

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 1, 2013

IN RE:

**APPLICATION OF BRISTOL TENNESSEE ESSENTIAL
SERVICES FOR EXPANDED CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO PROVIDE
COMPETING TELECOMMUNICATIONS SERVICES
STATEWIDE**

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**DOCKET NO.
12-00060**

**ORDER DENYING IN PART & GRANTING IN PART BTES' MOTION
FOR PARTIAL RECONSIDERATION & PARTIAL STAY OF HEARING OFFICER'S
FEBRUARY 13, 2013 ORDER**

This matter is before the Hearing Officer of the Tennessee Regulatory Authority ("TRA" or the "Authority") upon the *Motion of Bristol Tennessee Essential Services for Partial Reconsideration of February 13 Order and Partial Motion to Stay ("Motion")* filed in the docket file on February 20, 2013.

In its *Motion*, Bristol Tennessee Essential Services ("BTES") requests that "the Hearing Officer reconsider and stay the portions of her February 13 Order that direct BTES to commence audits of its cost allocation manual for years 2011 and subsequent years as necessary" until expiration of the time for reconsideration or appeal of the Authority panel's order memorializing its January 7 decision, which has not yet been entered in the docket file. To be clear, BTES specifically limits its request to the Hearing Officer's mandate that it obtain and file compliance audits of its cost allocation manual for 2011 and thereafter, as they become due, and does not challenge any other part of the February 13, 2013 Order. Further, BTES asks that a stay encompass any filed request for reconsideration or further appeal of the panel's order on its

January 7 decision, and continue until the reconsideration or appellate process is complete. In the alternative, BTES requests direct reconsideration by the Authority panel of this part of the Hearing Officer's ruling.

On February 27, 2013, Intervenor CenturyLink¹ filed the *CenturyLink Response to Motion for Partial Reconsideration of February 13, 2013 Order and Partial Motion for Stay ("Response")*. In its *Response*, CenturyLink notes that the Hearing Officer's ruling on the *Motion* should make clear that the February 13 Order's requirements concerning the 2010 audit workpapers remains in effect. Further, CenturyLink states that it supports the Hearing Officer's ruling that BTES commence compliance audits of its cost allocation manual for 2011 and opposes reconsideration of this ruling. Nevertheless, recognizing the procedural difficulty of proceeding with additional audits (beginning 2011) in the absence of a final order of the Authority reflecting its decision on the threshold legal issue, CenturyLink does not object to a partial stay of the February 13 Order, to the extent that it requires BTES to begin a compliance audit for 2011, until a Final Order of the panel is entered.

Upon consideration of the positions of the parties, the Hearing Officer finds that BTES's request, insofar as it asks to stay the portion of the Hearing Officer's February 13 Order directing BTES to commence audits for years beginning 2011 (and thereafter as applicable) until entry of the Authority's Final Order memorializing its January 7, 2013 decision and expiration of the time for reconsideration and proceedings related thereto, as necessary, is reasonable. Therefore, so as to permit BTES an opportunity to review and consider the written order of the Authority concerning its January 7, 2013 decision on the threshold issue, the Hearing Officer agrees that the portion of the February 13 Order that requires BTES to obtain and file compliance audits of

¹ United Telephone-Southeast LLC d/b/a CenturyLink, CenturyTel of Adamsville, Inc. d/b/a CenturyLink Adamsville, CenturyTel of Claiborne, Inc. d/b/a CenturyLink Claiborne, and CenturyTel of Ooltewah-Collegedale, Inc. d/b/a CenturyLink Ooltewah-Collegedale (collectively "CenturyLink").


its cost allocation manual for 2011 and thereafter, should be stayed pending the entry of the Authority's final order on the threshold legal issue and subsequent expiration of time and/or conclusion of reconsideration proceedings thereon, as applicable. In all other aspects, the *Motion* is denied.

IT IS THEREFORE ORDERED THAT:

1. The *Motion of Bristol Tennessee Essential Services for Partial Reconsideration of February 13 Order and Partial Motion to Stay*, insofar as it seeks a stay of the portion of the Hearing Officer's February 13 Order that requires Bristol Tennessee Essential Services to commence audits of its cost allocation manual for years beginning with and subsequent to 2011 until entry of the Authority's Final Order memorializing its January 7, 2013 decision and the expiration of time and/or conclusion of reconsideration proceedings thereon, as applicable, is granted; and is denied in all other respects.

2. Except for the stay granted in Ordering Clause 1 above, the Hearing Officer's February 13, 2013, *Order Requiring Production of 2010 Audit Workpapers Including Auditor's Indexed Compilation of BTES Documents & Requiring BTES Obtain 2011 CAM Compliance Audit*, remains in full force and effect.

3. Bristol Tennessee Essential Services shall file in the docket file a status report that describes its progress and provides a date certain that it anticipates for producing the 2010 audit workpapers, including index compilation, **on or before March 15, 2013.**



Kelly Cashman-Grams, Hearing Officer