United argued, other elements and features associated with emergency services such as ANI and ALI are not a part of Basic service.

After careful consideration of the arguments of both parties, the evidence in the record, and the language of the statute in question, the Authority finds that notwithstanding the company's interpretation of this statute, the specific language in Tenn. Code Ann. § 65-5-208 is clear and unequivocal when it states that 911 Emergency Services are categorized as a Basic service. It appears from the plain language of these statutes that the legislature did not intend to limit 911 services to mere access to an operator, but instead wanted to provide access to all services associated with 911. Accordingly, the Authority concludes that 911 emergency services, including features such as ANI, ALI and Selective Routing, are Basic services under the Act.

#### **Issue 6: Educational Discounts**

Similar to the issue regarding 911 Emergency Services, United contended that a portion of the lines and features which were included as a part of its educational discounts offered on June 6, 1995, were Non-Basic services. United specifically argued that the private lines which were subject to educational discounts on June 6, 1995, were Non-Basic services. United again relied on its interpretation of Section 65-5-208 arguing that a Basic service must have an access line, dial tone, touch-tone and usage.

The Consumer Advocate asserted that all educational discounts existing on June 6, 1995, constitute Basic service as defined in Tenn. Code Ann. § 65-5-208. The Authority rejects United's arguments and accepts the Advocate's assertion that the General Assembly intended educational discounts to be classified as Basic service. In fact, the statute is clear and unambiguous because it specifically includes educational discounts in the list of services comprising basic local exchange telephone services.

### **Issue 7: ABC Service Lines**

United contended that for its ABC Service, those lines in excess of the number of Network Access Registers ("NAR") should be considered as part of Non-Basic service. These ABC Service lines were considered by United as intercom lines. United distinguished intercom lines from access lines in that intercom lines did not allow connection to the switched network. Only when an ABC Service line was associated with a NAR did United believe the line had access to dial tone, usage and touch-tone into the local calling area under its interpretation of Tenn. Code Ann. § 65-5-208.

The Consumer Advocate Division witness noted that United's ABC Service tariff made no mention of an intercom line. The witness contended that all ABC Service are Basic, noting that all ABC Service lines were treated the same, based on the language United developed and placed in its tariff. In addition, the Company witness acknowledged that data transmission could occur using any of the ABC Service lines.

Although United's current tariffs or tariffs in effect on June 6, 1995, did not contain any rate or reference to ABC Service intercom lines, it now attempts to introduce a distinction between ABC Service lines with a NAR and those without a NAR. While a NAR is required to complete a call from an ABC line, a NAR is not directly associated with any one line. Therefore, all ABC Service lines have the same functionality for making and receiving outside calls. Thus, the Authority finds that allowing this distinction and subsequent classification of access ABC Service lines as a Non-Basic service is an indirect method of raising rates on an otherwise basic service. Accordingly, the Authority finds that all ABC lines with or without a NAR are Basic service.

## **Issue 8: Directory Assistance**

United proposed a charge for directory assistance as Non-Basic service in this filing because, in its opinion, language in Tenn. Code Ann. § 65-5-208(a)(1) did not explicitly classify directory assistance as a Basic service. The Consumer Advocate argued that directory assistance was a part of Basic service when United entered price regulation on June 6, 1995. As a result, the four (4) year price cap limitation prohibited United from charging for directory assistance, since the rate on June 6, 1995, was zero.

Tenn. Code Ann. § 65-5-208(a)(1) of the Act defines Basic local exchange telephone service as "...an access line, dial tone, touch-tone, and usage provided to the premises for the provision of two-way switched voice or data transmission within a local calling area, Lifeline, Link-Up Tennessee, 911 emergency services, and educational discounts existing on June 6, 1995, or other services required by state or federal statute." United maintained that this definition contains no reference to directory assistance. Further, United cited Tenn. Code Ann. § 65-4-124(c) in support of its position on directory assistance.

Tenn. Code Ann. § 65-4-124(c) provides that the TRA shall promulgate rules that will "ensure that all telecommunication service providers, [such as United,] who provide basic local exchange telephone service or its equivalent shall provide each customer a basic White Pages directory listing, access to 911 Emergency Services, free blocking for 900/976-type services, access to telecommunications relay services, Lifeline, Link-Up, . . . and educational discounts existing on June 6, 1995." Directory assistance is not listed in Tenn. Code Ann. § 65-4-124(c).

