

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**JULY 16, 1999**

<b>IN RE:</b>	)	
	)	
<b>BELLSOUTH TELECOMMUNICATIONS, INC.</b>	)	<b>DOCKET NO.</b>
<b>TARIFF FILING TO OFFER CONTRACT</b>	)	<b>98-00513</b>
<b>SERVICE ARRANGEMENT (TN 98-1491-00)</b>	)	
	)	

---

**ORDER GRANTING APPROVAL OF BELLSOUTH  
CONTRACT SERVICE ARRANGEMENT (TN 98-1491-00)**

---

This matter came before the Tennessee Regulatory Authority ("Authority") on the tariff filing of BellSouth Telecommunications, Inc. ("BellSouth") for approval to offer Contract Service Arrangement No. TN 98-1491-00 ("CSA"). BellSouth filed Tariff No. 98-00513 on July 28, 1998, with a proposed effective date of August 27, 1998. The Directors of the Authority considered this matter at a regularly scheduled Authority Conference held on August 18, 1998, and unanimously suspended the tariff for 90 days, until November 25, 1998, to allow time for additional review. The Directors of the Authority next considered this matter at the regularly scheduled Authority Conference held on November 17, 1998. Based upon careful consideration of the tariff filing and the attachments thereto, the Authority finds and concludes the following:

1. The purpose of this CSA is to provide Frame Relay Service to the customer identified in the filing. Frame Relay Service is a connection-oriented, high-speed data transport service based on packet switching technology; it utilizes a special network

separate from the public switched network. Frame Relay Service provides customers with high speed data transport at speeds ranging from 56 Kbps to 1.544 Mbps via the Frame Relay Network. Customers purchase digital facilities that enable them to access this network in order to transport data to and from remote locations linked to the network.

2. The term of this CSA is thirty-seven (37) months and it is designed to provide Frame Relay Service at an overall rate comparable to competitive alternatives. Through this CSA, BellSouth is offering the customer a total discount of 4.7% off the general tariff rate during the term of the contract.

3. This CSA contains a termination clause that provides that the General Subscriber Services Tariff ("GSST") termination liability provision controls in the event that the CSA is terminated. This termination liability provision, Section A40.10.2(b)(2) of the GSST, specifies the charge to be assessed to any customer who terminates the agreement prior to the end of the term.

4. After reviewing the termination clause contained in this CSA, the Authority determines that this clause is sufficiently clear so that in the event of termination of the CSA, any charges to be assessed are directly controlled by the GSST and are unambiguous.<sup>1</sup> Upon finding that all parties can calculate termination liability pursuant

---

<sup>1</sup> When reviewing certain termination clauses in other CSAs which are not contingent upon termination liability provisions contained in the GSST, both Chairman Malone and Director Greer have found the language of such clauses to be vague and imprecise, and further, that such clauses raise reasonable questions relative to the liability that could be incurred by the customer if a CSA is prematurely terminated at the customer's request.

In this docket, Director Greer stated: "While the cancellation charges may be considered by some to be somewhat anticompetitive, I'm not sure there's much we can do about it at this point since it's in the tariff with our – without reopening the case on a previously approved tariff, and I don't think that's what we're here for.

So based on what – the information I have, I think our – my position is that we should approve this CSA, and then as we go through the CSA docket, we'll simply have to look at those tariffs that are already in existence. It's a pretty steep cancellation charge, but if it comes right out of the tariff, and I've had that

to the GSST, a majority<sup>2</sup> of the Authority determines that in this docket the CSA should be granted.

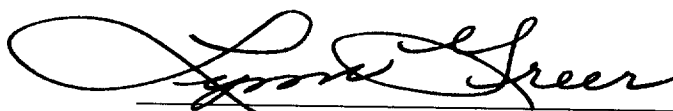
**IT IS THEREFORE ORDERED THAT:**

BellSouth Telecommunications, Inc. Tariff No. 98-00513 which seeks approval of Contract Service Arrangement No. TN 98-1491-00 is hereby granted.

\* \* \*

---

Melvin J. Malone, Chairman



H. Lynn Greer, Jr., Director



Sara Kyle, Director

ATTEST:



K. David Waddell, Executive Secretary

S: \Orders\CSA\Or-8-513.doc

---

confirmed, and I don't know that we've got a whole lot of alternative under the matter." Transcript of November 17, 1998 Authority Conference, p. 49.

<sup>2</sup> Chairman Malone stated: "[This] CSA is a contract for 37 months, and previously I thought that Director Greer had opined that he would like BellSouth to consider modifying the CSAs to one year, and that's the reason that the other CSA that we took up today was suspended further. That contract being for 37 months and in light of the contested case docket that we have on CSAs in order to determine any anticompetitive and discriminatory effects that they may have on competition in Tennessee, in light of that 37-month period, I'm going to vote against that CSA being approved." (*id.*, p. 99).

\* \* \* Chairman Malone voted against approval.