



Guy M. Hicks  
General Counsel

AT&T Tennessee  
333 Commerce Street  
Suite 2101  
Nashville, TN 37201-3300

T: 615.214.6301  
F: 615.214.7406  
guy.hicks@att.com

September 25, 2009

VIA HAND DELIVERY

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

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2009 SEP 25 PM 2:58  
T.R.A. DOCKET ROOM

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

Dear Ms. Standley:

Below are AT&T Tennessee's responses to the items in your September 4, 2009 data request to Tennessee telecommunications carriers. The September 4 data request attached an amendment (bar coded 00570531) to SB 2147 / HB 2117. AT&T Tennessee's responses are based upon these materials, however AT&T Tennessee notes that the amendment has not been acted upon to date and may not be the only pending amendment to this bill. As the legislation is debated and considered, this amendment may be further amended and other amendments may be offered. These proposed changes may raise additional issues or alter the focus of the legislation in ways not anticipated by the following responses.

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:** AT&T Tennessee's intrastate access rates and rate structures already mirror the interstate access rates and rate structures.

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:** The bill as introduced was very brief, and its impact was not easy to evaluate. Similarly, the amendment left some issues open to development

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through regulatory proceedings, and this ambiguity raised some concerns for AT&T Tennessee. Among AT&T Tennessee's concerns were questions regarding whether the bill could be applied in a fashion that was not competitively neutral, whether the bill might impose an unreasonably high charge on AT&T Tennessee's customers, whether the bill would impose new regulation on traditionally unregulated services like wireless service and VoIP services; whether VoIP services would be treated in a fashion consistent with FCC rulings about the portion of those services that can be considered intrastate; and whether the fund created by the bill would be perpetual.

At a minimum, it would be necessary for these concerns to be addressed in amendments to the bill.

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

**ANSWER:** The General Assembly is in the best position to determine whether a fund is needed and how it should be fashioned. Among the factors the General Assembly should consider are:

- Whether a fund can be created that is competitively neutral;
- Ensuring that any legislation of this type maintains the current protection from state regulation that exists for wireless, VoIP, and broadband services; and
- Whether the legislation would chill investment in 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 answer to this question depends upon the manner in which the "comparable" nature of services is evaluated. Differences in population, terrain, demand, and use all influence the types of service offered in different markets.

AT&T Tennessee serves both urban and rural communities throughout Tennessee and throughout the world. AT&T's experience demonstrates that there are different challenges in providing service in different areas. In Tennessee, many rural areas are more expensive to serve due to low density and due to issues presented by terrain. With the introduction of competition in Tennessee, AT&T Tennessee (then BellSouth) was forced to find new ways to manage the costs of providing service.

AT&T Tennessee believes that some of the best ways to keep rural areas connected will be through the continued development of new wireless technologies. For this reason, Tennessee must be constantly mindful that its policies are friendly toward investment in these technologies.

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

**ANSWER:** AT&T Tennessee has not operated under rate of return regulation for more than ten years. It appears that the rate of return model of regulation has become less and less relevant to the telecommunications market.

While this question is not applicable to AT&T, Tennessee, AT&T Tennessee tends to view rate of return models as out-dated and often not applicable to competitive markets.

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

**ANSWER:** No. For investor-owned companies, the decision to invest in broadband deployment is multi-faceted. The decision is influenced by many factors, including the regulatory climate in the state. In order for Tennessee to be competitive for capital, broadband must remain free from regulatory burdens.

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

**ANSWER:** Any expansion of the scope of the legislation could create new issues and concerns for companies competing in Tennessee.

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

**ANSWER:** AT&T Tennessee does not anticipate that all "ETCs" would be entitled to draw from a fund such as the fund contemplated by this legislation.

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:** The purpose of benchmarking is to ensure that no subset of consumers is burdened unreasonably with the cost of a fund. Alternatives to benchmarking could include an end date for the fund. If the fund is reviewed in the future, then the TRA can evaluate whether benchmarking or other alterations to the fund are appropriate.

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:** As noted above, it is appropriate for the fund to be reviewed in the future to determine whether the fund is necessary or appropriate. The decision to elect Market Regulation (which applies to retail pricing) has nothing to do with establishing an explicit substitute for the support currently drawn implicitly from wholesale access revenue.

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

**ANSWER:** AT&T Tennessee is aware that the proponents of this legislation believe that an appropriately-sized fund can be accomplished by imposing a charge of less than 50 cents per line (or the equivalent) on all Tennessee telecommunications consumers. AT&T Tennessee concerns regarding the imposition of the charge include:

- Ensuing that providers are entitled to show the charge as a line item on the customer's bill ;
- A cap on "per-line" fees should be developed for large multi-line business customers; and
- The imposition of this charge has no impact on the otherwise applicable regulatory model (whether that is rate-of-return, price regulation, or market regulation) for the provider.

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

**ANSWER:** AT&T is not advocating that the fund should include any particular set of providers. However, to the extent providers such as VoIP and Wireless providers are included, the legislation must include necessary safeguards to preserve the regulatory freedoms applicable to such technologies under current law and to ensure that the bill is consistent with the FCC's findings regarding the portion of VoIP services that is intrastate in nature.

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

**ANSWER:** AT&T Tennessee would oppose any legislation that was not competitively neutral. To be competitively neutral, consumers must pay the same charge regardless of provider (except to the extent that the service is not intrastate in nature). Consequently, the contribution should be based upon the same per end user charge or the same per end user percentage of intrastate revenue – regardless of provider.

**14. If intrastate access rates are reduced in Tennessee, should language be incorporated into the proposed legislation to ensure that companies**

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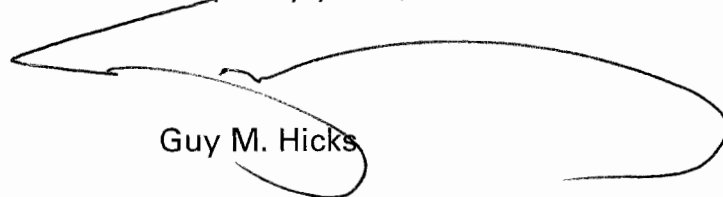
subscribing to intrastate access do not receive windfall profits, but rather return the access savings to their customers?

**ANSWER:** The reduction of intrastate access rates to mirror lower interstate rates is appropriate, and it does not provide a windfall to any provider. To suggest otherwise would be the same as saying that one receives a windfall any time it is no longer subject to an unreasonable or unfair pricing structure.

The Tennessee telecommunications market is highly competitive. There is no need to regulate retail prices in markets where competing firms must offer a mix of product, quality and price that meets consumer demand or risk losing business to their competitors. The concept of requiring companies to "return savings" to a retail customer is merely another way of saying "regulating retail prices." The General Assembly has rejected, time and again, the idea that the way to give value to customers is by regulating the prices of some providers. Instead, the best way to ensure that customers receive value is to permit companies to compete unfettered by regulatory pricing structures that can never keep up with the developments of the marketplace.

AT&T Tennessee welcomes the opportunity to discuss these matters further as the legislation is developed and debated at the General Assembly.

Very truly yours,

A handwritten signature in black ink, appearing to read "Guy M. Hicks". The signature is stylized with a large, sweeping loop that extends to the right and then curves back under the name.

Guy M. Hicks