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Nashville, Tennessee 37201-3300

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May 15, 1997

EXCLUSIVE SECRETARY

OFFICIAL FILE

PLEASE

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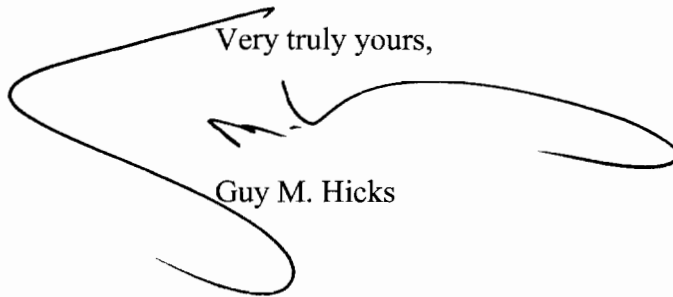
David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *United Telephone-Southeast, Inc. Tariff No. 96-201 to Reflect Annual Price Cap Adjustment*
Docket No. 96-01423

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth Telecommunications, Inc.'s Proposed Charge of Law in the above-referenced matter. A copy has been provided to counsel of record.

Very truly yours,



Guy M. Hicks

GMH:ch
Enclosure

BEFORE THE TENNESSEE REGULATORY AUTHORITY

Nashville, Tennessee

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

Docket No. 96-01423

BELLSOUTH TELECOMMUNICATIONS, INC.'S
PROPOSED CHARGE OF LAW

The Tennessee Regulatory Authority has now heard the proof and arguments of the parties in this matter, and the record has been closed. Pursuant to Section 4-5-301 of the Tennessee Code Annotated, I hereby advise the Directors of the Tennessee Regulatory Authority as to the law of this proceeding. Following these statements, the Authority will conduct open public deliberations and make findings of fact and reach conclusions of law and enter a written order. The Directors exclusively have the authority to make findings of fact and reach conclusions of law in this matter. No one else can participate in the Directors' deliberations.¹

The Directors must make findings of fact based exclusively upon the evidence of record in this proceeding and on matters officially noticed in this proceeding.² The evidence in this proceeding includes the testimony of witnesses, stipulations by the parties, and documents introduced into evidence. It is the duty of the Directors to determine the credibility and weight to be given to the evidence presented by all witnesses. In considering the competent evidence of

¹ Cf. T.C.A. § 4-5-301(b).

² T.C.A. § 4-5-314(d).

record presented during this hearing, the Directors may also use their experience, technical competence, and specialized knowledge.³

Petitions, responses, motions, memoranda, briefs, and similar pleadings filed by the parties in this matter are not evidence. These documents, along with statements, arguments, and remarks of counsel, are intended to help the Directors in understanding the evidence and applying the law. If any statements were made that the Directors believe are not supported by the evidence in the record or the applicable law, the Directors must disregard such statements. The Directors may not consider for any purpose any offer of evidence that was rejected or that was ordered stricken. Such matters must be treated as though the Directors never knew of them.

The Directors are also the exclusive judges of the law of this proceeding. The Directors, therefore, must interpret certain statutes in determining the issues presented in this proceeding. When interpreting statutes, legislative intent should be determined from the plain language of the statute, read in the context of the entire statute, without any forced or subtle construction which would extend or limit its meaning.⁴ When the language of a statute is plain, therefore, the Directors must follow the plain meaning of the language. If, however, the language of a statute is ambiguous, the Directors may consider and officially notice the legislative debate surrounding the statute's enactment to determine the intent of the legislature in enacting the statute.⁵ The Directors have requested and received briefs from the parties regarding the legislative history of certain statutes relevant to these proceedings. Statements that are allegedly related to legislative

³ T.C.A. § 4-5-314(d); 65-2-109(2), (4).

⁴ *Kultura, Inc. v. Southern Leasing Corp.*, 923 S.W.2d 536, 539 (Tenn. 1996).

⁵ *In Re Conservatorship of Clayton*, 914 S.W.2d 84, 90 (Ten. Ct. App. 1995).

intent but which are made after the statute at issue has been enacted are not part of the legislative history of the statute.⁶

On or about January 27, 1997, the parties to this proceeding signed a Stipulation regarding the methodology to be used in determining the maximum annual price adjustments United is permitted to make under Section 65-5-209(e) of the Tennessee Code Annotated. This Stipulation was filed with the Authority, and the parties asked the Authority to approve the Stipulation as filed during the March 11, 1997 hearing. The Authority accepted the Stipulation at that time. The Directors, therefore, may accept as facts the matters set forth in the Stipulation. Moreover, the Directors may approve the methodology set forth in the Stipulation provided the Directors find the methodology is in compliance with Section 65-5-209(e) of the Tennessee Code Annotated. If the Directors approve the methodology set forth in the Stipulation as being in compliance with the law, the Directors must apply this methodology to the issues below.

