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July 21, 1998

Via Hand-Delivery

K. David Waddell
Executive Secretary
Tennessee Regulatory Authority
450 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: Response of TCG MidSouth, Inc. Regarding Motion for
Rehearing and Reconsideration of BellSouth and Petition for
Reconsideration and Clarification filed by United Telephone -
Southeast
Docket No. 97-00888

Dear Mr. Waddell:

Enclosed you will find the original and thirteen (13) copies of the Response of TCG MidSouth, Inc. Regarding Motion for Rehearing and Reconsideration of BellSouth and Petition for Reconsideration and Clarification filed by United Telephone - Southeast in the above referenced docket.

Sincerely,



D. Billye Sanders
Attorney for TCG MidSouth, Inc.

DBS:lmb
w/Enclosures
cc: Michael McRae, Esq.
Parties of Record

BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE: UNIVERSAL SERVICE GENERIC)	
)	
CONTESTED CASE)	DOCKET NO. 97-00888
)	

RESPONSE OF TCG MIDSOUTH, INC. REGARDING MOTION
FOR REHEARING AND RECONSIDERATION OF BELL SOUTH
AND PETITION FOR RECONSIDERATION AND CLARIFICATION
FILED BY UNITED TELEPHONE - SOUTHEAST

On May 20, 1998 the Tennessee Regulatory Authority ("TRA") issued its Interim Order On Phase I of Universal Service (the "Interim Order"). On June 1, 1998 BellSouth Telecommunications, Inc. ("BellSouth") filed a Motion for Rehearing and Reconsideration and United Telephone - Southeast, Inc. ("UTSE") filed a Petition for Reconsideration and Clarification of the Interim Order. Comes now TCG MidSouth, Inc. (TCG) to set forth the procedural law that controls the disposition of the petitions for rehearing and reconsideration.

Reconsideration

The requests by BellSouth and UTSE for reconsideration of the Interim Order have been denied by operation of law. T.C.A. § 4-5-317 governs petitions for reconsideration. T.C.A. § 4-5-317(c) states:

The person or persons who rendered the initial or final order, which is subject of the petition, shall within twenty (20) days of receiving the petition, enter a written order either denying the petition, granting the petition and setting the matter for further proceedings; or granting the petition and issuing a new order, initial or final, in accordance with § 4-5-314. If no action has been taken on the petition within twenty (20) days, the petition shall be deemed to have been denied.

More than 20 days has lapsed since the filing of the petitions for

reconsideration,¹ and the TRA has taken no action on the petitions; therefore by operation of law the petitions are deemed denied. Consequently, the TRA is precluded from granting the petitions.

Rehearing

Requests for rehearing are applicable to final orders, not interim orders. Even if the Interim Order is properly subject to a petition for rehearing, the time for disposing of the petition has expired and the petition is deemed denied.

BellSouth filed its motion for rehearing pursuant to T.C.A. § 65-2-114, which states:

Any party to a contested case who deems to be aggrieved by a final order of the authority and who desires to have the same modified or set aside may within fifteen (15) days after the entry of such order file with the authority or written petition for rehearing, which shall specify in detail the grounds for the relief sought therein and the authorities in support. (emphasis added.)

The TRA's May 20, 1998 order is an interim order not a final order, therefore it is not subject to a petition for rehearing under T.C.A. § 65-2-114. Even if the Interim Order is subject to a petition for rehearing, the petition for rehearing has been denied by operation of law. T.C.A. § 65-2-118 governs disposition of petitions for rehearing and provides:

The authority may, in its discretion, set the petition down for hearing or enter an order with reference to the petition without a hearing; provided, that in any event the Authority shall dispose of the petition within thirty (30) days after filing thereof. If the authority enters no order disposing of the petition within the thirty-day period, the petition shall be deemed to have been denied as of the expiration of the thirty-day period. (emphasis added.)

The thirty-day period for consideration of the petition lapsed on June 30,

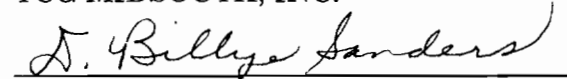
¹ As of July 21, 1998, the date of this filing, 40 days have lapsed since the filing of the petitions.

1998, therefore the petition for rehearing is denied by operation of law and the Authority is precluded from granting the petition.

Finally, TCG believes that the Interim Order of the TRA should be affirmed on the issues for which BellSouth and UTSE seek rehearing and reconsideration. However, because the petitions have been denied by operation of law on the basis of procedure, the TRA is precluded from addressing the petitions on the merits.

Respectfully submitted,

TCG MIDSOUTH, INC.

A handwritten signature in cursive script, reading "D. Billye Sanders", is written over a horizontal line.

D. Billye Sanders

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Attorney for TCG MidSouth, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have served on this day a copy of the foregoing Response by depositing a copy of same in the U.S. Mail, postage prepaid, addressed to the interested parties on the attached list, this 21st day of July, 1998.

D. Billye Sanders
D. Billye Sanders

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