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February 21, 1997

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Tariff Filing By United Telephone-Southeast, Inc. To Reflect Annual Price Cap
Adjustment (Tariff No. 96-201)
Docket No. 96-01423

Dear Mr. Waddell:

I have enclosed an original and ten copies of Rebuttal Testimony of Archie R. Hickerson, Director of the Consumer Advocate Division, in the above referenced matter. Copies are being furnished to counsel of record for interested parties.

Sincerely,

Vincent Williams
L. Vincent Williams
Consumer Advocate

c: Counsel of record

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Before the

TENNESSEE REGULATORY AUTHORITY

In Re: Tariff Filing by United Telephone-Southeast, Inc. To Reflect Annual Price
Cap Adjustment (Tariff No. 96-201)

Docket No. 96-01423

REBUTTAL TESTIMONY
of
ARCHIE R. HICKERSON

February 21, 1997

1 Q. What is your name, by whom are you employed, and what is your address?

2
3 A. My name is Archie Hickerson and I am the Director of the Consumer Advocate
4 Division Staff in the Office of the Attorney General for the State of Tennessee. My
5 business address is, 2nd Floor, Cordell Hull Building, 425 5th Ave. No., Nashville
6 Tennessee, 37243-0500.

7
8 Q. Have you previously filed testimony in this docket?

9
10 A. Yes. I filed direct testimony in this docket on February 14, 1997.

11
12 Q. What is the purpose of this testimony?

13
14 A. I will rebut the prefiled testimony of Mr. Steve Parrott filed on behalf of United
15 Telephone-Southeast, Inc., and the prefiled testimony of Mr. G. Michael Harper filed on
16 behalf of AT&T Communications of the South Central States, Inc.

17
18 Q. Have you reviewed the testimony of Mr. Parrott?

19
20 A. Yes.

1 Q. On page 3 of his prefiled testimony, Mr. Parrott is asked:

2 Q. "What is the TRA's authority regarding amendments of terms and
3 conditions of basic local service?"

4
5 He quotes Tenn. Code Ann. Section 65-5-209(f) and (e) and then responds:

6 "The TRA's authority is to insure that a price regulated company's
7 tariff revisions to rates for basic local exchange telephone service comply
8 with these statutory parameters."

9
10 Do you agree with Mr. Parrott's statement?

11
12 A. Yes, but there is more. I would add that not only does the TRA have the
13 **authority** to insure that price regulated company's tariff revisions to rates for basic local
14 exchange service comply with the statutory parameters, it also has the **responsibility to**
15 **insure** that such revisions conform to the statutory provisions. In addition, the TRA has
16 authority and responsibility to insure that revisions to the rates conform to the statute
17 applies to such a company's non-basic services rates as well.¹

18
19 Q. On page 5, Mr. Parrott states: "... referring to the Tennessee Code, it is clear
20 that Directory Assistance is not a basic local exchange telephone service." Do you agree
21 with Mr. Parrott?

22
23 A. No. In my opinion, Mr. Parrott is incorrect. On June 6, 1995, the service

¹ Tenn. Code Ann. §§65-1-213, 65-4-122, 65-5-208, 65-5-202.

1 purchased when a customer subscribed to either basic residential or business service
2 included directory assistance usage. The customer paid the tariffed price for basic service
3 and was provided directory assistance usage at no additional charge.

4 The Company proposes at this time to exclude directory assistance usage from
5 basic service and impose a separate directory assistance charge. If this usage is not
6 included in the service provided when a customer subscribes to either basic residential or
7 business local service, the quality of the basic local exchange service is reduced from the
8 level that was provided on June 6, 1995. Such a reduction violates the statute quoted by
9 Mr. Parrott. Tenn. Code Ann. § 65-5-208(a)(1) requires that basic local service quality
10 does not diminish.

11
12 These services shall, at a minimum, be provided at the
13 same level of quality as is being provided on June 6, 1995.²
14

15 The imposition of a separate directory assistance usage charge is a rate increase in
16 the price for local basic service that is prohibited by Tenn. Code Ann. § 65-5-209(f).