Due to the omission by the legislature of the words "directory assistance" from the language of Tenn. Code Ann. §§ 65-4-124(c) and 65-5-208(a)(1), United maintained that directory assistance does not meet the statutory definition for Basic local exchange telephone service. According to United, it is properly identified as a Non-Basic service as defined in Tenn. Code Ann. § 65-5-208(a)(2), and as such is subject to a possible increase in price in accordance with Tenn. Code Ann. § 65-5-209(e).

The Consumer Advocate Division claimed that directory assistance is a Basic service under the term "usage" as found in Tenn. Code Ann. § 65-5-208(a)(1). Mr. Hickerson of the Consumer Advocate Division stated that, "Usage of directory assistance was included when a customer subscribed to either residential or business service and paid the Basic local exchange service rate as provided under the company's tariff approved by the Tennessee Public Service Commission."<sup>2</sup> He further stated that, "If the company now charges for directory assistance on a usage-sensitive basis, the customer is no longer receiving the level of service that was being provided when the customer paid the Basic rate charge on or before June 6, 1995."<sup>3</sup> Thus, it was also the position of the Consumer Advocate that this alleged change in level of service violated Tenn. Code Ann. § 65-5-208(a)(1).

United rejected the Consumer Advocate Division's argument that the term "usage" in the statute has the meaning of usual, habitual, customary, or accepted practice. The company maintained that usage is solely related to a subscriber's access to the public switch network.

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<sup>2</sup> See pages 13-14 of Mr. Hickerson's pre-filed direct testimony, filed on February 14, 1997.

<sup>3</sup> See pages 14-15 of Mr. Hickerson's pre-filed direct testimony, filed on February 14, 1997.

Additionally, United disagreed with the Consumer Advocate Division's suggestion that price changes cause erosion in the level of quality of the service. United's witness, Mr. Parrott, testified that, "If a price change were to be judged as a change in the level of quality offered by the company, Tennessee law would not allow for any price changes. However, this is contrary to Tennessee law. Tenn. Code Ann. § 65-5-209 specifically permits and describes how price adjustments can be made for both Basic and Non-Basic services."<sup>4</sup>

Both the Consumer Advocate Division and United raised reasonable arguments regarding the statutory language in question. Under Tennessee law, when a statute is not clear on its face and thus ambiguous, resort may be made to the legislative history.<sup>5</sup> When confronted with statutory language that conveys more than one meaning, courts may consider the legislative debate surrounding the statute's enactment.<sup>6</sup>

It is evident from the legislative transcripts of floor debates submitted by the parties that the intent of the Tennessee General Assembly was to exclude directory assistance as a Basic service. One of the reasons for this exclusion, based on the legislative history, was that directory assistance was thought to be a competitive service.

The legislative transcripts of floor debates submitted by each of the parties revealed that the legislators who chose to speak on the issue of whether directory assistance was a Basic or Non-Basic service, including but not limited to Senators Rochelle and Gilbert, each understood that under the language of what is now the law,

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<sup>4</sup> See page 3 of Mr. Parrott's pre-filed rebuttal testimony, filed on February 24, 1997.

<sup>5</sup> See City of Oak Ridge v. Roanne County, 563 S.W.2d 895, 899 (Tenn. 1978).

<sup>6</sup> See In Re Conservatorship of Clayton, 914 S.W.2d 84, 90 (Tenn. App. 1995) and Owens v. State of Tennessee, 908 S.W.2d 926 (Tenn. 1995).



directory assistance was not a Basic service. For example, as set forth in the brief of the Consumer Advocate regarding directory assistance, Senator Gilbert stated that with respect to whether the bill would allow telecommunication service providers to charge for directory assistance, "I think the answer is under this bill they be permitted to do it without PSC approval."<sup>7</sup> Comments by other legislators support the understanding articulated by Senator Gilbert.

Additionally as set forth in the post hearing brief of United, the floor comments of Representative Purcell clearly show that the "level of quality" phrase in Tenn. Code Ann. § 65-5-208(a)(1) was intended to ensure the integrity of voice and data transmissions over the public network as opposed to prohibiting an increase in price. Accordingly, the Authority by majority vote concludes that directory assistance is a Non-Basic service under state law, with Director Kyle dissenting.

United's proposed tariff for directory assistance provides for three free inquiries with up to two numbers per inquiry per monthly billing period for residential and business access lines. After the first three inquiries, a charge of 29 cents will be applied per inquiry.

