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GENERAL COUNSEL'S OFFICE

Rulemaking Hearing Rules
of the
Tennessee Regulatory Authority

Chapter 1220-4-2
Regulations for Telephone Companies

Substance of Proposed Rules

Amendments

Paragraph (2) of Rule 1220-4-2-.55, Regulatory Reform, is amended by deleting the paragraph in its entirety and substituting instead the following new language so that, as amended, the paragraph shall read:

(2) Intrastate InterLATA services.

(a) Definitions.

1. "Certificated interLATA resellers" are non-facilities based telecommunications companies providing intrastate interLATA service as a reseller which are subject to Rule 1220-4-2-.57, and any portion of this rule sub-section in which said resellers are specifically mentioned.

2. "Facility-based providers of intrastate interLATA services" are companies owning facilities in the state which consist of network elements, switches, or other communication transmission equipment used to carry voice, data, image, and video traffic across the LATA boundaries within Tennessee (i.e. intrastate interLATA communications) or to carry any other communications traffic approved by the Authority for these carriers.

3. "Intrastate interLATA services" are those services that provide two-way voice or data communications between points in different LATAs.

4. "Tariff or price filing date" is the date on which the Authority receives a filing.

(b) Tariff Rules and Regulations.

1. All facility-based providers of intrastate interLATA services shall file tariffs for all intrastate services. Such tariffs shall include a description of every intrastate service offered and terms and conditions for each service. The Authority shall evaluate market share based on data obtained from the Federal Communications Commission and/or other sources as the Authority may require.

2. Each service shall be made available at the rate specified in the tariffs to any customer meeting the terms and conditions for that service.

3. Tariff filings involving new services or rate increases may be suspended by the Authority only upon a showing of good cause.

(c) Rate and Price Setting Requirements.

Section (c) applies to facility-based providers with more than 5% of the intrastate interLATA market as determined by the Authority.

1. Services will be categorized as Basic Residential Services or All Other Services.

2. The Basic Residential Services category shall include 1+ traffic originated from a residential location, excluding calls made under an optional calling plan. This category shall also include 0+ and 0- calls billed to a residential calling card or residential telephone number and person-to-person residential calls, excluding calls made under an optional calling plan. Operator surcharges and per minute rates are included in this category. The Authority shall designate the associated rate schedules to be included in the Basic Residential Services category.

3. The Authority shall establish a rate cap for the Basic Residential Services category. The initial cap will be the rates in effect on the effective date of this rule. The rate cap shall be adjusted to reflect any changes in switched access charges for services in the Basic Residential Services category within thirty (30) days of said access adjustments. The amount of any access charge change for the basic residential services category shall be the average statewide per minute access reduction multiplied by most recent twelve-months-to-date total minutes of use in the Basic Residential Services category of each affected provider. Each provider shall submit evidence to support its calculations of its change in switched access charges.

4. Revenue neutral adjustments within the Basic Residential Services category are permitted as long as a provider of intrastate interLATA services demonstrates to the Authority that said rate adjustments will be revenue neutral to the service provider. Revenue neutral adjustments will be determined by using the most recent twelve (12) months-to-date minutes of use by rate band for each rate in the Basic Residential Services category multiplied by the existing and proposed rates.

5. Rates for the All Other Services category may be established as the provider deems appropriate, but may be reviewed by the Authority in accordance with the provisions of this rule sub-section.

6. Upon a finding by the Authority that existing and potential competition is an effective regulator of the price of Basic Residential Service, the Authority may exempt such service from the rate cap established in 1220-4-2-.55(2)(c)3.

7. Upon a finding by the Authority that the existing competitive activity is not effectively regulating the price of a service in the All Other Services category to adequately serve the public interest, the Authority may place such service in the Basic Residential Services category.

(d) Price Adjustments.

1. Price reductions shall become effective on the tariff filing date. The Authority may, however, review these reductions upon its own motion or upon the petition of any interested party.

2. No tariff filing submitted pursuant to this rule that increases rates or changes terms and conditions which result in an increase in the billed rate of any service shall take effect sooner than thirty (30) days after notice to the Authority, unless otherwise directed by the Authority. Affected customers shall be notified in a conspicuous manner by direct mail and by publication of a notice in a newspaper of general circulation in the affected service area thirty (30) days prior to the effective date of any rate increases. A copy of such notice shall be filed with the Authority concurrent with the tariff filing.

