

Bruce Mottern

**Comments On Behalf of the Tennessee
Telecommunications Association**

**Tennessee Advisory Commission on Intergovernmental
Relations**

May 26, 2016

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Mr. Chairman and Committee members' good morning. My name is Bruce Mottern and I am the State Government Affairs Manager for TDS Telecom. Additionally I am the past President and a current Board member of the Tennessee Telecommunications Association ("TTA").

This morning, my comments are being made on behalf of the TTA membership and are organized in the following manner:

1. Background information concerning the TTA members.
2. Regulations and taxes.
3. Connect America Fund Order for rate of return carriers.
4. What Tennessee can do to help with broadband deployment.

First, I would like to provide you with some insight concerning the TTA members.

The TTA:

1. Consists of 22 small to medium sized companies and cooperatives scattered across Tennessee.
2. Serves predominantly rural areas of Tennessee covering over 30% of the State.
3. Employ 1,700 Tennesseans.
4. Provides service to 320,000 customers including 28,000 businesses.
5. Has a total investment in Tennessee of \$2.1B.
6. Has deployed over 12,500 miles of fiber.
7. Offers broadband speeds up to 1 Gig.
8. Has an average customer density of 12 subscribers per square mile.
9. Broadband availability covers 98.3% of our service area.
10. Has an average broadband subscription rate of 60%.

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Regulations and taxes:

Regulations:

As incumbent local exchange providers, eligible telecommunications providers and facility based broadband providers, the TTA members have significant federal reporting obligations – and to a more limited degree Tennessee Regulatory Authority (“TRA”) reporting requirements.

From a TRA perspective, TTA commercial company members operate under market regulation where retail pricing is determined by economic forces in each company’s market area. The TRA does retain enforcement authority over responsibilities delegated to it by the 1996 Telecom Act. Broadband services are not subject to TRA regulation. The Cooperatives were never retail regulated by the TRA other than the Telecom Act responsibilities. However the Cooperatives adopted the TRA’s service standard rules, the process for responding to customer complaints and various regulatory decisions rendered by the Authority.

Additionally the TTA members who have a state issued certificate of franchise authority are required to file, and update annually, a Small and Minority Owned Business Plan. In addition they are required, for assessment purposes, to provide the TRA with the number of video customers served. Included with the statewide authority, members are assessed franchise fees up to 5% of the video service related revenue in which they pay the local community served.

From a Federal Communications Commission perspective, TTA members are required to file various reports with the FCC. For example, twice per year the companies and cooperatives are required to submit a report (Form 477), to the Federal Communications Commission concerning broadband deployment, speed and adoption data. The FCC uses this report to prepare a map depicting broadband deployment information.

In another required report (Form 481), the TTA members provide confidential information concerning service quality improvements – which describes capital investments made during the reporting period,

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outages, customer complaints, number of customers subscribing to the lifeline program, pricing, financial information, and the company's capability to handle emergency situations.

Per the FCC, some of these reports are filed with the TRA.

Also there are regulations that come into play when members undertake capital construction projects or make major network upgrades which include new fiber deployments. In undertaking these capital projects, TTA members have obtained Rural Utility Service ("RUS") and American Recovery Reinvestment Act of 2009 ("ARRA" or commonly referred to as the "Stimulus") funds. Funds received have been in the form of loans and grants. Each is accompanied by financial, technical and build out requirements with various reporting requirements. Additionally many TTA members borrow funds from private banks including local Tennessee banks. It is our understanding that municipals and other government owned providers have access to taxpayer backed bonds at better terms and lower rates that disadvantage Tennessee rural providers.

Another aspect of undertaking construction projects is the obtaining of various permits. While experiences seem to vary by member the common theme is that obtaining railroad and highway crossing, and wildlife permits can be time consuming. If TTA members plan to deploy fiber on federal land the result can lead to significant delays or even having the construction project stopped completely.

Taxes:

Tax treatment between TTA commercial companies and cooperatives is different. From a commercial company perspective taxes assessed include sales, franchise, excise, property, payroll and income taxes. Cooperatives pay the aforementioned except they are exempt from federal income tax as long as they pass the 85% annual test for membership income.