United's proposed tariff also provided that residence customers unable to use the telephone directory due to a visual or physical disability that has been confirmed by a physician, appropriate group, or agency, and inquiries made from pay telephone service locations are exempt from directory assistance charges. The Consumer Advocate Division pointed out, however, that United's exemption from directory assistance charges

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<sup>7</sup> See the floor debate transcripts regarding Senate Bill 891 at page 39, attached as Exhibit 1 to the brief of BellSouth Telecommunications, Inc., filed on March 21, 1997. The Directors took official notice of the legislative history (which includes the transcripts of the floor debates) without objection by the parties at the Authority Conference held on May 20, 1997.

to individuals with visual or physical disabilities does not extend to those individuals' places of employment.

Additionally, the Consumer Advocate Division pointed out, and the company did not disagree, that at any given point during the year, there are some listed phone numbers that are not available in printed directories. Accordingly, the Authority finds that the company's directory assistance tariff be amended and that United file revisions to its directory assistance tariff to include an increase in the directory assistance free call allowance up to six inquiries with an allowance of two telephone numbers per inquiry for residence and business access lines per billing period to mitigate the effect of the unavailability of listed numbers in printed directories.

Further, the Authority orders that United extend the exemption from directory assistance charges for customers unable to use the telephone directory due to a visual or physical disability that has been confirmed by a physician, appropriate group, or agency to their places of business. United shall provide an additional exemption from directory assistance charges for residential customers who are 65 years or older upon request and with satisfactory proof of age.

The Authority also orders that United inform customers about its printed directory policy for local calling areas through directory assistance preamble, annual bill inserts, and press releases; and, that United inform customers about the new charges for directory assistance by providing a recorded message at the outset of the directory assistance call and by allowing the customer to hang up without incurring a charge for a period of three months after the effective date of this tariff in addition to issuing bill inserts and press releases about the new charges.

The Authority also directs that the staff follow-up with IXCs to assure the flow-through of all access rate reductions in a manner consistent with existing Authority policy and shall recommend further action by the Authority, if necessary. Additionally, by majority vote, the Authority hereby approves United's tariff with the above stated amendments, with Director Kyle dissenting.

**IT IS THEREFORE ORDERED:**

1. That a complaint regarding United's five line and above tariff is more properly a matter to be addressed in a separate complaint and/or Docket No. 96-01422;
2. That United is obligated to interpret and apply the provisions of Section U2.3.5 as contained in its October 25, 1995, tariff in a manner consistent with the tariff language contained in its tariff Section U2.3.5(c)6 as in effect on June 6, 1995.
3. That United's tariff revisions to obsolete ABC service and introduce Centrex service in Docket 96-01492 are legal;
4. That 911 emergency services, including ANI, ALI and Selective Routing, are considered Basic services under Tenn. Code Ann. § 65-5-208(a);
5. That all educational discounts are considered Basic services under Tenn. Code Ann. § 65-5-208(a);
6. That all ABC Service lines, whether or not associated with a NAR, are considered Basic services under Tenn. Code Ann. § 65-5-208(a);
7. That directory assistance is a Non-Basic service under Tenn. Code Ann. § 65-5-208(a) and that United shall comply with the notice requirements set forth above in connection with its implementation of a directory assistance charge;

8. That the methodology to be applied in determining the maximum annual price adjustment for United under Tenn. Code Ann. § 65-5-209 is the methodology hereinabove approved;

9. That United shall file revisions to the classification of Basic and Non-Basic service revenues in the calculation of the maximum annual revenue adjustment as ordered above and these revisions will be reflected in the revised tariffs filed by United;

10. That United shall file revised directory assistance and access charge tariffs reflecting revisions consistent with this Order;


11. That any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order; and

12. That any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.

  
CHAIRMAN

\*\*\*

\_\_\_\_\_  
DIRECTOR

  
DIRECTOR

ATTEST:

  
EXECUTIVE SECRETARY

\*\*\* Director Kyle concluded that directory assistance is a basic service and as a result, voted not to approve United's tariff.



A CITIZENS COMMUNICATIONS COMPANY

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T.R.A. DOCKET ROOM

Government & External Affairs  
180 S. Clinton Ave.  
5th Floor  
Rochester, NY 14646

January 16, 2008

2008024

2008-00021

Chairman Sara Kyle  
c/o Sharla Dillon, Document Manager  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

Dear Chairman Kyle:

Attached are an original and three copies of a Citizens Telecommunications Company of Tennessee tariff filing for review and approval by the Tennessee Regulatory Authority.

