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Embarq
Mailstop: NCWKFR0313
14111 Capital Boulevard
Wake Forest, NC 27587-5900
embarq.com

September 25, 2009

VIA HAND DELIVERY

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

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

Dear Ms. Standley,

On behalf of United Telephone Southeast LLC d/b/a Embarq, CenturyTel of Adamsville, Inc., CenturyTel of Claiborne, Inc., and CenturyTel of Ooltewah-Collegedale, Inc., enclosed please find an original and three (3) copies of their response to the data requests issued on September 4, 2009 in the above-referenced docket.

An extra copy of this filing is enclosed for date-stamping and return in the envelope provided. Should you have any questions regarding this filing, please contact myself at (919) 554-7621 or Pam Wescott at (615) 255-0155.

Very truly yours,

Jeanne W. Stockman

cc: William C. Hanchey, Jr.
Laura Sykora
Pam Wescott

Jeanne W. Stockman

COUNSEL
Voice: (919) 554-7621
Fax: (919) 554-7913
Jeanne.W.Stockman@embarq.com

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September 25, 2009

VIA HAND DELIVERY

Ms. Darlene Standley, Chief
Utilities Division
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

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

Dear Ms. Standley:

Thank you for your letter of September 4, 2009. Below is the response of United Telephone Southeast LLC d/b/a Embarq, CenturyTel of Adamsville, Inc., CenturyTel of Claiborne, Inc., and CenturyTel of Ooltewah-Collegedale, Inc. As companies that serve rural areas of Tennessee, we are facing serious issues that threaten our ability to continue providing affordable universally available service in these areas and we are very interested in a legislative solution. We are happy that the TRA is willing to assist the legislature with this important issue.

We believe it is vital that the appropriate solution be implemented quickly to ensure that our companies can continue to achieve current service levels and continue to investment in infrastructure. We must focus on what is doable – and that means that we must look for a workable compromise. With this goal in mind, we are providing the following responses to your questions as well as the attached set of principles that have been developed by representatives of ILECs of all sizes in Tennessee.

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

ANSWER: Historically access revenues have been utilized in the regulatory ratemaking process as a significant source of support for the advancement and maintenance of universal service at affordable rates. As you know, this source of

support has been eroding and is further threatened by a number of factors including the increasing use of mobile services, intermodal competition from VoIP providers and cable companies and access charge avoidance schemes. In spite of this erosion, CenturyTel and Embarq have invested and continue to invest in the expansion, maintenance and delivery of our services over the wireline network. Unlike any other carrier in its serving territory, CenturyTel and Embarq stand ready to provide high quality service to all requesting customers.

The replacement of these access revenues by a stable predictable support mechanism will stem the negative effects of this erosion and not further contribute to the factors leading to a possible decline in service levels and to insure adequate availability of network investment.

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

ANSWER: There have been many discussions about amendments and possible changes to the bill as it was originally filed with various parties. Having worked on this issue at the legislature now for several years, we recognize that a set of principles – reached through industry compromise - would need to be agreed.

While precise legislation language is not available at this time, we believe the attached proposed principles which have been developed by representatives from ILECs of various sizes would be an appropriate starting point for legislation.

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

ANSWER: We believe that the General Assembly has already recognized that there is a need to create a new source of support for the rural areas of Tennessee to replace unstable access revenues. –To ensure that our companies can continue to achieve current service levels and investments in infrastructure it is vital to the survival of small companies – and that's 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.**

ANSWER: The market will establish prices and services - ILECs have done a good job offering comparable services and affordable prices, but sustaining those prices and services has become increasingly hard. Establishment of an explicit support fund for the ILECs serving rural Tennessee will go a long way to ensuring that rates and services remain comparable.

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

ANSWER: We do not believe that an earnings review is relevant to determining the need for a TRAF fund as the fund is being established on a revenue neutral basis. As an indication of the legislature's intent during last year's debate on Market Regulation, the legislature removed the requirement for an earnings review of small companies before such companies could move to Price Regulation.

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

ANSWER: The funds should be targeted to ensure the widest availability of a high quality network throughout rural areas. Broadband service requires a ubiquitous high quality network. However, broadband is not regulated in Tennessee and the companies investing in broadband today have made their investment in reliance on that model.

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

ANSWER: Not at this time. By focusing on intrastate access charges the largest current source of implicit funding will be replaced.

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

ANSWER: The only carriers that should be eligible for the money are the carriers who reduce access rates to parity and who serve customers in the manner the Market

Reg bill recognizes as "COLR". The "ETC" designation process at the TRA need not be altered, but it also should not be relevant to this bill. This bill should be designed to address those small companies and cooperatives that have depended upon access revenue to establish the mandated ubiquitous network of a carrier of last resort – and this may not include all providers who are entitled to ETC designation.

- 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?**

ANSWER: A benchmark is not necessary for determining eligibility under the fund as described in the attached principles.

- 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.**

ANSWER: The purpose of the fund is to provide support for rural areas where absent that support investment would cease and rates would have to rise above market and likely, affordable levels. The flexible pricing available under Market Regulation will not solve this problem and thus there is no connection between Market Regulation and the need for support.

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

ANSWER: The withdrawals should be simple to implement by determining the impact on existing intrastate access revenues of mirroring interstate access rates utilizing the minute levels from 2008. Once calculated, the amount would be fixed throughout the life of the fund.

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

ANSWER: The funding must be competitively neutral and must include not only ILEC but also CLECs, wireless companies and VoIP providers. All utilize and gain value from the availability of a ubiquitous network in the State of Tennessee. The current funding process for the Federal Universal Service Fund may provide a good model.

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

ANSWER: All carriers as described in the answer to 12 above should contribute to the fund in an equitable, non-discriminatory manner. A percentage of intrastate retail revenues consistent with the methods utilized by the Federal Communications Commission would be reasonable.

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?

ANSWER: The attached principles generally avoid prescriptive regulatory-based pricing or impose new requirements on the manner in which services are priced.

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 choose 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.