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September 25, 2009

Via Hand-Delivery

Hon. Sara Kyle, Chairman
c/o Ms. Sharla Dillon
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

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

Dear Chairman Kyle:

Enclosed please find an original and five (5) copies of the Tennessee Rural Coalition's Responses to the Data Requests dated September 4, 2009, in the above-referenced docket. Please return one (1) copy of this document, which I would appreciate your stamping as "filed," and returning to me by way of our courier.

Please note that this material also has been transmitted electronically to the Tennessee Regulatory Authority today.

Should you have any questions concerning any of the enclosed, please do not hesitate to contact me.

With kindest regards, I remain

Very truly yours,



R. Dale Grimes

RDG/smb
Enclosure

Chairman Sara Kyle
September 25, 2009
Page 2

cc: Ms. Darlene Standley, Chief of Utilities Division
Mr. Bruce Mottern

September 21, 2009

Darlene Standley
Chief-Utilities Division
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

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

Dear Ms. Standley:

The Tennessee Rural Coalition¹ respectfully provides this response to your September 4, 2009 correspondence to each of the members of the Coalition in the above-referenced proceeding. The Coalition appreciates the opportunity to respond to your request for information that will assist the Tennessee Regulatory Authority (the "Authority") in its effort to study the merits of proposed legislation. We believe this is an important issue, and we appreciate the attention it is receiving in the General Assembly. Also attached are a set of principles with which the Coalition agrees.

1. Please discuss in detail the financial impact of reducing your company's access rates to the interstate level as proposed in the legislation.

Response: The Coalition will, if needed, compile the total financial impact for reducing current intrastate access rates to interstate levels under proprietary and confidential treatment. The data demonstrates the significance of the revenue loss that will result from reducing intrastate access rates to a level at parity with interstate access charges. The Coalition submits that the significant financial impact demonstrates the need to establish an alternative revenue recovery mechanism.

2. Please discuss the merits of the TRAF as proposed and any changes/modification that you believe would be necessary in establishing this fund.

Response: In the past, access revenues have provided the Coalition companies with a significant source of support for our capital-intensive businesses. The Coalition recognizes that this source of support is no longer stable, due to market changes

¹ The members of the Coalition participating in this response are set forth in Attachment A.

such as increasing use of mobile services and intermodal competition from VoIP and cable companies. The Coalition supports the idea of replacing this unstable revenue source with a more predictable and stable source of support.

The attached set of principles would be key to developing a new system.

3. What should be the determining factors and criteria in determining whether to establish a TRAF?

Response: The Coalition believes the General Assembly has already decided that a new source of support must be established, and that is why the legislation has been introduced. The question is no longer “whether” but how to develop a system that can garner sufficient legislative support to be enacted. Finding a workable new system of support is vital to rural Tennessee.

4. Please discuss whether prices and service offerings should be comparable between all rural and urban areas, and how this determination should be made?

Response: The Coalition members, as universal service providers, understand the objective of providing prices and services that are comparable to the services and prices offered in the urban areas of Tennessee.

5. Should the earnings of incumbent local exchange companies (ILECs) operating under rate-of-return regulation be examined prior to receiving TRAF funds?

Response: No. The TRAF is to be used to provide a rural company or cooperative with recovery of revenue that would be otherwise lost as a result of intrastate access rate reductions; there is no reason or basis to examine a carrier’s earnings prior to distribution of the funds.

6. Should the TRAF target funds for expanding a recipient company’s broadband deployment?

Response: No. The Federal Communications Commission has embarked on an effort to establish a nationwide broadband policy, and the delivery of broadband services to consumers residing in the higher cost to serve rural areas of the nation will undoubtedly be addressed. While incorporating broadband deployment into the proposed TRAF may be desirable long-term, the Coalition respectfully submits that it may be preferable to initially implement the TRAF to address the more

targeted and specific issue of identifying a revenue recovery mechanism to reduce reliance on the declining provision of intrastate switched access service.

7. Should the TRAF be expanded to replace other sources of implicit funding used to support universal service?

Response: No. the current proposals correctly address the issue of access charges in a targeted fashion.

8. Should TRAF disbursements be portable to Eligible Telecommunications Carriers (“ETCs”) for customers they serve in these rural areas?

Response: No. Disbursements from the TRAF should not be portable to ETCs. To the extent that the TRAF is utilized as a source of recovery of revenues that would otherwise be lost as a result of reducing access charges to parity with interstate levels, recipients should be limited to those carriers of last resort that reduce their access charges.

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?

Response: A proposal that incorporates the attached principles would not require a 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.

Response: The Coalition understands that the election of Market Regulation does not impact the TRA’s authority over intrastate access. Accordingly, there is no direct relationship between the election of Market Regulation and the reduction of access charges and the resulting revenue loss that will be recovered from the proposed TRAF.

11. What factors and procedures should be considered in determining the per line support amount for rural carriers?

Response: The factors and procedures should be consistent with the attached Principles. Under the proposal, funding will be determined on the basis of the

quantifiable access revenue loss that results from the reduction of intrastate access charges.

12. Which companies should contribute to the TRAF, and state why or why not?

Response: In our increasingly diverse telecommunications market, the funding must be competitively neutral as reflected in the attached principles.

13. What method should be used to determine the TRAF contribution per company?

Response: A uniform end user charge is a competitively neutral approach.

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.

Response: This legislation will provide a substitute for support currently being derived from a wholesale charge, not a retail charge. Pricing of retail services should remain governed by the otherwise applicable law.