Citizens Telecommunications Company of Tennessee  
GENERAL CUSTOMER SERVICES TARIFF

Section 3

-Original Page 39.3

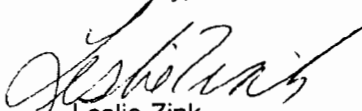
-Original Page 39.4

The purpose of this filing is to add language to local directory assistance calls tariff.

An additional copy of this letter is also enclosed. Please date stamp and return it in the enclosed stamped, self-addressed envelope.

If you have any questions relative to this filing, please call Monique Adams at (585) 777-4717 or me at (585) 777-4717.

Sincerely,

  
Leslie Zink  
Manager, Pricing & Tariffs

Enclosure

C: Timothy Phillips, Esq.  
(Adv24)

RECEIVED

JAN 17 2008

TN REGULATORY AUTHORITY  
UTILITIES DIVISION

## GENERAL CUSTOMER SERVICES TARIFF

Citizens Telecommunications Company of Tennessee

Original Page 39.3

### S3. Basic Local Exchange Service (Continued)

(N)

#### S3.6 Local Operator Services (Continued)

##### S3.6.5 Directory Assistance Service

###### A. General:

Directory Assistance is a service provided by a Directory Assistance operator whereby a customer may obtain assistance in obtaining a telephone number.

###### B. Regulations:

1. There will be a charge for Directory Assistance as specified in S3.6.5.C. All requests for Directory Assistance will be charged with the exception of those circumstances listed in S3.6.5.B.4. There will be a monthly allowance as specified in S3.6.5.B.2.
2. For residence services, two calls to the Directory Assistance Operator may be made free of charge per individual line per billing period. A maximum of two numbers may be requested of the Directory Assistance operator per call. Numbers requested over any of the subscriber's lines which are billed on the same account are applied against the subscriber's total allowance of numbers for all lines or primary non-restricted stations subscribed for on that account.
3. No allowance shall apply to business services.
4. No charge applies for:
  - a. Calls for local and intraLATA directory assistance originating from all coin telephones with the exception of customer-owned, coin-operated telephones.
  - b. Calls for Directory Assistance placed from telephones served by central office equipment of other telephone companies.
  - c. Calls for Directory Assistance from handicapped persons who have requested exemption from the Directory Assistance charge and who have been certified to the Telephone Company as being unable to use telephone directories because of a visual or physical handicap. Acceptable certifications are those made by a licensed physician, ophthalmologist or optometrist, or a social agency that conducts programs for the handicapped in cooperation with an official agency of the State of Tennessee or pre-existing certifications establishing visual or physical inability to use a directory such as those which qualify the handicapped person for an income tax exemption or social security benefits on the basis of blindness or physical disability or for the use of the facilities of an agency for the blind.

(N)

Continued

Issued: January 16, 2008

Vice President  
Regulatory and Carrier Services

Effective: March 15, 2008

GENERAL CUSTOMER SERVICES TARIFF

Citizens Telecommunications Company of Tennessee

Original Page 39.4

S3. Basic Local Exchange Service (Continued)

S3.6 Local Operator Services (Continued)

S3.6.5 Directory Assistance Service (Continued)

4. (Continued)

- d. Requests for telephone numbers, which result in the calling party receiving a wrong number from the Directory Assistance Operator provided that the calling party reports the wrong number to the Telephone Company.
- e. Requests for telephone numbers of non-published service, as defined by tariff.

C. Charges:

For residence services, calls made to the Directory Assistance Operator in excess of the monthly allowance are charged \$0.95 for each call. For business services, and calls placed over Outward WATS access lines, each call to the Directory Assistance Operator is charged \$0.95 per call. Requests for information other than telephone numbers will be charged for as requests for telephone numbers.

