

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

JANUARY 27, 1997

Nashville, Tennessee

**IN RE: UNITED TELEPHONE-SOUTHEAST, INC.  
TARIFF NO. 96-201 TO REFLECT ANNUAL PRICE CAP ADJUSTMENT  
DOCKET NO. 96-01423**

**INITIAL ORDER OF THE HEARING OFFICER**

Prehearing conferences were held in the above-captioned matter on Tuesday, December 10, 1996, Tuesday, December 17, 1996 and Tuesday, January 14, 1997, in Nashville, Tennessee before Chairman Lynn Greer acting as Hearing Officer pursuant to the Tennessee Regulatory Authority's (the "Authority") Order and Notice dated December 5, 1996. The following appearances were entered:

**APPEARANCES**

JAMES B. WRIGHT, Senior Attorney, United Telephone-Southeast, Inc. ("United"), 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900, appearing on behalf of United.

L. VINCENT WILLIAMS, Consumer Advocate, 426 Fifth Avenue N., 2nd Floor, Cordell Hull Building, Nashville, Tennessee 37243-0500, appearing on behalf of the Consumer Advocate Division, Office of the Attorney General.

GUY M. HICKS, General Counsel-Tennessee, BellSouth Telecommunications, Inc., ("BellSouth"), 333 Commerce Street, Suite 2101, Nashville, Tennessee 37201-3300, appearing on behalf of BellSouth.

RICHARD M. TETTELBAUN, Associate General Counsel, Citizens Telecommunications Company of Tennessee, L.L.C., ("Citizens"), Suite 500, 1400 16th Street, N.W., Washington, DC 20036, participating by telephone, appearing on behalf of Citizens.

JOHN KNOX WALKUP, Gullett, Sanford, Robinson & Martin, 230 Fourth Avenue North, 3rd Floor, Nashville, TN 37219-8888, appearing on behalf of AT&T Communications of the South Central States, Inc. ("AT&T"), his first appearance being December 17, 1996.

Also at the meetings from the Authority's Staff were Dianne Neal, Esquire, and Dr. Chris Klein.

The purpose of the hearings was to consider scheduling, simplification of issues, and such other matters properly brought before the Hearing Officer in accordance with T.C.A. § 4-5-306.

#### **I. PROTECTIVE ORDER**

The first matter was United's Motion for a Protective Order. The Parties agreed that a Protective Order, basically identical to the Order issued in the Avoided Cost Proceeding (Docket No. 96-01331), was appropriate for use in this proceeding. Counsel for United prepared and submitted a proposed Protective Order to the Parties for approval as to form and to the Authority for approval and entry. The Protective Order was approved by the Authority on December 17, 1996.

#### **II. BELLSOUTH INTERVENTION**

In discussing BellSouth's Petition to Intervene, United stated that it had no objection to granting the Petition based on the following agreement it had reached with BellSouth. United understood BellSouth's principal interest in this proceeding concerned the policy and legal issues which may be raised regarding the annual adjustment under T.C.A. § 65-5-209(e), rather than the

need to review any proprietary data United may provide in support of its tariffs. Consequently, BellSouth agreed that United need only provide copies of all of United's non-proprietary responses to Discovery requests, and that United need not provide its responses to Discovery requests which contained proprietary information. At United's request, Counsel for Citizens agreed, for the same reasons, that the same procedure would apply to Citizens. All Parties agreed to this procedure and the Hearing Officer stated that BellSouth's Petition for Intervention was granted with that understanding.

### **III. AT&T INTERVENTION**

On December 17, 1996, AT&T's Petition to Intervene was taken up by the Hearing Officer. There was no objection to this petition by any Party. The Hearing Officer, pursuant to T.C.A. § 4-5-310, found that the Petition to Intervene should be granted.

### **IV. ISSUES**

Each of the Parties stated what they believed were the key issues to be decided. This resulted in the identification of the following issues:

- Issue 1.        Methodology: How is the maximum annual adjustment, permitted under T.C.A. § 65-5-209(e), calculated?
- Issue 2.        What is the Authority's jurisdiction regarding amendment of the terms and conditions of basic local service?
- Issue 3.        Is Directory Assistance ("D.A.") a non-basic service for which rates may be increased by a company under price regulation, or is it a basic service which may not be increased for four (4) years by reason of T.C.A. § 65-5-209(f)?
- Issue 4.        Access Services Tariff.

Issue 5. DA Stimulation/Destimulation. When a rate is proposed for a service previously provided at no charge, is it appropriate to consider the destimulation effect the separate rate may have on demand and revenues?

**V. RESOLUTION OF ISSUE 1**

In discussion of Issue 1, Methodology, the Parties expressed a willingness to meet informally to determine if agreement could be reached, with the time and place to be arranged between the Parties following the December 10, 1996 prehearing conference. At the Consumer Advocate's request, it was agreed Dr. Klein, of the Authority's Staff, would act in the role of consultant in an effort to facilitate possible resolution of this issue. The Hearing Officer stated another prehearing conference would be held Tuesday, December 17, 1996, for the purpose of receiving a report from the Parties on the progress of resolving the methodology issue.