17 Notwithstanding the annual adjustments permitted in
18 subsection (e), the initial basic local exchange telephone
19 service rates of an incumbent local exchange telephone
20 company subject to price regulation **shall not increase for**
21 **a period of four (4) years** from the date the incumbent
22 local exchange telephone company becomes subject to such
23 regulation. (Emphasis added.)
24

² Tenn. Code Ann. § 65-5-208(a)(1) as quoted by Mr. Parrott on page 5 of his prefled testimony in docket 96-01423.

1 Q. On page 5 of his prefiled testimony, Mr. G. Michael Harper, testifying on behalf
2 of AT&T Communications of the South Central States, Inc., states: "There is an abundant
3 record, both in Tennessee, and in other jurisdictions nationwide, that the actual cost that
4 local exchange companies incur to provide switched access service is well below one cent
5 per minute for both ends of switched access service." (Emphasis provided.) Has Mr.
6 Harper, any other witness for AT&T, or any witness for any other party in this
7 proceeding provided, in this docket, any studies, or other material and substantial
8 evidence to support the theory that United Telephone-Southeast, Inc.'s cost of providing
9 switched access is below \$0.01?

10
11 A. No. There have been no such study which supports Mr. Harpers conclusion filed
12 in this proceeding. Mr. Harper did include Exhibit GMH-1 which consists of basically
13 three lines of information.

14 GMH-1

15 WHOLESALE PRICES
VERSUS
16 ILLUSTRATIVE COSTS

TENNESSEE
UNITED
(per minute)

17
18 CURRENTLY TARIFFED PRICES FOR TWO ENDS OF SWITCHED
19 ACCESS

\$0.0540

20 ILLUSTRATIVE COSTS FOR TWO ENDS OF SWITCHED ACCESS

<\$0.0100

21 DIFFERENCE

\$0.0440

1 No supporting workpapers, studies, or documents were provided to support the
2 amounts identified on this exhibit. Even in the exhibit, Mr. Harper used the term
3 “Illustrative Costs,” to describe the estimate of United Telephone-Southeast, Inc.’s cost
4 of providing access service.

5
6 Q. On page 5 Mr. Harper also testifies: “Local exchange companies, both in
7 Tennessee and across the country, have traditionally priced access far in excess of its cost
8 in order to provide a **subsidy** to local exchange service.” (Emphasis added.)

9 Did Mr. Harper provide any studies or other evidence to support a conclusion that
10 local exchange service is being provided by United Telephone-Southeast, Inc. at rates
11 that are below its cost?

12
13 A. No. Neither Mr. Harper nor any other witness in this proceeding provides any
14 evidence to support a conclusion that the rates charged by United Telephone-Southeast,
15 Inc. for local exchange services do not cover the cost of providing such service.

16
17 Q. On page 6, Mr. Harper states: “ In other words, a telephone subscriber with a
18 household income of \$2,000,000 receives the same **subsidized** support for its local
19 service rate as a household with an income of \$20,000.”

20 Has Mr. Harper filed any studies or any other material and substantial evidence to
21 support a conclusion that any household being served by United Telephone-Southeast,

1 Inc. is receiving **subsidized support** for local service?

2
3 A. No. Nothing has been filed in this docket to support a conclusion that any local
4 service is being subsidized.

5
6 Q. Also, on page 6, Mr. Harper states: “ Second, the support collected for the
7 **subsidy** has been collected primarily from interexchange carriers in the form of switched
8 access charges.”

9 Has any substantial and material evidence been filed in this proceeding to support
10 the allegation that United Telephone-Southeast, Inc. has or is collecting any support
11 subsidy from interexchange carriers in the form of switched access charges?

12
13 A. No. There is no evidence in this proceeding to support such an allegation.