**Tennessee Rural Coalition
Attachment A.**

1. Ardmore Telephone Company
2. Ben Lomand Cooperative
3. Bledsoe Telephone Cooperative
4. DTC Communications, Inc.
5. Highland Telephone Cooperative
6. Loretto Telephone Company
7. Millington Telephone Company
8. North Central Cooperative
9. TDS Telecom Companies:
 - a. Concord Telephone Exchange, Inc.
 - b. Humphreys County Telephone Company
 - c. Tellico Telephone Company
 - d. Tennessee Telephone Company
10. TEC Companies:
 - a. Crockett Telephone Company
 - b. Peoples Telephone Company
 - c. West Tennessee Telephone Company
11. Twin Lakes Telephone Cooperative
12. United Telephone Company
13. West Kentucky Telephone Cooperative

OVERVIEW OF PRINCIPLES FOR TENNESSEE RURAL COMMUNICATIONS PROTECTION FUND (TRCP FUND) LEGISLATION

Small companies and Rural Cooperatives have relied upon a support system of revenue from wholesale "access rates" to provide quality jobs and advanced services in rural areas. Today, due to changes in the telecom industry, that system is breaking down.

To protect rural consumers, Tennessee lawmakers are considering creation of a Tennessee Rural Communications Protection Fund, funded by all telecommunications consumers in the state, continuing the state's successful social policy of widely available, affordable telecommunications services.

Legislation to protect rural telecommunications consumers would include the following principles:

1. **Create the Tennessee Rural Communications Protection Fund (TRCP Fund) and Remove Authority for TRA to Establish Additional USF Fund**

Legislation will create the "Tennessee Rural Communications Protection" Fund to continue the social policy of providing widely available, affordable telecommunications service (Universal Service) for Tennessee consumers, particularly those in rural areas of the state. The legislation will spell out that the Tennessee Regulatory Authority administers the fund; who contributes to the fund; how much; and who can draw from the fund.

The new TRCP Fund statutes will replace provisions of 65-5-207 that currently allow the Tennessee Regulatory Authority to establish a "Universal Service Fund."

2. **Require that all Local / Intrastate Voice Providers, Regardless of Technology, Contribute and Provide Assurance of No New Regulation of Wireless and VoIP.**

Legislation will require that all voice competitors pay into the fund so that the impact is competitively neutral in the marketplace.

Although the wireless and Voice Over Internet Protocol (VoIP) providers will be required to contribute, legislation will be explicit that there is no new regulatory oversight of these entities, and the

current law shielding broadband, wireless and VoIP from TRA regulation will be expressly maintained.

In order to include VoIP without violating Federal law, the bill will include a provision that tracks the FCC's decision that only 35% of VoIP traffic is intrastate in nature.

3. **Establish a Monthly Charge that End-Users Will Pay**

Legislation will specify a monthly end user charge or percentage. Initial calculations suggest that a sufficient fund could be achieved by imposing a charge of less than 50 cents per month on voice consumers. Precise calculations will be complete before the legislative session.

4. **Establish a Ten-Year Review of the Fund to Ensure that the Fund Is Not Perpetual.**

Legislation will require that the TRA and the General Assembly review the continued need for the fund beginning June of 2020.

5. **Define the Scope of Carrier Of Last Resort Obligations Consistent with Market Regulation Act.**

Legislation will clarify that the COLR obligation referenced in creating the TRCP Fund is the obligation already in state law. This is consistent with the treatment of the COLR concept in the Market Regulation Bill that passed in 2009.

Consistent with legislative goal of technological-neutrality, legislation will allow a COLR provider to chose the type of technology it will use in serving new end users.

6. **Define Qualifying Carriers as the Incumbent Carriers that (a) Reduce Access Rates in Tennessee to Mirror the Rates and Rate Structures that Apply to "Interstate" Services and (b) are Subject to Defined "COLR" Obligations.**

Legislation will set out that the only entities that can receive payments from the fund are the small incumbent local exchange carriers and incumbent Telephone Membership Cooperatives (Co-Ops) that reduce intrastate access to mirror interstate access rates and rate structures.

Large carriers, such as AT&T, that have already reduced rates to achieve access parity can not withdraw from the fund, nor can large VOIP providers, such as Comcast or wireless carriers.

7. **Establish an Administrative Fee and TDAP/TRS Support Payments for the TRA to Withdraw from the Fund.**

Legislation will allow the TRA, as the fund administrator, to withdraw a set fee to cover its administrative costs so that the program will have no significant fiscal impact on state government.

Additionally, the TRA shall reserve a specific sum from the fund for the purpose of the Telecommunications Devices Access Programs (TDAP) the Telecommunications Relay Service. This will eliminate the need for the TDAP/TRS to affect access rates.

8. **Establish the Calculation for Each Qualifying Carrier's Quarterly Payment from the Fund.**

Legislation will establish the formula (i.e. the difference between the interstate and intra state rates, times the minutes of use for 2008) and will provide for that amount to be paid out in quarterly installments as the contribution payments into the fund are made each quarter.

9. **Require Intrastate Access Rates and Rate Structures to Continue to Mirror the Interstate Access Rates and Require Future Access Rate increases to Be Approved by the TRA**

Legislation will require that intrastate access rates and rate structures must mirror interstate access rates and rate structures as soon as the bill becomes effective, and these rates and rate structures must remain "mirrored" in the future.

The TRA will have general supervisory jurisdiction over all intrastate access rates imposed by any provider in Tennessee, and the TRA must approve all increases.