

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**June 23, 2010**

**IN RE:**

**BELLSOUTH TELECOMMUNICATIONS, INC.  
D/B/A AT&T TENNESSEE PETITION TO EXTEND  
MARKET REGULATION TO RATE GROUPS 1 AND 2**

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**DOCKET NO.  
10-00108**

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**ORDER GRANTING PETITION TO INTERVENE AND  
REFLECTING ACTION TAKEN AT JUNE 21, 2010 STATUS CONFERENCE**

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This matter came before Chairman Sara Kyle, Director Eddie Roberson and Director Mary W. Freeman of the Tennessee Regulatory Authority (“Authority” or “TRA”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on June 21, 2010 for consideration of the *Petition to Extend Market Regulation to Rate Groups 1 and 2* (“*Petition*”) filed by BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee (“AT&T Tennessee”) on May 28, 2010. During that Conference, the panel voted unanimously to proceed to convene a contested case proceeding and to appoint Director Eddie Roberson as Hearing Officer for the purpose of preparing this matter for hearing, including handling preliminary matters and establishing a procedural schedule to completion.

In its *Petition* filed on May 28, 2010, AT&T Tennessee states that the statutory test in Tenn. Code Ann. § 65-5-109(o) has been satisfied and that market regulation should be extended “to residential local exchange telecommunications services offered as single individually priced services at rate-group specific prices in Rate Groups 1 and 2 . . .”<sup>1</sup> On June 14, 2010, the Consumer Advocate and Protection Division of the Office of the Attorney General (“Consumer

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<sup>1</sup> *Petition*, p. 1 (May 28, 2010).

Advocate”) filed a *Petition to Intervene*. The Consumer Advocate seeks intervention, stating that it is authorized to intervene in proceedings to represent the interests of Tennessee consumers pursuant to Tenn. Code Ann. § 65-4-118 and that it can protect the interests of consumers only by participating in this proceeding.<sup>2</sup> AT&T did not file an objection to or oppose the intervention request of the Consumer Advocate.

#### **STATUS CONFERENCE**

On June 21, 2010, the Hearing Officer convened a Status Conference to coordinate the preparation of a procedural schedule and a protective order and to discuss discovery in this docket. In attendance at the Status Conference were:

AT&T Tennessee – **Guy M. Hicks, Esq.**, 333 Commerce Street, Suite 2101, Nashville, TN 37201-3300;

Consumer Advocate – **Vance Broemel, Esq.** and **Mary Leigh White, Esq.**, Office of the Attorney General, Consumer Advocate and Protection Division, P.O. Box 20207, Nashville, TN 37202-0207.

#### **PETITION TO INTERVENE**

The Hearing Officer considered the *Petition to Intervene* filed by the Consumer Advocate. Tenn. Code Ann. § 4-5-310(a) sets forth the following criteria for granting petitions to intervene:

- (a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if;
  - (1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;
  - (2) The petition states facts demonstrating that the petitioner’s legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of the law; and

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<sup>2</sup> *Petition to Intervene*, p. 2 (June 14, 2010).

- (3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

Applying the standards set forth in Tenn. Code Ann. § 4-5-310(a) and hearing no opposition from AT&T Tennessee, the Hearing Officer granted the *Petition to Intervene* filed by the Consumer Advocate.

#### **PROCEDURAL SCHEDULE**

The Hearing Officer directed AT&T Tennessee and the Consumer Advocate to work together to submit a joint procedural schedule by June 28, 2010. If the parties cannot reach an agreement with respect to a procedural schedule, then the parties shall file separate proposed procedural schedules on June 28, 2010 from which the Hearing Officer will fashion and implement a procedural schedule by July 1, 2010.

#### **DISCOVERY**


When questioned by the Hearing Officer, the Consumer Advocate stated that no decision had been reached regarding discovery in this docket. The Hearing Officer stated that in the event of discovery, the Consumer Advocate would be permitted to propound forty questions in conformance with TRA Rule 1220-1-2-.11(5)(a) but that discovery would be limited to forty questions, including subparts.

#### **PROTECTIVE ORDER**

The Hearing Officer directed counsel for AT&T Tennessee to prepare a proposed protective order and share that proposed order with the Consumer Advocate by June 28, 2010. In the event that an agreement cannot be reached, AT&T Tennessee and the Consumer Advocate may submit separate proposed protective orders. The Hearing Officer will thereafter enter a Protective Order for use in this matter.

**IT IS THEREFORE ORDERED THAT:**

1. The Consumer Advocate is granted leave to intervene and receive copies of any notices, orders or other documents herein.
2. AT&T Tennessee shall prepare a proposed Protective Order and provide such to the Consumer Advocate by June 28, 2010.
3. In the event that the Consumer Advocate determines to issue discovery, the Consumer Advocate is permitted to propound discovery up to a total of forty questions, including subparts.
4. The parties shall meet and, if possible, submit a joint procedural schedule by June 28, 2010 for review by the Hearing Officer. In the event that an agreement cannot be reached, AT&T Tennessee and the Consumer Advocate shall each submit a separate proposed procedural schedule by June 28, 2010. The Hearing Officer will thereafter enter a Procedural Schedule for use in this matter.

  
Director Eddie Roberson, Hearing Officer