14
15 Q. On page 7, Mr. Harper testifies:

16 Second, to the extent that the local exchange
17 carriers do not require all of the subsidy generated
18 by access rates at the current level, the local carriers
19 are free to use these excess profits for any purpose
20 that they desire. For example, many local exchange
21 companies, including United in Tennessee, have
22 been involved in overearning situations. The fuel
23 for the engine of overearnings is, in most cases,
24 access charges, and while a downward adjustment
25 to those rates may alleviate the situation in the short
26 term (more akin to a “mid-course correction”), the
27 significant growth in toll usage virtually ensures

1 that the company would likely be in another
2 overearning position in the near future.
3

4 Has Mr. Harper provided any material and substantial evidence to support his
5 conclusion that: “ The fuel for the engine of overearnings is, in most cases, access
6 charges,. . . .”?
7

8 A. No. Other than this statement, he has provided nothing in this record to support
9 the position that in **most cases**, access charges are the cause of over earnings.
10

11 Q. Mr. Harper uses the term **subsidy**, **subsidized**, or **subsidize** repeatedly. Has
12 anything been filed in this docket to support a claim that any service provided by United
13 Telephone-Southeast, Inc. is being subsidized?
14

15 A. No. Although witness Harper used the term subsidy, subsidize, or subsidized a
16 total of eight times in three pages, 5, 6, & 7, he does not offer any evidence that any
17 service is being subsidized. He does offer one exhibit to illustrate that United Telephone-
18 Southeast, Inc.’s currently tariffed switched access rates exceed the “**illustrative**” costs
19 of two ends of switched access. No support for AT&T’s estimate of the “illustrative
20 cost” of access is provided in this docket.

21 If AT&T could show that switched access is priced above cost, it would not
22 necessarily mean that any other service is being subsidized. Such a showing could

1 simply mean that United Telephone-Southeast, Inc. is making an excess profit on access
2 charges.

3
4 Q. On page 11, Mr. Harper compares the price of a call from Johnson City to Bristol
5 handled by United Telephone-Southeast, Inc. with the price of the same call carried by
6 AT&T Communications of the South Central States, Inc. He points out that the price of
7 such a five minute call handled by United would be \$0.15 while the price for a call
8 handled by AT&T would be \$0.65. Do you have any comment concerning this
9 comparison?

10
11 A. Yes, I do. In docket 93-4818, the Consumer Advocate Division recommended
12 that the Tennessee Public Service Commission adopt a Quad Cities calling plan³ that
13 would have included Kingsport, Bristol, Elizabethton, and Johnson City in the same local
14 calling area and would have allowed toll calls free between these cities. For example, the
15 call from Johnson City to Bristol would be a toll-free local call like calls made between
16 two points in the Metro Area Calling areas in and around Nashville, Knoxville,
17 Chattanooga, and Memphis. Under the Metro Area Calling, a BellSouth customer in
18 Nashville can call to Murfreesboro or Dickson without incurring a toll charge. If AT&T
19 was to make a similar comparison for a Nashville to Dickson call as was made for the

³ See page 4 of the testimony of Ms. Darlene Standley filed August 3, 1994 in dockets 94-00389 and 93-04818. Petition of United Telephone-Southeast, Inc. for Conditional Election for Alternative Regulation and Earnings Investigation.

Johnson City to Bristol call, the results would be similar. The customer in Nashville using AT&T to call Dickson would pay a toll charge, while a customer using BellSouth would not be charged. Based on the position taken by Mr. Harper in this docket, it appears that AT&T would also advocate the elimination of Metro Area Calling and the imposition of a toll charge for such calls in and around Nashville, Memphis, Knoxville, and Chattanooga. Such a change in Metro Areas Calling is not appropriate. In addition it is not appropriate to increase toll charges for calls in United Telephone-Southeast, Inc.'s service area.

Q. On page 12, Mr. Harper explains:

AT&T is asking for an access rate design which does not discriminate between classes of customers and which is based on the cost of providing the service. TELRIC is the best method of determining costs to be used as the basis for prices in a competitive environment.

Does Mr. Harper explain the meaning of: "an access rate design that does not discriminate between classes of customers. . . ."?

