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VIA HAND DELIVERY

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Hon. Tre Hargett, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

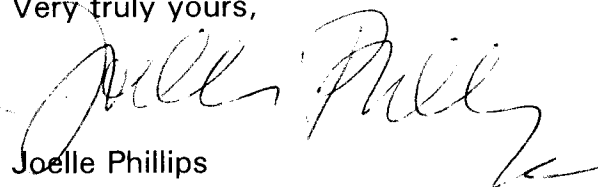
Re: *BellSouth Telecommunications, Inc. dba AT&T Tennessee Tariff to
Increase Per Call Rate for Directory Assistance*
Docket No. 08-00076

Dear Chairman Hargett:

Enclosed are the original and four copies of AT&T Tennessee's *Response in
Opposition to Consumer Advocate's Motion to Reconsider*.

Copies of the enclosed are being provided to counsel of record.

Very truly yours,



Joelle Phillips

JP:ch

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In Re: *BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee Tariff to Increase Per Call Rate for Directory Assistance*

Docket No. 08-00076

**AT&T TENNESSEE'S RESPONSE IN OPPOSITION
TO CONSUMER ADVOCATE'S MOTION TO RECONSIDER**

BellSouth Telecommunications, Inc. dba AT&T Tennessee ("AT&T") files this Response in Opposition to the Motion to Reconsider filed on July 30, 2008 by the Consumer Advocate Division ("Consumer Advocate" or "CAD") and respectfully shows the Tennessee Regulatory Authority ("the Authority" or "TRA") as follows:

Pursuant to TRA rules and statutes,¹ the TRA opened this docket for the purpose of considering a tariff filed by AT&T, and the Authority correctly determined that the tariff was lawful and appropriate to approve. The Consumer Advocate, however, continues to insist that the docket should be converted to a contested case, including discovery, which would permit

the Consumer Advocate the opportunity to develop a record supporting changes in the current directory assistance ("DA") tariff and practices of [AT&T] so that DA state policy may better serve the public.²

¹ As established by T.C.A. § 65-5-101 and TRA Rule 1220-1-2-.02, the filing of a tariff does not automatically trigger a contested, nor is the TRA obligated to convene a contested case merely because a party seeks one. The decision whether convene a contested case or whether issues raised by the CAD may be considered in another docket is a matter of discretion for the Authority. The Tennessee Court of Appeals has recognized the Authority's discretion to so manage its resources, noting "We are referred to no rule or statute which forbids the TRA from ordering that this issue should be heard in another docket, and thus cannot fault the TRA for doing so." *Consumer Advocate Div. v. Tenn. Regulatory Auth.*, 2002 Tenn. App. LEXIS 506 (Tenn. Ct. App. July 18, 2002).

² Motion to Reconsider at 1.

The CAD fails to note that the “tariffs and practices” to which it refers have been properly established by tariffs that have been approved by the Authority. These approved tariffs have the force of law.³

The Authority correctly declined to convene a contested case in relation to a routine tariff filing, which addressed a rate change expressly permitted by law and presented **no other** issues of “DA policy” or call allowances. The Authority’s order declining to convene a contested case correctly applied the doctrine of ripeness, but, even if the CAD were correct that it raised issues that were ripe for review (which AT&T disputes⁴), the TRA’s order is still a proper and well-reasoned exercise of the administrative discretion it has to manage its dockets and resources and to decide when and whether to convene a contested case.

Finally, the voluminous attachment to Motion to Reconsider provide no basis to grant the motion. The attachment, which consists of a presentation, relating to the relationship between enduser income and adoption of new technology, has no relevance whatsoever to the limited tariff at issue in this docket. If the CAD is attempting to present the attachment as “new evidence,” then TRA Rule 1220-1-2-

³ The Tennessee Court of Appeals has noted that “[t]he published tariffs of a common carrier are binding upon the carrier and its customers and have the **effect of law.**” *GBM Communications, Inc. v. United Inter-Mountain Tel. Co.*, 723 S.W.2d 109, 112 (Tenn. Ct. App. 1986) (emphasis added).

⁴ The CAD’s Motion for Reconsideration wrongly applies the doctrine of ripeness and argues that there is a justiciable controversy presented by the CAD’s ongoing interest in whether DA call allowances are currently treated differently under current tariffs and law than call allowances were treated under “traditional” rate of return regulation **that is no longer applicable to AT&T.** As the TRA correctly concluded, however, no such issues are relevant to the tariff filed in this docket. It is undisputed that the tariff filed in this docket did not seek to alter call allowances and that the rate change in the tariff was clearly permitted under the price regulation **that is applicable to AT&T.** The TRA correctly considered the doctrine of ripeness in declining to convene a contested case which would have been wasteful of its resources and duplicative of work in other on-going dockets.

.20(1) requires the motion to set forth the reason that such evidence was not presented in the original proceeding. No such explanation is included in the CAD's motion. Moreover, the materials submitted appear to focus on the adoption or use of broadband technology, which the TRA is expressly prohibited from regulating pursuant to T.C.A. § 65-5-203.

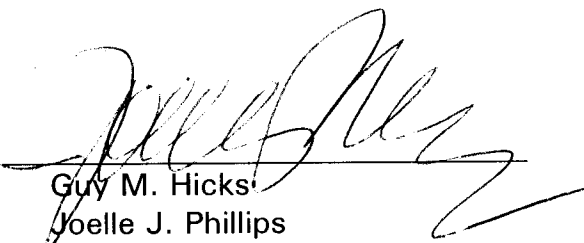
The CAD's Motion for Reconsideration offers nothing new. There is no reason for the TRA to reconsider its ruling approving a rate increase clearly allowed under state law.

For all of the foregoing reasons, the Motion to Reconsider should be denied.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.
d/b/a AT&T TENNESSEE

By:



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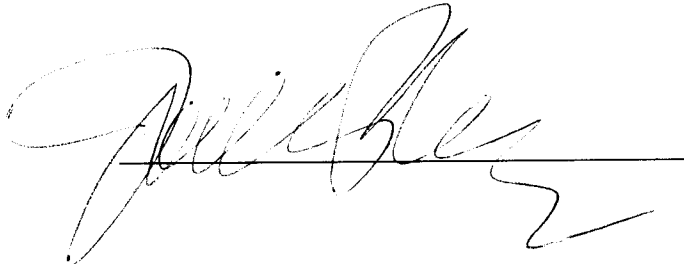
615/214-6301

CERTIFICATE OF SERVICE

I hereby certify that on August 6, 2008, a copy of the foregoing document was served on the following, via the method indicated:

- ☐ Hand
- ☐ Mail
- ☐ Facsimile
- ☐ Overnight
- ☒ Electronic

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A handwritten signature in black ink, appearing to read "Ryan L. McGehee", is written over a horizontal line.