

TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

September 4, 2009

In Re: Docket No. 09-00096, *Docket to Study Merits of Rural Affordability Fund*.

Dear Sir/Madame:

During this past legislative session, the Utilities & Banking Subcommittee of Commerce considered legislation (House Bill 2117 / Senate Bill 2147) relating to the implementation of a Tennessee Rural Affordability Fund (TRAF). A copy of this legislation as proposed in 2009 is attached. During the Subcommittee's deliberations, Chairman Richard Montgomery formally requested that the Tennessee Regulatory Authority ("Authority") study the merits of the proposed legislation and provide a report to the Subcommittee in time to be considered for the 2010 legislative session.

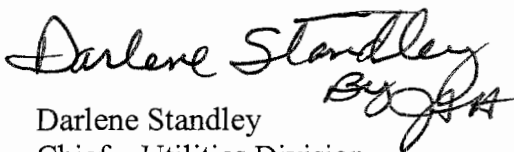
In light of this request from the Subcommittee, the Authority opened Docket No. 09-00096, *Docket to Study Merits of Rural Affordability Fund*, to gather necessary information and comments from all affected parties. This data request is aimed at ensuring that all affected parties have an opportunity to weigh in on this important matter, accordingly, the Authority is asking that you provide your feedback on the following specific items, as well as any other thoughts you may have concerning the proposed legislation.

1. Please discuss in detail the financial impact of reducing your company's access rates to the interstate level as proposed in the legislation.
2. Please discuss the merits of the TRAF as proposed and any changes/modifications that you believe would be necessary in establishing this fund.
3. What should be the determining factors and criteria in determining whether to establish a TRAF?
4. Please discuss whether prices and service offerings should be comparable between all rural and urban areas, and how this determination should be made?
5. Should the earnings of incumbent local exchange companies (ILECs) operating under rate-of-return regulation be examined prior to receiving TRAF funds?
6. Should the TRAF target funds for expanding a recipient company's broadband deployment?

7. Should the TRAF be expanded to replace other sources of implicit funding used to support universal service?
8. Should TRAF disbursements be portable to Eligible Telecommunications Carriers ("ETCs") for customers they serve in these rural areas?
9. Should the TRA establish a state-wide local residential benchmark rate for universal service and determine necessary universal funding based upon the benchmark, i.e., a company could draw money out of a universal fund if its rates are below the benchmark?
10. Please provide your thoughts/suggestions on whether there should be a phase out or reduction in the amount of TRAF funding once carriers elect Market Regulation.
11. What factors and procedures should be considered in determining the per line support amount for rural carriers?
12. Which companies should contribute to the TRAF, and state why or why not?
13. What method should be used to determine the TRAF contribution per company?
14. If intrastate access rates are reduced in Tennessee, should language be incorporated into the proposed legislation to ensure that companies subscribing to intrastate access do not receive windfall profits, but rather return the access savings to their customers.

In order for the Authority to have sufficient time to properly evaluate this matter and provide a timely report to the Subcommittee, we are asking for your written responses to be returned no later than September 25, 2009. Please address the response to Darlene Standley and clearly identify Docket No. 09-00096 on the response. Should you have any questions or concerns, please contact John Hutton at 615-741-2904, extension 152, or via e-mail at john.hutton@tn.gov.

Sincerely,


Darlene Standley
Chief – Utilities Division

C: Docket File

Amendment No. _____

FILED
Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 2147

House Bill No. 2117*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 65-5-107, is amended by deleting subsections (b) through (e) and by substituting instead the following:

(b) The Tennessee Rural Affordability Fund ("TRAF") is established by this section in order to promote and assure the widest possible deployment and adoption of telephone and broadband service at rates that are affordable, and provide for reasonably comparable services and rates between rural and urban areas. The TRAF is critically important to preserving universal service and maintaining carrier of last resort obligations in rural areas of Tennessee. The TRAF shall be established and administered by the authority.

(c) The authority's jurisdiction over providers under this section is limited to the enforcement of the provisions as stated in this section, and not to be construed as granting additional regulatory authority over the contributing telecommunications and information service providers.

(d) The TRAF shall provide funding to the local exchange carrier serving as carrier of last resort provider using its own facilities within its study areas existing on January 1, 2009. Unless otherwise ordered by the authority, rural telephone cooperatives and incumbent local exchange carriers are deemed carriers of last resort for each provider's respective service area as of January 1, 2009.

(e) Affordable service shall consist of residential basic local exchange telephone service defined as the primary line servicing the end user customer premise, touchtone,



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access to 911, telecommunications relay system, toll presubscription, operator services and directory assistance, at affordable rates.

(f) Each provider that contributes to the Federal Universal Service Fund and provides services for a fee in Tennessee shall contribute to the TRAF.

(g) The authority shall determine the manner of contribution using either one or a combination of the following:

(1) A charge for each working telephone number; or

(2) A proportionate amount based on each provider's gross intrastate retail end user telecommunications revenues.

(h) The contributing providers may pass on a surcharge to their end user customers to recover the TRAF charge paid by the provider.

(i) The authority shall implement and administer the necessary processes and procedures for the administration of the TRAF including the determination of the assessment amount, collection of contributions and distribution of fund amounts. The costs of administering the TRAF shall be included in the fund amount. The authority has the power to require telecommunications service providers, voice over Internet protocol (VOIP) providers and domestic cellular radio service providers which contribute to the Federal Universal Service Fund to provide information to the authority necessary to establish and administer the TRAF. The authority has the power to fix charges levied by any telecommunications service provider for carrier access provided in this state and may order changes in such charges, subject to this section. The authority shall not require a telecommunications service provider to reduce its lawful rates for carrier access in effect on the effective date of this section except on revenue neutral basis, and any resulting rate changes necessary to comply with this section.

(j) The authority shall require the incumbent small local exchange carriers with less than one million (1,000,000) access lines and cooperatives to adjust intrastate (carrier common line and switched access) rates to their billed interstate rate levels in effect on December 31, 2009.

(k) The initial TRAF amount shall be determined by the difference between intrastate access rates in effect on December 31, 2009 and the interstate access rate levels in effect on December 31, 2009 multiplied by the intrastate access minutes for the twelve (12) month period ending December 30, 2008. Such rates shall include an administrative expense.

(l) Future intrastate access rate adjustments shall mirror the providers billed interstate access rate levels. The December 30, 2008 intrastate access minutes shall be the frozen base amount to which the access rate difference shall be applied. Such access rates shall include administrative expenses and shall be adjusted annually.

(m) The amount that each carrier of last resort provider as set forth in subsection (d) shall receive is based on the fund amount of intrastate switched access reductions made.

(n) The authority shall not require or conduct a rate case, earnings review or cost analysis in connection with the revenue recovery of the access rate reductions.

(o) To implement the fund, there is established a special reserve account in the state's general fund to be funded and allocated in accordance with the provisions of this section and rules promulgated by the authority. Such fund shall be known as the Tennessee Rural Affordability Fund. Moneys from the fund may be expended in accordance with such universal service program. Any moneys deposited in the fund shall remain in such account until expended for purposes consistent with such program and shall not revert to the general fund on any June 30. Any interest earned by deposits in such account shall not revert to the general fund on any June 30 but shall remain in such account until expended for purposes consistent with the universal service program.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.