A. No. He does not identify the classes of customers that he believes are being discriminated against.

Q. On page 12 Mr. Harper states:

In terms of the \$0.03 intra-market rate in United's territory, competition could best be served if

competitors are able to enter this market with, at least, some chance of a profit. This could be accomplished by reducing the access rates that competitors must pay for the essential connections to United's customers, and by requiring United to offer intra-market toll at a rate that is more reflective of the cost to provide the service - rates developed using TELRIC principles.

Mr. Harper recommends that United Telephone-Southeast, Inc.'s toll rates be developed using TELRIC principles. Is AT&T required to file a Tennessee Intrastate toll rate design based on the TELRIC cost methodology?

A. No. Neither the Tennessee Public Service Commission nor the Tennessee Regulatory Authority has required AT&T to base its Tennessee Intrastate toll rates on the TELRIC cost methodology. In fact, AT&T does not presently provide Tennessee Regulatory Authority with the information needed to determine its costs of providing Tennessee Intrastate Service. In docket 96-00918 the Consumer Advocate asked AT&T to identify the annual aggregate cost of providing all calls between two points within the same Tennessee county for which customers are billed toll charges. AT&T objected to the question on the grounds that it is not relevant, and also stated: "... AT&T is not required to, and does not, keep its books and records so as to provide this information."⁴ From this response, it appears that AT&T has taken the position that it should not be required to identify its cost of providing service and that it does not maintain its books in

⁴ See AT&T's January 14, 1997 response to item 16, of the Consumer Advocates First Discovery Request in Tennessee Regulatory Authority docket 96-00918.

1 such a manner that would allow its cost of providing Tennessee Intrastate service to be
2 determined.

3
4 Q. Are both AT&T and United Telephone-Southeast, Inc. price regulated?

5
6 A. Yes. United Telephone-Southeast, Inc.'s petition to be price regulated in
7 accordance with Tenn. Code Ann. § 65-5-209 was approved by the Tennessee Public
8 Service Commission in docket 95-02615 Order dated October 13, 1995.

9 AT&T is price regulated under Administrative Rule 1220-4-2-.55(2).⁵ However,
10 under the administrative rule, price regulation of AT&T can be terminated if the
11 Tennessee Regulatory Authority determines that it is in the public interest. There is no
12 provision in Tenn. Code Ann. § 65-5-209 that allows the Tennessee Regulatory
13 Authority to terminate price regulation of United Telephone-Southeast, Inc.

14
15 Q. If it is appropriate, as Mr. Harper contends, for United Telephone, Inc.'s toll rates
16 to be based on cost, is it also appropriate for AT&T Telecommunications of the South
17 Central States, Inc.'s toll rates to also reflect cost?

18
19 A. Yes. Since AT&T has raised the issue in this proceeding and has advocated the

⁵ While United Telephone-Southeast, Inc. is price regulated in accordance with Tennessee Statute, AT&T price regulation is under Administrative Rule 1220-4-2-.55 adopted by the Tennessee Public Service Commission. Rule 1220-4-2-.55 (2)(h) 8. provides: "If the public interest so warrants, the Commission (now TRA), the IXCs, or any aggrieved party may recommend or petition for the termination of price cap regulation.

1 pricing of toll service based on TELRIC or TSLRIC methodology, I recommend that the
2 TRA require AT&T to file the appropriate cost studies relative to its Tennessee Intrastate
3 toll services. AT&T at least should provide a cost study showing its cost for providing
4 the \$.65 call between Johnson City and Bristol.

5
6 Q. On page 8 of his testimony, Mr. Harper identifies the impact of United
7 Telephone-Southeast, Inc.'s elimination of the access credit order by the Tennessee
8 Public Service Commission in TPSC docket 93-04818. Was this credit in place on June
9 6, 1995?

10
11 A. Yes.

12
13 Q. Is the elimination of this credit an increase in an interconnection rate that is
14 subject to the restrictions in Tenn. Code Ann. §65-5-209(e) and (g)?