(N)

(N)

Continued

Issued: January 16, 2008

Vice President  
Regulatory and Carrier Services

Effective: March 15, 2008



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# **Technology Assessment of Tennessee Residential Consumers September 2007**

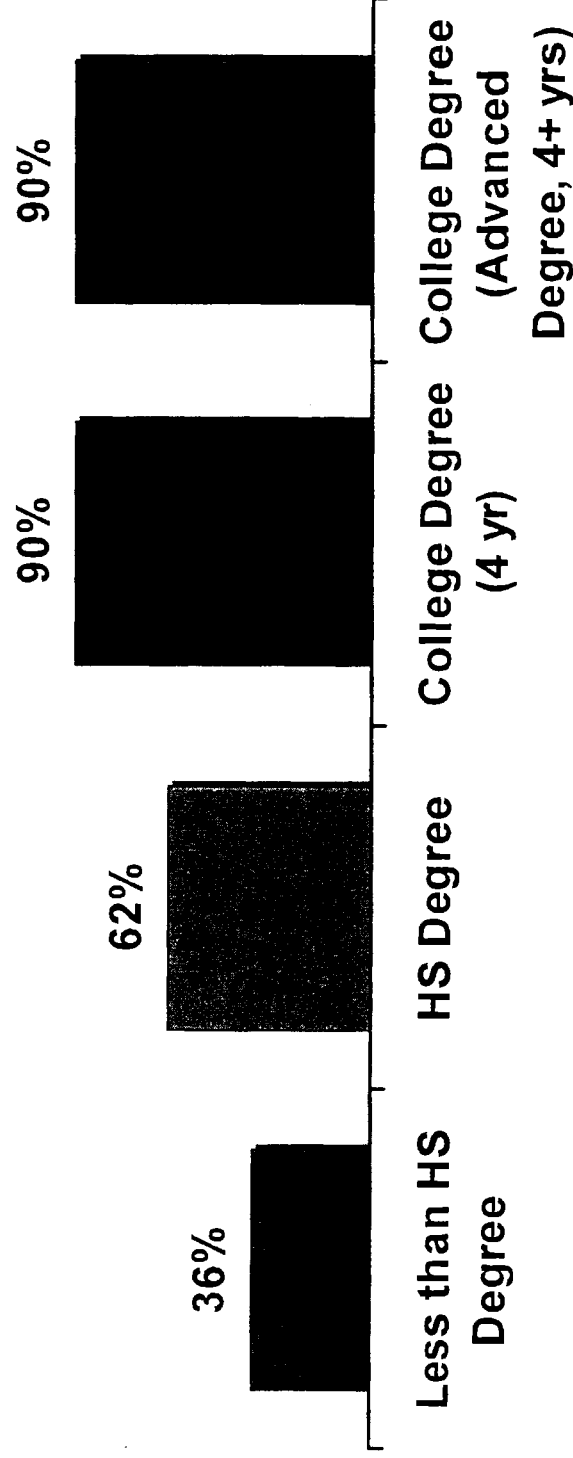




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# Tennessee Residents with a Computer at Home

Percent of Tennessee residents who have a computer at home:



**Statewide Average: 71% of Tennessee residents report having a personal computer at home.**

Q: Does your household have a computer?

(n = 9,513 TN residents)

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Source: 2007 Connected Tennessee Residential Technology Assessment

