

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

August 6, 1999

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REGULATORY AUTH.
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OFFICE OF THE
EXECUTIVE SECRETARY

IN RE: Proceeding for the Purpose of Addressing Competitive Effects of Contract Service Arrangements Filed by BellSouth Telecommunications, Inc. In Tennessee Docket No. 98-00559.

BellSouth Telecommunications, Inc.'s Tariff to Offer Contract Service Arrangement TN 98-6766-00 for Maximum 13% Discount on Eligible Tariffed Services. Docket No. 98-00210.

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BellSouth Telecommunications, Inc.'s Tariff to Offer Contract Service Arrangement KY98-4958-00 for an 11% Discount on Various Services. Docket No. 98-00244.

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Motion of NEXTLINK to Allow Contract to Become Effective Pending a Final Decision

NEXTLINK, Tennessee, Inc. ("NEXTLINK") moves the Authority to allow Contract Service Arrangements TN 98-6766-00 and KY98-4958-000 to become effective pending the final outcome of these proceedings. In support of that motion, NEXTLINK states as follows:

1. NEXTLINK has challenged the legality of the two Customer Service Arrangements ("CSAs") at issue in this case but does not object to allowing the CSAs to become effective pending a final decision on those issues. NEXTLINK believes that the customers to those CSAs should not be denied the benefit of these contracts during the time it will take to conclude this proceeding.

2. At this time, the proposed CSAs have been suspended by the Authority pursuant to T.C.A. 65-5-203(a) pending a hearing and final decision. In other words, the Authority has treated these CSAs as new tariff filings which are subject to the provisions of Section 203.

3. Whenever a utility files a new tariff under Section 203, the Authority may or may not elect to set the matter for hearing and, pending the hearing, may or may not elect to suspend the tariff. If the Authority elects not to suspend the tariff, the tariff becomes effective by operation of law and remains effective pending the outcome of the hearing. Based upon the results of the hearing, the Authority may approve, deny, or amend the tariff on a going forward basis.

4. The same statutory procedure applies to these CSAs. Like any tariff, these CSAs are subject to the “complete jurisdiction” of the Authority (see *New River Lumber Co. v. Tennessee Railway*, 145 Tenn. 266, 295 (Tenn. 1921)) which may elect to conduct a hearing on the CSA and either suspend the CSA or allow the CSA to become effective pending a final decision.

5. Following a hearing, the CSA may be amended on a going forward basis at the Authority’s discretion. Such an amendment to one part of the contract does not affect the validity of the remaining sections of the CSA anymore than an amendment to one part of BellSouth’s tariff affects the validity of other parts of the tariff.

For example, in *Application of Nashville Gas*, Docket No. 96-00977 (February 19, 1997), the Authority *sua sponte* ordered a change in the “special contract” rate charged to customers of the Nashville Gas company. That increase did not invalidate the contracts between Nashville Gas and those customers. It is the Authority, not the parties, which determines the rates, terms, and conditions of utility service in Tennessee. The parties may propose rates but only the Authority has the power to approve them or change them. See T.C.A. §65-5-101 (the Authority “shall determine any existing individual rate” charged by a regulated utility).

6. There are important issues at stake in this proceeding that go beyond the interests of the customers served by these two CSAs. During the time it will take for the TRA to reach a final decision on these issues, NEXTLINK asks that the CSAs be allowed to go into effect,

pending the issuance of a final decision, so that the customers will be able to receive service at the reduced rates provided in the contracts.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of this Motion has been faxed to Guy Hicks at Bell South and sent by regular mail to all other parties.

