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Darlene Standley
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

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

Enclosed are the signed original and thirteen copies of Aeneas' response to the data requested in the letter dated September 4th, 2009.

Aeneas' position is that this legislation (House Bill 2117/ Senate Bill 2147) is unnecessary and potentially harmful to the Tennessee telecommunications industry in that it unfairly favors particular types of carriers over others. However, we have done our best to suggest modifications to the legislation that address the areas we predict will be most problematic. We respectfully request a review of the suggestions outlined below.

Should you have any questions please feel free to contact me at (731) 554-9200.

Sincerely,

George E. Tosh
Chief Project Officer

Darlene Standley
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

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

Dear Ms. Standley,

Aeneas' opposes this legislation (House Bill 2117/ Senate Bill 2147) and sees it as unnecessary and potentially harmful to the Tennessee telecommunications industry in that it unfairly favors particular types of carriers over others. We respectfully request a review of the suggestions outlined below. For brevity we have only responded to the questions that we feel require our comments.

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

Aeneas received approximately $1.1 Million in intrastate access revenues in FY 2008. Loss of such revenues without an offsetting mechanism would require us to significantly raise our company's intrastate telecommunications pricing.

Aeneas strongly urges the TRA to amend the proposed legislation in Section 1-D to follow the FCC's example and allow competitive providers that are designated as Eligible Telecommunications Carriers (ETC) by the TRA to also be recipients of these funds on behalf of the residents of Tennessee that we serve. If the proposed legislation is passed unchanged, customers of competitive local exchange carriers ("CLECs") like Aeneas would be required to pay into this fund but would be ineligible to benefit from it based on their choice of telephone provider. Furthermore, providers such as Aeneas would be placed at a competitive disadvantage if we are required to give up a significant portion of our revenue but not allowed to reap any of the benefits being offered to other providers. **This is why we request that any carrier designated as an ETC by the TRA be allowed to participate in the TRAF program on a non-discriminatory basis.**

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

It is our opinion that competitive providers should be given the ability to participate in the fund on a non-discriminatory basis. The legislation in its current form would cause significant harm to competitive providers by excluding them from receiving benefits allotted only to carriers of last resort.

Should this proposed legislation become law without any amendment, ILECs would have a distinct advantage over competitive providers in that they would have an artificially created and subsidized price for telephone service that ETC providers might be unable to match without similar assistance from the TRAF fund.

We propose replacing the language in Section 1(d) with the following:

The TRAF shall provide funding to the local exchange carrier serving as the carrier of last resort provider using its own facilities within its study areas existing on January 1, 2009 or an Eligible Telecommunications Carrier ("ETC") as designated by the Tennessee Regulatory Authority.

In changing Section 1(d) we must also change Section 1(m), due to the fact that ETC carriers and ILEC(s) have differing tariffs for intrastate access rates. We suggest the following language, which will ensure that this portion of the proposed legislation is enacted on a revenue neutral basis for ETC and ILEC carriers alike.

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

The preceding language allows ETCs and ILECs alike to be reimbursed pursuant to the respective change made in potential reductions of switched access revenues. **The safeguard allowed by this change in language is crucial for the health and well-being of the competitive telecommunications industry in Tennessee, which will ultimately benefit the consumer by greater choice and lower prices.**

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

Yes.

Question 6 – Should the TRAF target funds for expanding a company's broadband deployment?

Yes. We applaud the legislature on this effort, broadband is absolutely essential to economic development, workforce development, education and health care. We feel that this is an appropriate use of these funds. However we caution that unless all providers designated as an ETC (Eligible Telecommunications Carrier) by the Tennessee Regulatory Authority (TRA) are allowed to participate, there is a risk of creating market winners and losers (giving some companies an unfair market advantage in deploying broadband).

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

Yes. By allowing ETCs to participate, the TRA would also be empowered to add additional providers to the pool of TRAF recipients as it deems appropriate to deploy broadband and advanced telephony services throughout Tennessee.

We propose replacing the language in Section 1(d) with the following:

The TRAF shall provide funding to the local exchange carrier serving as the carrier of last resort provider using its own facilities within its study areas existing on January 1, 2009 or an Eligible Telecommunications Carrier ("ETC") as designated by the Tennessee Regulatory Authority.

In regards to the question of whether TRAF disbursements should be portable, it is our opinion that the disbursements should be portable to ETCs. We feel that this legislation should be applied equally across all providers, ILECs and ETCs alike. Therefore we recommend the following modification to Section 1(m):

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

The preceding language allows ETCs and ILECs alike to be reimbursed pursuant to the respective change made in their reductions of switched access revenues.

Question 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 service fund if its rates are below the benchmark?

No. It is our position that the 1996 Telecommunications Act fosters lower prices through market competition. It is our position that rather than establishing a subsidized artificial price point, competition should be the preferred method for lowering prices for Tennessee consumer.

Should such a benchmark rate be established, we feel that ETC carriers should be able to receive the difference between the ILEC's Unbundled Network Element ("UNE") loop element rate (if applicable) and the established benchmark rate in order to ensure that competition is able to meet the benchmark rate in a fair and non-discriminatory manner. For ILECs that do not have established UNE rates, another cost based rate should be established along UNE guidelines in order to prevent price squeezes for ETC carriers.

Question 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?

The State of Tennessee does not have sufficient broadband coverage at this time to withdraw broadband support. In addition, sudden loss of intrastate access funds could dramatically increase costs for Tennessee consumers overnight. Should an ILEC elect Market Regulation, we feel that broadband and intrastate access support should continue for the purpose of broadband deployment and for intrastate access support. This would provide continued benefit to the consumers in the state of Tennessee until sufficient broadband coverage is achieved. This could be reviewed again at a later date as broadband coverage levels expand.

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

In our opinion, the calculation methodology for intrastate support outlined in the legislation is adequate. However, it should be applicable to all carriers and not just incumbent carriers. Because there are so many different tariffs, the amount of subsidy would be different between an ILEC and a competitive carrier; so calculation must take into account competitive carriers and their pre-existing tariffs in order to implement this aspect of the legislation on a revenue neutral basis as intended.

For other support mechanisms funded by TRAF, such as broadband and residential benchmark subsidy, the costs of network elements purchased by CLECs should be taken into consideration when funding the difference between a residential offering and network costs. This would ensure that ETC carriers are able to meet the benchmark residential price while utilizing UNE loop elements without creating an artificial price squeeze.

We believe that the amount of withdrawal should be based on a per line calculation to facilitate transparency and ease of understanding.

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

Only companies allowed to withdraw should contribute to the fund in order to ensure that consumers that pay into the fund are able to receive benefits from the fund as well. In the interest of fairness, and to avoid creating market winners and losers, all carriers required to contribute should be allowed to withdraw from the fund, and only carriers allowed to withdraw from the fund should be required to contribute.

Question 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?

We do not have a clear answer for this question. This is an example of the challenge to this legislation's success.