

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:	July 14, 2008)	
)	
TARIFF FILING BY AT&T TENNESSEE TO INCREASE)	DOCKET NO.
THE PER CALL RATE FOR DIRECTORY ASSISTANCE)	08-00076

ORDER DENYING CONSUMER ADVOCATE'S COMPLAINT AND PETITION TO INTERVENE

This matter came before Director Tre Hargett, 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 June 23, 2008 for consideration of the *Consumer Advocate's Complaint and Petition to Intervene* ("*Complaint and Petition to Intervene*") filed by the Consumer Advocate and Protection Division of the Office of the Attorney General on May 19, 2008.

BACKGROUND

On May 12, 2008, BellSouth Telecommunications, Inc. d/b/a as AT&T Tennessee ("AT&T") filed a tariff, 2008-0159, to increase Directory Assistance ("DA") rates effective June 2, 2008. No changes were proposed for the call allowances.¹

The *Consumer Advocate's Complaint and Petition to Intervene* requested that the TRA:

conven[e] a contested case in this docket and [allow the Consumer Advocate] the opportunity to intervene so that a record can be built upon which the TRA may consider raising the call allowance for consumers and/or requiring AT&T to change or modify its directory assistance policy so that it will better serve the public interest.²

¹ Currently, customers receive one free monthly DA call. Physically and/or visually impaired persons and residential subscribers who are 65 years or older receive unlimited free DA calls.

² *Consumer Advocate Petition*, p. 3 (May 19, 2008).

The Consumer Advocate noted that that the TRA has current dockets pending regarding the DA policy of two other telecommunications providers, United Telephone Southeast, Inc. d/b/a Embarq Corporation and Citizens Telecommunications Company of Tennessee, LLC d/b/a Frontier Communications of Tennessee, LLC.³

At a regularly scheduled Authority Conference held on May 19, 2008, a majority of the panel voted to allow the tariff to go into effect June 2, 2008 and to provide AT&T an opportunity to respond to the *Consumer Advocate's Complaint and Petition* by May 28, 2008.⁴ AT&T filed its *AT&T Tennessee's Opposition to Consumer Advocate's Petition to Convene a Contested Case Regarding Issues Unrelated to Approved Directory Assistance Tariff ("Response")* on May 28, 2008.

AT&T contends that the tariff has been approved and the Consumer Advocate has introduced issues unrelated to the changes introduced by the tariff; therefore, convening a contested case would be procedurally improper.⁵ AT&T states that the Consumer Advocate has cited no legal authority for the TRA to convene contested cases to evaluate policy.⁶ Additionally, convening a contested case would be a waste of resources because two similar dockets are already underway and any evidence the Consumer Advocate has could be presented in those dockets.⁷ Finally, AT&T argued that the Consumer Advocate's request works against the General Assembly's consistent efforts to deregulate the communications industry and limit regulatory delays.⁸

³ *Id.*

⁴ Director Kyle, consistent with positions she previously has taken on this issue, voted to deny the rate increase for DA.

⁵ *AT&T Tennessee's Opposition to Consumer Advocate's Petition to Convene a Contested Case Regarding Issues Unrelated to Approved Directory Assistance Tariff*, p. 1 (May 28, 2008).

⁶ *Id.*, p. 3.

⁷ *Id.*, pp. 3-4.


⁸ *Id.*, p. 4.

FINDINGS AND CONCLUSIONS

In the *Consumer Advocate v. Tennessee Regulatory Authority*, the Tennessee Court of Appeals held that directory assistance service is a non-basic service and that the TRA has the jurisdiction and authority to impose free directory assistance allotments for the benefit of the public interest under Tenn. Code Ann. § 65-4-117. However, no change in directory assistance allotments was proposed in the May 12, 2008 filing by AT&T. The filing sought only to increase directory assistance rates for directory assistance calls made in excess of the allotment. At the previous Authority Conference, a majority of the Authority voted to allow the rate increase to go into effect. Because AT&T's filing did not request a change to directory assistance allotments, the majority finds that this issue is not ripe for consideration in this docket. Based on this finding, the majority voted to deny the Consumer Advocate's *Complaint and Petition to Intervene*.⁹

IT IS THEREFORE ORDERED THAT:

The *Complaint and Petition to Intervene* of the Consumer Advocate and Protection Division of the Office of the Attorney General for the State of Tennessee is denied.



Director Tfe Hargett



Sara Kyle, Director

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Director Ron Jones¹⁰

⁹ Director Kyle voted with the majority in finding this issue not ripe for consideration in this docket because the request to increase the DA rate had been permitted to go into effect previously and there was no request to change the call allotments in the tariff.

¹⁰ Director Jones voted to grant the Consumer Advocate's *Complaint and Petition to Intervene*.