

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 22, 2010

IN RE:)	
)	
TARIFF FILING BY UNITED TELEPHONE)	DOCKET NO.
SOUTHEAST LLC D/B/A CENTURYLINK TO)	10-00055
WITHDRAW CERTAIN TARIFFS PURSUANT TO)	
OPERATING UNDER MARKET REGULATION)	

ORDER LIFTING SUSPENSION AND PLACING TARIFF IN EFFECT

This matter came before Chairman Sara Kyle, Director Kenneth C. Hill and Director Mary W. Freeman of the Tennessee Regulatory Authority (the “Authority” or the “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 7, 2010 for consideration of lifting the suspension of the proposed tariff filed by United Telephone Southeast LLC d/b/a CenturyLink (“CenturyLink” or “Company”) on March 26, 2010 related to the Company’s exchanges with less than 3,000 lines.

BACKGROUND

On September 11, 2009, the Company (then doing business as United Telephone Southeast LLC d/b/a Embarq) submitted a letter notifying the Authority of its intent to operate pursuant to market regulation as set forth in Tenn. Code Ann. § 65-5-109. The letter was assigned Docket No. 09-00134 and appeared on the October 26, 2009 regularly scheduled Authority Conference. In its letter to the Authority, the Company stated that it planned to withdraw tariffs as allowed under the market regulation statutes at a later date.¹ On March 26, 2010, the Company filed a letter with the Authority stating that it was withdrawing the following tariffs in their entirety:

¹ Following action in Docket No. 09-00134, United Telephone Southeast LLC changed its d/b/a to CenturyLink.

United Telephone Southeast LLC (d/b/a CenturyLink) General Subscriber Services Tariff;
United Telephone Southeast LLC (d/b/a CenturyLink) Interexchange Services Tariff.

CenturyLink also reissued its General Subscriber Services Tariff to include the following sections: Lifeline, Link-Up Tennessee, Charges Applicable Under Special Conditions (Construction Charges), and FCC Designated N11 Services (Telecommunications Relay Service (711), Universal Emergency Number Service (911) and Enhanced Universal Emergency Number Service (E911)). The effective date for these filings was April 16, 2010.

In response to these filings, Authority Staff sent a data request to CenturyLink asking for the number of lines in each of CenturyLink's exchanges. On April 6, 2010, CenturyLink responded to the data request, showing that eight of CenturyLink's twenty exchanges have fewer than 3,000 access lines. Authority Staff then obtained a docket number for CenturyLink's filing and placed the docket on the April 12, 2010 Authority Conference agenda for the Authority to examine whether those exchanges of CenturyLink having fewer than 3,000 access lines would qualify for market regulation under Tenn. Code Ann. § 65-5-109(o). On April 12, 2010, the Authority suspended for sixty (60) days that portion of CenturyLink's proposed tariffs relating to exchanges with less than 3,000 access lines. In addition, the Authority directed CenturyLink to "file a statement of its legal analysis demonstrating compliance with the statutory conditions or basis for its exclusion that allows its exchanges with less than 3,000 access lines to be placed under market regulation."²

FINDINGS AND CONCLUSIONS

Tenn. Code Ann. § 65-5-109(o) permits incumbent local exchange companies (ILECs) with less than one million access lines (such as CenturyLink) to operate under market regulation

² *Order Suspending Tariffs for Sixty Days* (April 30, 2010).

but provides specific qualifications that must be met in order for exchanges with less than three thousand (3,000) access lines to enter market regulation.

Tenn. Code Ann. § 65-5-109(o) provides as follows:

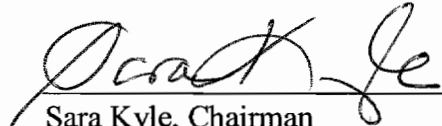
(o) Incumbent local exchange providers that have elected market regulation shall not be entitled to the limitation on authority jurisdiction in subsection (n) with respect to those residential local exchange telecommunications services that are offered in exchanges with less than three thousand (3,000) access lines or, for carriers who serve more than one million (1,000,000) access lines in this state, those exchanges with access line counts and calling areas that would result in classification as rate group 1 or 2 under any such carrier's tariff in effect on January 1, 2009, and that are offered as single, individually priced services at a rate-group specific price rather than a state-wide or *territory-wide price . . .* (*Emphasis added*).

Tenn. Code Ann. § 65-5-109(o)(1) through (7) provides the criteria that must be met in order for market regulation exemptions to apply to those exchanges otherwise excluded under Subsection (o).

At the regularly scheduled Authority Conference held on June 7, 2010, Jeanne W. Stockman, Regulatory Counsel for CenturyLink, presented CenturyLink's position and legal basis for its tariff filing on certain exchanges under market regulation. No person or entity sought intervention in the docket. Thereafter, the panel found that based on the statements of counsel and the entire record, incumbent local exchange providers having a territory-wide price are not required to demonstrate compliance with Tenn. Code Ann. § 65-5-109(o)(1) through (7) for those exchanges with less than 3,000 access lines in order for those exchanges to come under market regulation. The panel further found that inasmuch as CenturyLink has demonstrated that it has territory-wide pricing and had such as of the date that it filed its notice of market regulation, the suspension of CenturyLink's tariff pertaining to those eight exchanges having less than 3,000 access lines should be lifted, and the entire tariff filed by CenturyLink on March 26, 2010 should be placed in effect.

IT IS THEREFORE ORDERED THAT:

The suspension of United Telephone Southeast LLC d/b/a CenturyLink's tariff filed on March 26, 2010 invoking market regulation as to its eight exchanges having less than 3,000 access lines is hereby lifted, and the entire tariff is effective as of June 7, 2010.


Sara Kyle, Chairman


Kenneth C. Hill, Director


Mary W. Freeman, Director