15
16 A. Yes. Tenn. Code Ann. §65-5-209(e) limits the increases for all non-basic service
17 where §65-5-209 (g) places additional restrictions on interconnection charges. This
18 provision states:

19 (g) Notwithstanding any other provision of this section, a
20 price regulation plan shall permit a maximum annual
21 adjustment in the rates for **interconnection services** that is
22 capped at the lesser of one half (1/2) the percentage change
23 in inflation for the United States using the gross domestic
24 product-price index (GDP-PI) from the preceding year as

the measure of inflation, or the GDP-PI from the preceding year minus two (2) percentage points. An incumbent local exchange telephone company may adjust its rates for interconnection services only so long as its aggregate revenues generated by such changes do not exceed the aggregate revenues generated by the maximum rates permitted by this subsection, provided that each new rate must comply with the requirements of § 65-5-208 and the non-discrimination provisions of this title. Upon filing by a competing telecommunications service provider of a complaint, such rate adjustment shall become subject to authority review of the adjustment's compliance with the provisions of this section and rules promulgated under this section. The authority shall stay the adjustment of rates and enter a final order approving, modifying or rejecting such adjustment within thirty (30) days of the complaint. (Emphasis added.)

Since the credit was in place on June 6, 1995, the elimination of the credit is an increase in the rate charged interexchange carrier for interconnection. As a result, the elimination of the credit should be considered when testing to determine if United Telephone-Southeast, Inc.'s rates have increased no more than the maximum allowed in Tenn. Code Ann. § 65-5-209(e) and (g).

Q. As used here, does the term "Interconnections services" include access charges?

A. Yes. As defined in Tenn. Code Ann. §65-4-101(f):

"Interconnection services" means telecommunications services, **including intrastate switched access service**, that allow a telecommunications service provider to interconnect with the networks of all other telecommunications service providers. (Emphasis added.)

1
2 Q. Mr. Harper also raises an issue concerning the increase in the Dual-Party Relay
3 element included in United Telephone-Southeast, Inc.'s Common Carrier Line Charge
4 (CCLC). Should the increase in the Dual-Party Relay element be considered when
5 evaluating an incumbent local exchange company's rates to determine if the increases
6 comply with Tenn. Code Ann. 65-5-209 (e) and (g)?
7

8 A. Yes. Tenn. Code Ann. § 65-5-209 provides that the initial rates are the rates in
9 effect when an incumbent local exchange company begins operating under price
10 regulation. Any change from the initial rates must comply with the limits provided in the
11 statute. The increase in the Dual-Party element included in United Telephone-Southeast,
12 Inc.'s Carrier Common Line Charge must be considered when evaluating the Company's
13 proposed rates.
14

15 Q. Does this conclude your testimony?
16

17 A. Yes,

BEFORE THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE

IN RE: TARIFF FILING BY UNITED
TELEPHONE-SOUTHEAST, INC. TO
REFLECT ANNUAL PRICE CAP
ADJUSTMENT (TARIFF NO. 96-201)

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)
)
) DOCKET NO. 96-01423
)
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AFFIDAVIT

I, Archie R. Hickerson, Director of the Consumer Advocate Division of the Attorney General's Office, hereby certify that the attached Rebuttal Testimony represents my opinion in the above referenced case and the opinion of the Consumer Advocate Division.



Sworn to and subscribed before me
this 21st day of February 1997.


NOTARY PUBLIC

My commission expires on:

1/20/99

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Rebuttal Testimony of Archie R. Hickerson was served on parties of record via U.S. Mail, postage prepaid, this 21st day of February, 1997.

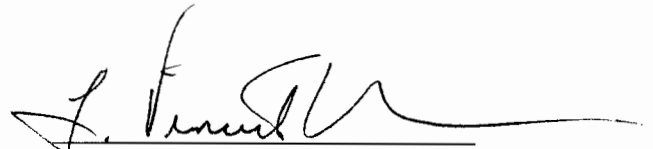
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