3. Any change in the previously approved terms and conditions of a service requires thirty (30) days notice to both the Authority and the customer in order to enable the customer sufficient time to qualify for the service. At any time after a change in the terms or conditions of a customer's existing service by the carrier, a customer may cancel service without the application of termination charges.

(e) New Services.

1. New services shall become effective upon filing of tariffs with the Authority. The Authority may, however, review such tariffs upon its own motion or upon the petition of any interested party.

2. Services or calling plans that automatically convert customers from an existing service shall not be classified as a new service. New services are those that are independent from other previously approved services and are filed separately from any existing service or calling plan.

(f) Special Services or Contracts.

1. A summary of all special contracts shall be filed with the Authority. The contract shall be made available to the Authority upon request.

2. Special contracts or special pricing packages shall be permitted provided that the service being provided thereunder is available at the same rate to any customer meeting the special terms and conditions.

(g) Consumer Safeguards

1. No provider of intrastate interLATA services shall de-average rates for interLATA service without prior Authority approval.

2. No provider of intrastate interLATA services shall abandon residential services to any location in the state without prior customer notification and Authority approval.

3. Providers of intrastate interLATA services shall comply with all extended area service toll-free calling plans deemed to be in the public interest by the Authority.

4. Failure to comply with any rule or order adopted by the Authority may result in the investigation of whether a provider of intrastate interLATA services continues to operate in the public interest. The Authority may fine a provider of intrastate interLATA service pursuant to T.C.A. § 65-4-120 for violation of an Authority Order or pursue any other enforcement remedy provided by state law.

5. Nothing in this subsection precludes the Authority from acting on its own motion to suspend a tariff or initiate an investigation into any prices or tariffs filed pursuant to this rule sub-section.

6. Providers of intrastate interLATA services shall participate in any support mechanism for Universal Service as may be approved by the Authority.

(h) Reporting.

1. Providers of intrastate interLATA services are required to maintain books and records in a manner consistent with that required by the Federal Communications Commission for each company unless said reporting requirements are specifically waived or otherwise modified by the Authority.

2. The Authority shall monitor technology applications, quality of service and market share conditions through reports and oral presentations made by the providers of intrastate interLATA services. The Authority may request these reports and presentations on a periodic basis, as required, to evaluate service levels and technology deployment results and plans.

3. Providers of intrastate interLATA services shall respond to customer complaints pursuant to Authority Rules.

4. Facility-based providers of intrastate interLATA services with greater than 5% of the state's interLATA market as determined by the Authority shall file reports annually by April 1st containing: (1) the previous calendar year's intrastate minutes of use and revenues for the Basic Residential Services category, and (2) the previous calendar year's total intrastate revenues and minutes of use for the service in the All Other Services category.

5. Nothing in this rule precludes the Authority from requiring additional reports.

Authority: T.C.A. §§65-2-102, 65-4-104, 65-4-111, 65-4-120, 65-4-201, 65-5-202, 65-5-203 and 65-5-207.

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Signature of the agency officer or officers directly responsible for proposing and/or drafting these rules:

K. David Waddell,
Executive Secretary

The roll-call vote by the Tennessee Regulatory Authority on these rulemaking hearing rules was as follows:

	Aye	No	Abstain
Sara Kyle, Chairman	X		
Lynn Greer, Director	X		
Melvin Malone, Director	X		

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Regulatory Authority on the 21st day of November, 2000.

Further, I certify that the provisions of T.C.A. §4-5-222 have been fully complied with, that these rules are properly presented for filing, a notice of rulemaking has been filed in the Department of State on the 30th day of July, 1999 and such notice of rulemaking hearing having been published in the August, 1999 issue of the Tennessee Administrative Register, and such rulemaking hearing having been conducted pursuant thereto on the 16th day of September, 1999.

K. David Waddell,
Executive Secretary

Subscribed and sworn to before me this the 8 day of FEBRUARY, 2001.

Notary Public

My commission expires on 04-07-2003.

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Paul G. Summers
Attorney General and Reporter

The rulemaking hearing rules set out herein were properly filed in the Department of State on the 13 day of July, 2001 and will become effective on the 26 day of Sept., 2001.

Riley C. Darnell
Riley C. Darnell
Secretary of State

By: [signature]

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