To determine whether United's tariff complies with the law, the Directors must determine whether directory assistance is a basic or non-basic service under the applicable statutes. Section 65-5-209(a)(1) of the Tennessee Code Annotated states:

"Basic local exchange telephone services" are telecommunications services which are comprised of an access line, dial tone, touch-tone and usage provided to the premises for the provision of two-way switched voice or data transmission over voice grade facilities of residential customers or business customers within a local calling area, Lifeline, Link-Up Tennessee, 911 Emergency Services and educational discounts existing on June 6, 1995, or other services required by state or federal statute. These services shall, at a minimum, be provided at the same level of quality as is being provided on June 6, 1995. Rates for these services shall include both recurring and nonrecurring charges.

Section 65-5-209(a)(2) of the Tennessee Code Annotated states:

⁶ *United States v. Philadelphia Nat'l Bank*, 374 U.S. 321, 83 S.Ct. 1715 (1963); *Colorado Dept. of Social Services v. Board of County Commissioners*, 697 P.2d 1 (Colo. 1985).

“Non-basic services” are telecommunications services which are not defined as basic local exchange telephone services and are not exempt under subsection (b). Rates for these services shall include both recurring and nonrecurring charges.

If the Directors determine that directory assistance is a basic service, the Directors must deny United's proposed tariff because United's initial basic local exchange telephone service rates must not increase for a period of four years from the date it became subject to price regulation, as provided by Section 65-5-209(f) of the Tennessee Code Annotated.

If directory assistance is a non-basic service under the law, United may set the rate at any level the Company deems appropriate as permitted by Section 65-5-209(h) of the Tennessee Code Annotated, subject to the aggregate revenue and other conditions and safeguards set forth therein, as determined by using the methodology approved by the Authority.

After the Directors have openly and publicly deliberated and reached a decision, the Tennessee Regulatory Authority must render a final order.⁷ This order must include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including any remedy prescribed and, if applicable, the action taken on any petition for a stay of effectiveness.⁸ If findings of fact are set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, such findings of fact must be accompanied by a concise and explicit statement of the underlying facts of record to support the findings.⁹ The order must

⁷ T.C.A. § 4-5-314(d).

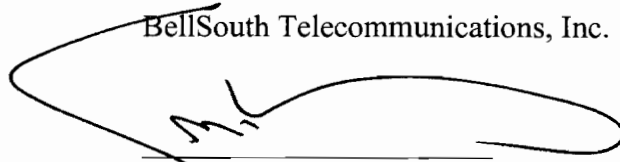
⁸ T.C.A. § 4-5-314(c).

⁹ T.C.A. § 4-5-314(c).

include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the order.¹⁰

Respectfully submitted,

BellSouth Telecommunications, Inc.

A large, stylized handwritten signature in black ink, appearing to read 'Guy M. Hicks', is written over a horizontal line.

Guy M. Hicks

Patrick W. Turner

333 Commerce Street, Suite 2101

Nashville, TN 37201-3300

615/214-6301

¹⁰ T.C.A. § 4-5-314(c).

CERTIFICATE OF SERVICE

I hereby certify that on May 15, 1997, a copy of the foregoing document was served on the parties of record, via facsimile and U. S. Mail, postage pre-paid, addressed as follows:

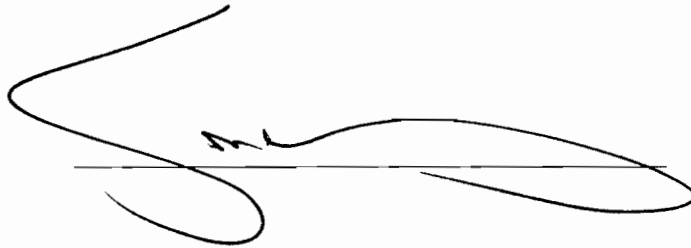
Ed Phillips, Esquire
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

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Gullett, Sanford, Robinson & Martin
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James Wright, Esq.
United Telephone - Southeast
14111 Capitol Blvd.
Wake Forest, NC 27587

Richard Tettlebaum, Esquire
Citizens Telecom
1400 16th St., NW, #500
Washington, DC 20036

A handwritten signature in black ink, appearing to be 'J. Wright', written over a horizontal line.