At the December 17, 1996 prehearing conference, Dr. Klein reported that the Parties had met and that all the Parties had agreed in concept to a price index methodology. Dr. Klein stated that United's proposed methodology was acceptable except that the Parties agreed to conform the calculation methodology for the Service Price Index ("SPI") to the SPI calculation methodology contained in the final draft of the local competition rules considered by the Tennessee Public Service Commission (the "TPSC") in December, 1995. This modification to the SPI calculation methodology required a related change in the new service language.

The Hearing Officer polled each Party as to their acceptance of Dr. Klein's statements. All Parties agreed with the methodology proposed upon the condition that the methodology be, as it has been represented to be, without any material difference from the TPSC Staff's December,

1995 recommendation. United was asked to revise its proposal to incorporate the above changes. United agreed to resubmit the methodology on Friday, December 20, 1996.

On January 14, 1997, all Parties convened for the purpose of hearing the Objection filed by the Consumer Advocate in response to the proposed Order submitted by United. The Consumer Advocate objected to the language in United's proposed Order, arguing that the language inaccurately reflected that an agreement had been reached regarding Issue 1, Methodology, when, in fact, the Consumer Advocate had not agreed. The Hearing Officer permitted the Consumer Advocate to explain his objection in light of the December 17, 1996, transcript, which reflected that the Consumer Advocate told the Hearing Officer and the other parties that he agreed. At the conclusion of the Consumer Advocate's arguments, the Hearing Officer found that, based on the December 17, 1996 transcript and the express understanding of all other counsel in this proceeding, there was an agreement and the Consumer Advocate had, in fact, agreed. The Hearing Officer further found that if the Consumer Advocate had since reconsidered his position, he would be required to file a petition asking permission to withdraw from the agreement no later than Wednesday, January 15, 1997, by 4:00 p.m.

As a result of an informal meeting among the Parties following the prehearing conference, the Parties jointly agreed that a new Procedural Schedule would be appropriate.

## **VI. SCHEDULE**

The Parties agreed to the following schedule:

January 17, 1997: Draft of written stipulation regarding methodology circulated among the Parties and Dr. Klein.

January 23, 1997: Final written stipulation as to all matters agreed upon, signed by all Parties for filing of record.

January 28, 1997: United files revised tariffs in accordance with stipulated methodology.

February 4, 1997: All Discovery served.

February 11, 1997: All responses to Discovery completed.

February 14, 1997: Direct Testimony filed by noon.

February 21, 1997: Rebuttal Testimony filed by noon.

February 26, 1997: Surrebuttal Testimony filed by noon.

March 11, 1997: Hearing (Subject to Change).

United recognized its proposed tariffs were currently suspended until March 5, 1997, and United consented to any further suspension as may be necessary for the Authority to accommodate this new schedule.

## **VII. PROCEDURES**

The Parties agreed that service of all documents may be by facsimile. Service is to occur by noon, central standard time, on the due date, except that service of Discovery requests can occur by 4:30 p.m.

### **IT IS THEREFORE ORDERED:**

1. That the Protective Order submitted be, and hereby, is approved.
2. That BellSouth's Petition to Intervene be, and hereby is, granted.
3. That AT&T's Petition to Intervene be, and hereby is, granted.

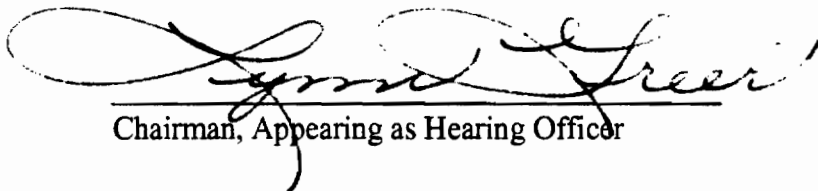
4. The Parties are hereby directed to meet for the purpose of resolving the issue of how the maximum annual adjustment, permitted under T.C.A. § 65-5-209(c), is calculated, that Dr. Klein, Division Chief, Utility Rate Division, be and hereby is, directed to attend such meeting, act as a consultant, and report back to the Hearing Officer on December 17, 1996.

5. That the proposed methodology for calculating the maximum annual adjustment, as described above, be and hereby is, approved.

6. That the schedule proposed above in Paragraph VI be, and hereby is, approved.

7. That servicing of all documents may be by facsimile and service must occur by 12:00 noon, CST, except the service of Discovery Requests can occur by 4:30 p.m., CST.

8. That any party aggrieved with the Hearing Officer's decision in this matter may file a Petition for Appeal with the Authority within ten (10) days after entry of the Initial Order.



Chairman, Appearing as Hearing Officer

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