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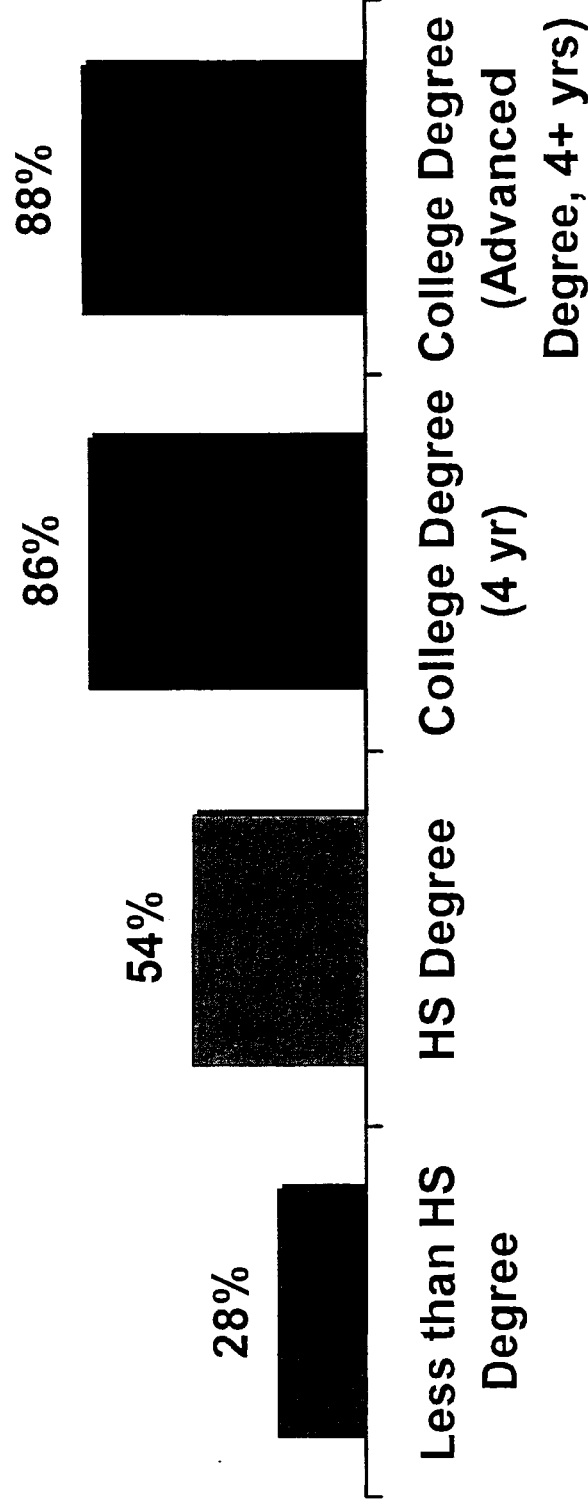
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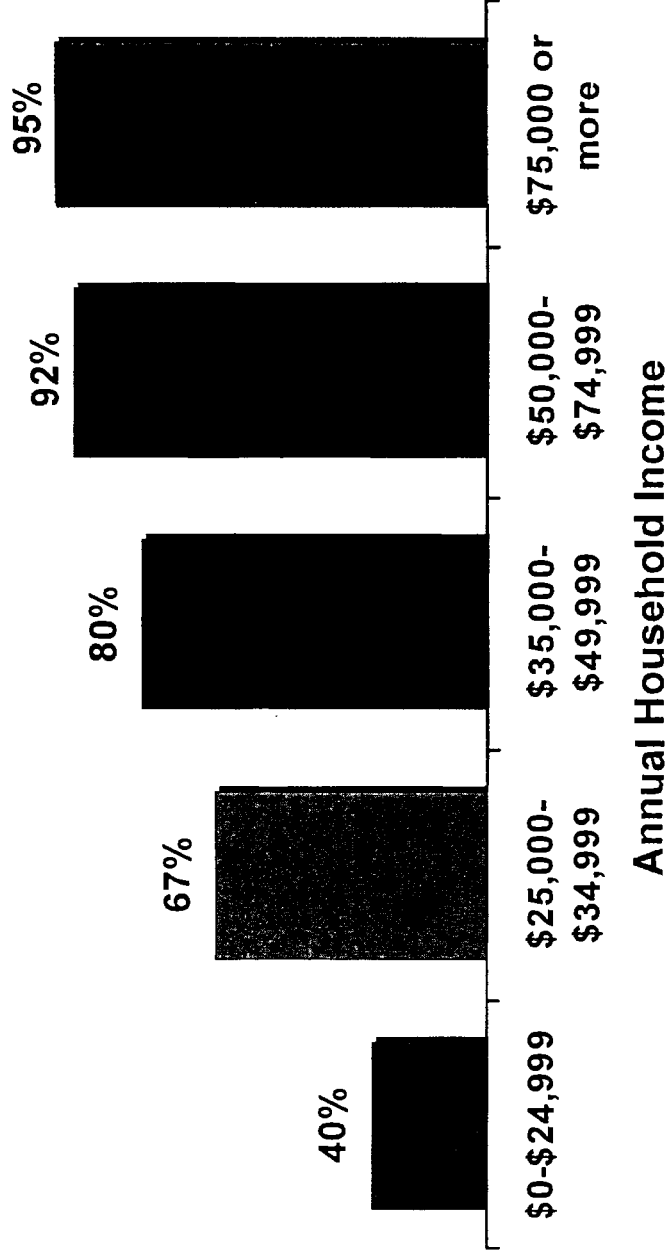