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Concerning property tax assessments, TTA members are assessed at a higher percentage than other competitors for network infrastructure. TTA members are assessed at 55% with competitors being assessed and taxed at much lower rates.

Connect America Fund Order for Rate of Return carriers:

On March 30, 2016, the FCC released an Order reforming the universal service support program for rate-of-return carriers (such as TDS Telecom's and the TTA members excluding CenturyLink). The TTA and its national trade associations were heavily involved in working with the FCC with the goal of obtaining stable revenue streams for deploying broadband. We are optimistic that these reforms will be beneficial for our members by stabilizing these revenue streams and hopefully will help us bring broadband services to thousands of high-cost, hard to serve homes and businesses across our collective service footprint.

The USF Reform Order, which is detailed and complex, specifically sets forth a package of reforms including (1) instituting a voluntary path to model-based support for Rate of Return carriers and (2) modernizing the USF program to provide support for data-only broadband lines along with other modifications such as reductions in support in areas that have competition.

All ILEC TTA members (excluding CenturyLink) will need to decide whether it will elect support under the model-based option or under the revised USF mechanisms. Each option will require buildouts and reporting obligations.

At this time, it is unknown which option members will select because the FCC needs to finalize the amount of support that a company / cooperative would get if they elected model-based support. It is expected that by July 1st the FCC will offer TTA members the specified amount of funding per year for ten years along with a defined number of locations that will need to deploy broadband service to at specific speeds. When that offer is made, the TTA members will then have 90 days to evaluate it and to compare it to the funding and obligations that they might receive under the revised USF Option.

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No matter which path elected, members will be faced with buildout, speed and additional reporting requirements.

So what can Tennessee do to help with broadband deployment?

1. There is a Tennessee Broadband Deployment Fund – TN code 7-59-315 – that could be seeded to provide funding for initial investments and ongoing maintenance. In addition to the FCC broadband program for lifeline customers, Tennessee can help subsidize the broadband price for low income consumers.
2. Tennessee can address the pole attachment issue. The current exemption from federal and state regulation of pole attachment rates allows providers to charge significantly inflated pole attachment rates that impact the private sector's investment and pricing of its broadband services.
3. Tennessee can aid with the increased consumer education of the benefits provided by broadband services.
4. Tennessee can provide tax incentives, such as sales tax and reduced property tax assessments, for rural area broadband deployments. We believe tax incentives / credits will help spur rural broadband deployment.
5. Encourage public / private partnerships.
6. Leasing of dark fiber.

Closing:

In closing, the TTA members are opposed to any legislation that allows for municipal electric broadband expansion. While the TTA is supportive of the need to promote and expand broadband service in Tennessee, we are opposed to the expansion of broadband and video services, by municipalities, beyond their existing footprint. Our members are committed to building out broadband networks in rural areas. Many of the TTA members have completed or have begun their fiber-to-the-home overbuilds to improve the delivered broadband service.

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I would like to emphasize that the TTA members have made and continue to make significant investments in rural broadband networks and have deployed over 12,500 miles of fiber. Our broadband services are available to 98.3% of our customers. Many of our members now provide data speeds up to 1Gig service. Again, even with our high speed offerings, 95% of our customers subscribe to 25mbps or less. For some customers, a lower data speed is appropriate based on their individual or household needs. The average subscription percentage for broadband service in the TTA members' areas is 60%.

TTA members believe more emphasis should be placed on education which will help with the overall broadband adoption rate. We should be trying to educate Tennesseans how broadband service can enhance their lives, help them in their businesses and provide a modern way to communicate.

For some of our members there seems to be a correlation between income, price and adoption. Where the household income is high (Farragut) the adoption rate is very high. Where the household income is low, the overall adoption lags.

In building out a broadband network, a company must consider customer density and subscription rates. A company can build the network but it's up to the customer to subscribe to the service.

We strongly believe the focus for improving broadband service in Tennessee is to not only find ways to promote investment by the private sector but to increase customer understanding of the benefits of broadband service and awareness of service availability. The result will lead to an increase in broadband adoption rates.

Thank you for your time today and for allowing me to express the TTA member views on this subject.