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September 24, 2008

VIA HAND DELIVERY

filed electronically 9/24/08

Hon. Tre Hargett, Chairman  
c/o Sharla Dillon  
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 for filing in the referenced docket are the original and four copies of  
AT&T Tennessee's *Brief in Response and Opposition to Convening Contested Case  
Regarding Approved Tariff*.

A copy has been provided to counsel of record.

Very truly yours,

A handwritten signature in black ink, appearing to be "Guy Hicks", with a large, sweeping loop that extends to the right and then curves back down to the name.

Guy Hicks

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 BRIEF IN RESPONSE AND OPPOSITION**  
**TO CONVENING CONTESTED CASE REGARDING**  
**APPROVED TARIFF**

BellSouth Telecommunications, Inc. dba AT&T Tennessee (“AT&T Tennessee” or “AT&T”) files this Brief in Response and respectfully submits that the Tennessee Regulatory Authority (“TRA” or “Authority”) correctly concluded in this docket that a contested case was not warranted. The TRA appropriately approved AT&T’s tariff – a tariff that did nothing other than adopt a price change which all parties concede is authorized by price regulation.

The “policy” issues, briefed at length by the Consumer Advocate Division (“Consumer Advocate”) relate to tariff provisions governing free call allowances.

***The tariff at issue in this docket made no changes to free call allowances.***

For the following reasons, the Consumer Advocate’s brief provides nothing new and no basis to convene a contested case in this docket.

**I. The Consumer Advocate’s Briefs Do Not Accurately Reflect the Development of Directory Assistance Policy.**

The Consumer Advocate’s brief and motion rely heavily on what the Consumer Advocate characterizes as “traditional Directory Assistance (“DA”) service” and give short shrift to the TRA’s record of oversight in the area of DA

policy. That record is apparent, however, from the many enhancements to “traditional” directory assistance service that the TRA has overseen.

AT&T does not alter its DA service without TRA oversight. Instead, AT&T files tariffs to establish the terms and conditions applicable to the use of directory assistance by its customers. Those tariffs are reviewed by the TRA, and, accordingly, there is no “DA policy” other than that which has been reviewed and approved by the TRA. Pursuant to this process of review, the TRA has overseen many customer-friendly enhancements and benefits for AT&T’s customers. For example, in January 2005 the TRA approved an AT&T tariff that voluntarily provided free call completion (a service not “traditionally provided”) for all directory assistance calls for the visually impaired. [A3.24.5] Effective June 4, 2008, the TRA approved a tariff which voluntarily provided for free call completion for all customers. [Tariff A3.24.6] AT&T’s approved tariffs also provide for unlimited free directory assistance to customers over 65 years of age and AT&T customers with a disability. [Tariff A3.13.2] In addition to recent enhancements, AT&T offers today “one-stop-shopping” by providing nationwide directory assistance, along with local directory assistance, all by dialing the same number, in contrast to the “traditional” approach of requiring callers seeking long distance numbers to remember or look up and then call the area code of the number they sought. AT&T also now provides directory assistance at no charge to customers who dial 1-800-YELLOWPAGES and listen to a brief commercial advertisement. Neither nationwide

directory assistance nor the free 800 number directory assistance option was “traditionally” provided by AT&T under rate-of-return regulation.

Notwithstanding this history of enhancements in DA policy, the Consumer Advocate’s theme is that DA policy is less customer-friendly today than it was when AT&T operated as a rate-of-return provider and that, consequently, the TRA should convert this routine tariff docket, *in which no changes to DA free call allowance policy were introduced*, into a contested case for the general purpose of evaluating the state of AT&T’s directory assistance policies.

**II. The Consumer Advocate’s Brief Fails To Recognize The Difference Between Rate-Of-Return and Price Regulated Companies.**

The Consumer Advocate’s brief focuses heavily on the state of directory assistance in the pre-competition era when AT&T (then known as BellSouth) operated as a rate-of-return provider. AT&T disagrees strongly with the implicit suggestion that those times were better days for AT&T’s customers. The enactment by the General Assembly of the Price Regulation statute, the adoption of the federal Telecommunications Act of 1996, and the onslaught of both wireline and intermodal competition have all benefited Tennessee customers tremendously. The General Assembly’s commitment to modernization of the Tennessee telecommunications market has produced not only discounts and improved service for Tennessee customers, but it also provides an important incentive for the

development of new technology that offers customers new ways of meeting the needs that were “traditionally” met by only one provider and only one technology.<sup>1</sup>

Importantly, the Consumer Advocate cites no authority – and in fact there is none – to suggest that the TRA may draw upon rate-of-return history to impose requirements on price regulated companies. The General Assembly made the decision to allow companies to opt out of rate-of-return regulation, and the Consumer Advocate’s argument erroneously implies that such an “opt out” never took place. The TRA has consistently emphasized that its role is to implement the policy developed by the General Assembly. The Consumer Advocate’s nostalgia for the “traditional” days of rate-of-return regulation is no basis to confuse the statutory distinctions between price regulated and rate-of-return companies.

AT&T and the Consumer Advocate may differ about whether these are in fact the “good ole days” for telecommunications customers, but that debate has no place in this docket. The TRA correctly concluded in this docket that its work (the process of evaluating a tariff that made no changes to DA policy) was finished. The Consumer Advocate’s general efforts to seek a rejection of DA policy adopted,

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<sup>1</sup> The Consumer Advocate’s brief references on-line sources and 800 numbers (such as the 1-800-YELLOWPAGES service noted above) that are intermodal alternatives to “traditional” directory assistance. The Consumer Advocate recognizes that these alternatives exist, but argues that at least the on-line alternatives are not widely available due to the rate of broadband adoption in Tennessee. The Consumer Advocate offers a 2007 report from Connected Tennessee, an entity focused on the Broadband policy of the state, relating to its contention about the rate of broadband adoption in Tennessee. Ironically, the existence of these alternatives is something that Tennesseans might never have seen if we still lived in the pre-competition, rate-of-return era. This argument highlights the fact that the policy debate the Consumer Advocate seeks to embark upon is beyond the scope of this docket. Pursuant to statute, the TRA does not regulate broadband policy, and any policy debate about broadband deployment and adoption is appropriate for the legislative process.

one tariff at a time, by the TRA is not appropriate to either this docket or to a regulatory contested case at all.

### CONCLUSION

For all the foregoing reasons, AT&T urges the TRA to stand by its decision in this docket to deny the Consumer Advocate's motion to convene a contested case.

Respectfully submitted,

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

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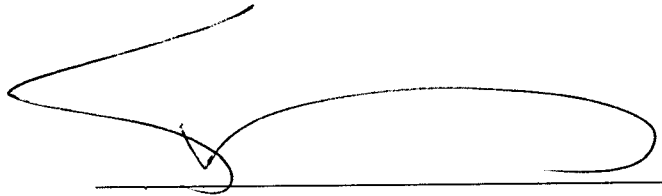
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## CERTIFICATE OF SERVICE

I hereby certify that on September 24, 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 be "Ryan L. McGehee", written over a horizontal line.