

BEFORE THE TENNESSEE PUBLIC SERVICE COMMISSION

NASHVILLE, TENNESSEE

November 9, 1995

**IN RE: PETITION FOR A DECLARATORY ORDER AS TO THE APPLICABILITY OF
T.C.A. 65-5-209(j)**

DOCKET NO. 95-03383 AS CONSOLIDATED WITH DOCKET NO. 95-02614

DECLARATORY ORDER

This matter came to be heard on the Petition of BellSouth Telecommunications, Inc. (Bell) for a Declaratory Order that T.C.A. 65-5-209(j) requires that the Staff's audit include no more and no less than an evaluation of whether the operative TPSC 3.01 audited by the Commission accurately reflects, in all material respects, achieved results in accordance with Generally Accepted Accounting Principles (GAAP) as adopted by Part 32 of the Uniform System of Accounts (USOA), and ratemaking adjustments from this Commission's 1993 Order in the Bell rate case, Docket Nos. 92-13527 and 93-00311. In plain language, the Petition seeks a declaration that the adjustments, made by the Staff of the Tennessee Public Service Commission (the Commission), are not authorized by the above-referenced statute.

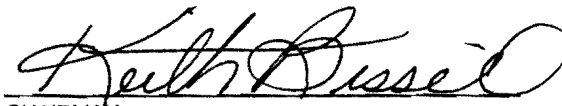
As provided by T.C.A. 4-5-223 (a)(2), the Commission could have denied the Bell petition; however, having already accepted the Staff audit report within the context of T.C.A. 65-5-209(c), the Commission elected to convene a contested case hearing pursuant to T.C.A. 4-5-223(a)(1) to allow Bell and other interested parties to argue the legal issues involved; further, the Commission permitted Bell to file a proffer of evidence which the company claimed it could adduce.

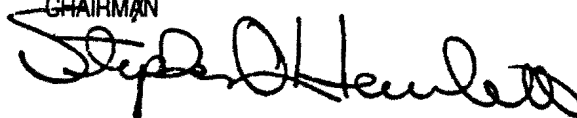
Now, having reviewed Bell's petition for a declaratory order and having heard argument from all parties, the Commission is of the opinion that the form of relief requested by Petitioner involves a straightforward legal issue: does T.C.A. 65-5-209(c), as further explicated in 65-5-209(j), permit the Staff to make the type of adjustments to the figures reported on the Bell TPSC 3.01 that are set forth in the audit report.

The Commission concludes that T.C.A. 65-5-209(c), as explicated in 65-5-209(j), does permit the adjustments made by the Staff. The Commission further concludes that the relief requested by Bell, that is a Declaratory Order regarding the validity and applicability of a statute within the primary jurisdiction of the Commission, does not require consideration of evidence. Finally, with regard to the proffer by Bell, in view of the determined legitimacy of the types of adjustments made, the proffer is immaterial and irrelevant as there was no evidence offered to prove that the specific amounts of adjustments made were so excessive as to exceed the statutory authority of the Commission.

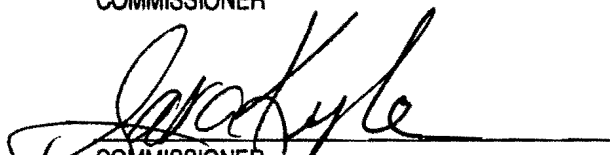
IT IS THEREFORE ORDERED

1. that the Commission declares that the type of adjustments made by the Commission Staff are permitted by law;
2. that the extent of those adjustments are not properly before the Commission in the relief sought and are therefore not a part of this Declaratory Order;
3. that the Commission's Order of September 20, 1995 in the Bell price regulation proceeding is within the Commission's authority as set forth in T.C.A. 65-5-209;
4. that any party aggrieved with 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;
5. that any party aggrieved with the Commission's decision in this matter has the right of judicial review by filing a petition for review in the Tennessee Court of Appeals, Middle Section, within thirty (30) days from and after the date of this Order.


CHAIRMAN



COMMISSIONER


COMMISSIONER

ATTEST:


EXECUTIVE DIRECTOR