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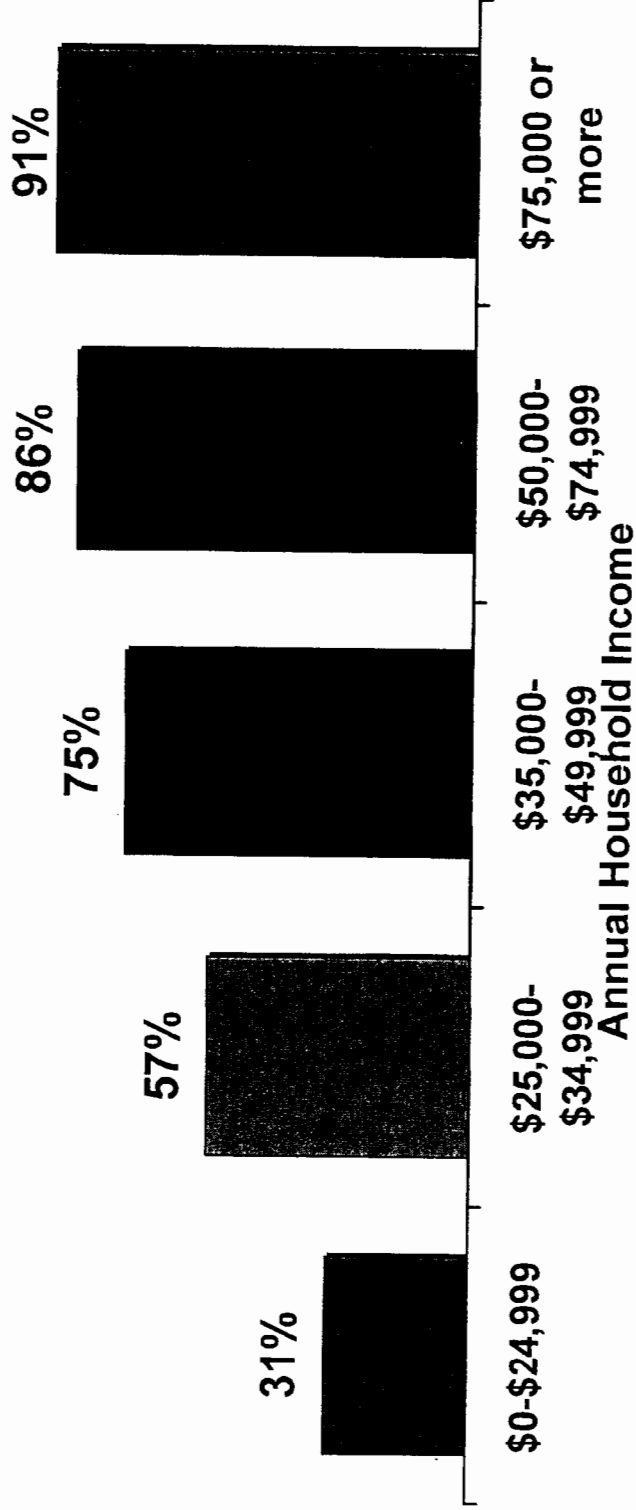
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