

**BEFORE THE TENNESSEE PUBLIC SERVICE COMMISSION  
NASHVILLE, TENNESSEE**

**June 25 1996**

**IN RE: PETITION OF CITIZENS TELECOMMUNICATIONS COMPANY OF  
TENNESSEE FOR ONE YEAR EXTENSION OF REGULATORY  
REFORM PLAN**

**DOCKET NO. 95-01317**

**ORDER**

**BACKGROUND**

This matter is before the Tennessee Public Service Commission upon the Petition of the Consumer Advocate Division of the Attorney General's Office ("CA") to obtain information from Citizens Telecommunications Company of Tennessee L.L.C. ("Citizens") and to establish a contested case. This Petition was filed on March 8, 1996.

In its Petition, the CA has taken issue with the action of the Commission Staff not to conduct a compliance audit pursuant to the Commission's order entered in this matter on March 20, 1995. The Order at issue granted Citizens a one-year extension of its regulatory reform plan which had expired on December 31, 1994. In addition, the Order also granted Citizens' request to delay the Compliance Audit until the end of the extension period with the requirement that any rate reductions in the Compliance Audit be made retroactive to January 1, 1995.

The CA asserts that since the compliance audit was never conducted, Citizens was allowed to improperly charge Tennessee ratepayers for acquisition adjustment costs<sup>1</sup> during 1994 and 1995. The CA argues that, prior to the Commission's permitting Citizens to enter price regulation, a compliance audit should have been completed pursuant to the March 20, 1995 Order. (See Docket 96-00010). Moreover, according to the CA, any rate reductions which may occur as a result of the compliance audit, must be made retroactive to January 1, 1995.

On March 12, 1996, Citizens responded to the CA's Petition. Citizens admits that the Compliance Audit was not conducted during 1995. However, Citizens asserts that it voluntarily agreed to undergo an audit of its deferred revenue account in a separate proceeding in which the CA could participate. Also, Citizens asserts that: (1) the CA waited almost one year after the extension of the regulatory reform plan to file its Petition; and (2) the CA's failure to raise this issue earlier was a dilatory maneuver directly related to the company's achievement of price regulation under T.C.A. 65-5-209. Further, Citizens maintains that the

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<sup>1</sup> The acquisition adjustment cost represents the excess of the purchase price and other acquisition costs directly associated with the purchase above the historic book value of the assets acquired. (See Docket 93-06161 and Docket 96-00010).

information provided to the Commission Staff during their price regulation audit in Docket 96-00010 gave the CA all of the necessary information required by the CA to perform its statutory duties. Finally, according to Citizens, the Commission in approving the price regulation audit performed by the Staff in the above-cited docket, specifically disallowed Citizens' acquisition adjustment costs for ratemaking.

On March 13, 1996, the Commission Staff filed a memorandum stating that the audit required by T.C.A. § 65-5-209 had been completed concerning Citizens' earnings for the twelve month period ending September 30, 1995. The Staff further stated that the Company had agreed to an audit of its deferred revenue account.

The CA responded to the Staff's memorandum stating that the statute did not affect the Commission's duty or power to complete an ongoing investigation and that the investigation of Citizens' earnings for 1994 and 1995 was ongoing as a result of Citizens' previous request to postpone the Compliance Audit of 1994. Furthermore, the CA states that the one-time reductions which may come from the deferred revenue account audit are not sufficient or consistent with the Commission's previous Order and will not give customers the same benefits as permanent rate reductions.

### **DISCUSSION**

This matter was considered at a regularly scheduled Commission Conference held on March 19, 1996.

On December 28, 1995, Citizens filed a petition to enter price regulation pursuant to T.C.A. § 65-5-209. (Docket 96-00010). As a result of Citizens' petition, the Commission Staff conducted a compliance audit required by law. The audit confirmed that Citizens' rate of return, excluding the acquisition adjustment costs, was 10.72% for the twelve month period ending September 30, 1995. This rate of return was within the authorized rate of return range of 10.25% - 11.45% set by the Commission in Docket 91-05738.

In this Docket, Citizens was granted a one year extension of its regulatory reform plan from December 31, 1994, until December 31, 1995. This extension was based on the following: (1) Citizens had recently purchased ALLTEL Tennessee, Inc.; (2) after the purchase of ALLTEL, Citizens required time to consolidate its financial books; (3) Citizens reported that it was earning below its authorized rate of return; and (4) Citizens would be allowed to report a full year of earnings without influence from the prior GTE-South telecommunications operations. (See Docket 93-06161 approving the sale of GTE to Citizens).

The Commission ordered Citizens to undergo a compliance audit after the expiration of its extended regulatory reform plan. However, the Commission Staff determined that the audit performed in Docket 96-00010 was sufficient to capture any resulting rate reductions that would also occur in a second compliance audit completed pursuant to the March 20, 1995 order. The Staff's determination is based upon the fact that, while conducting the audit in Docket 96-00010, the Staff reviewed some historical data and discovered that no overearnings had occurred in the twelve month period ending September 30, 1995.

The Commission also determined that, as an additional check upon Citizens' earnings, the Commission Staff will immediately commence an audit of the Company's earnings to determine the appropriate balance of the deferred revenue account from January 1, 1993, through the effective date of price regulation. This review will examine Citizens' actual earnings during the above-referenced period so that any overearnings the Company may have, will be discovered and used to the benefit of consumers. Therefore, it would be repetitious and an inefficient use of resources to conduct another compliance audit upon the petition of the Consumer Advocate.

After considering all the facts in this case, the Commission finds that the Consumer Advocate's Petition should be denied. The decision not to conduct another compliance audit is limited to the facts of this case.

**IT IS THEREFORE ORDERED THAT:**

1. The petition of the Consumer Advocate to obtain information from Citizens Telecommunications and to establish a contested case is hereby denied;
2. The Commission Staff immediately commence an audit of Citizens earnings for the purpose of determining the appropriate balance in the deferred revenue account for the period from January 1, 1993, through the date that price regulation is implemented;
3. Any party aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within ten (10) days from and after the date of this Order;
4. Any party aggrieved by the Commission's decision in this matter has a right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.

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CHAIRMAN

  
COMMISSIONER

ATTEST:

  
EXECUTIVE DIRECTOR

  
COMMISSIONER

EXECUTIVE DIRECTOR

\* Chairman Bissell voted to approve this decision as reflected in the Commission Conference Minutes of March 19, 1996, pg. 4.