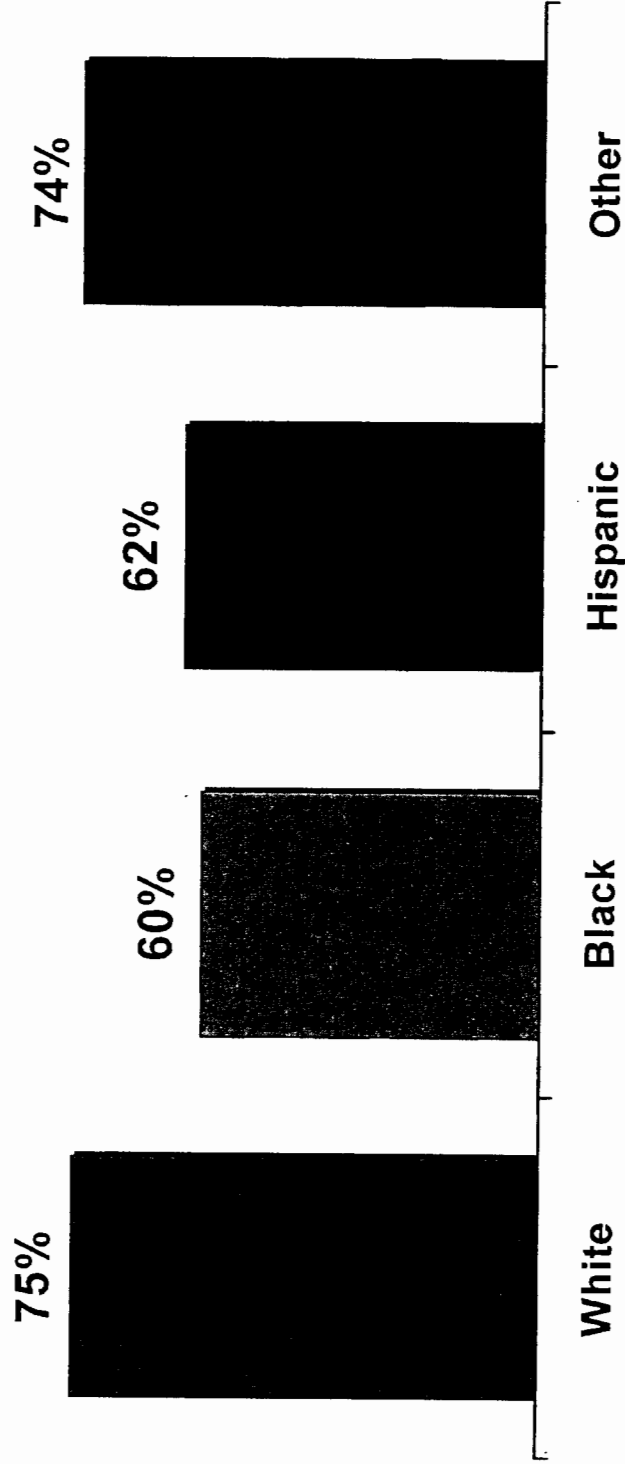
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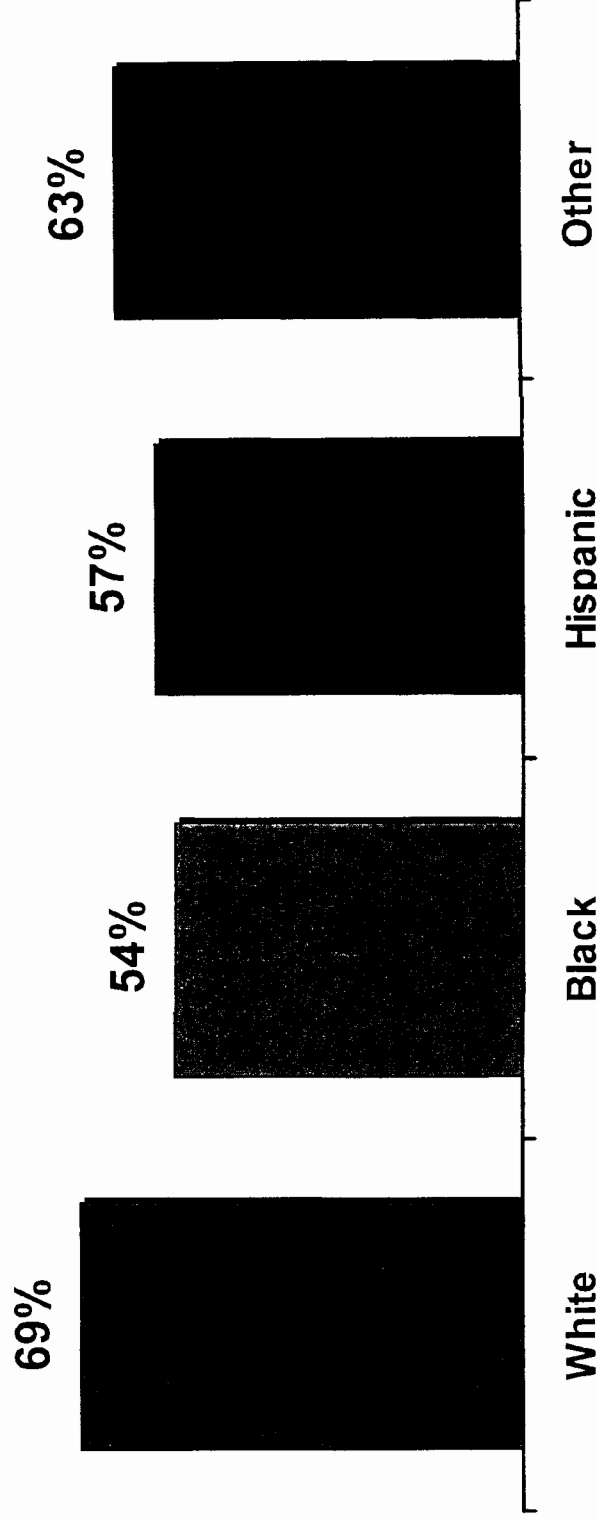
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