



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations

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MINUTES OF THE TENNESSEE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

26 January 2017

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in Legislative Plaza Room 16 at 1:13 p.m., Chairman Mark NORRIS presiding.

Present 16	Absent 8
Metropolitan Trustee Charles Cardwell	Mayor Tom Bickers
Representative Mike Carter	Mayor Ernest Burgess
City Commissioner Betsy Crossley	Ms. Christi Gibbs
Assistant Commissioner Paula Davis	Representative Harold Love Jr
Mayor Brent Greer	Representative Antonio Parkinson
County Executive Jeff Huffman	Mayor Tom Rowland
Mayor Kenny McBride	Senator Jim Tracy
Regional Director Iliff McMahan	Mr. Kenneth Young
Senator Mark Norris	
Representative Charles Sargent	
Vice Mayor Kay Senter	
Mayor Larry Waters	
Senator Bo Watson	
Comptroller Justin Wilson ¹	
Representative Tim Wirgau	
Senator Jeff Yarbro	

¹ Russell Moore represented Justin Wilson

1. Call to Order and Approval of the Minutes

Chairman Mark NORRIS called the meeting to order at 1:13 p.m., dispensed with the calling of the roll, and requested approval of the minutes of December 5-6, 2016. Mr. CARDWELL moved approval and Representative SARGENT seconded the motion, which passed unanimously.

2. Commission and Staff Updates

Executive Director Cliff LIPPARD recognized Teresa GIBSON for her 25 years of state service. He also welcomed Lynnisse Roehrich-PATRICK back to the staff as a part-time senior public policy consultant and welcomed new Commission appointee Senator Bo WATSON. The Commission also recognized the service of Senator Randy McNally, who left the Commission upon his election to Lieutenant Governor.

3. Broadband Internet Deployment, Availability and Adoption in Tennessee—Final Report for Approval

Senior Research Associate Dr. Matthew OWEN presented the final report on broadband internet deployment, availability, and adoption in Tennessee for approval. He reviewed revisions made since the draft was presented at the Commission's December 2016 meeting, including new tables showing how four federal Connect America Fund programs could reduce the remaining number of unserved housing units in Tennessee and leave a smaller gap for any state grant program to fill. In response to Representative WIRGAU's question about whether users would be more likely to adopt wireless rather than wired connections in the future, Dr. OWEN said that it is difficult to predict changes in consumer preferences for broadband because technology for providing service is evolving rapidly and that any state program for expanding coverage could use a technology-neutral approach to awarding grants. Chairman NORRIS asked whether grant programs in other states are limited to unserved and underserved areas; Dr. OWEN responded that they are and that states like Colorado further limit their programs to areas that aren't eligible for funding through federal programs like the Connect America Fund.

Dr. OWEN said that simply expanding coverage to new locations would not guarantee that those who live or work there will adopt newly available broadband service and that cost per new subscriber is a better measure of how much it will cost to increase the number of Tennesseans who use broadband. He reviewed a new table added to the report that compares estimates of the cost per new subscriber for programs that simply expand coverage to estimates of the cost per new subscriber for adoption programs like

Chattanooga's Tech Goes Home program. He said that based on this additional research, staff added the recommendation that Tennessee could use the broadband deployment fund to provide funding for programs and resources that encourage broadband adoption.

Dr. OWEN also described clarifications made to the recommendation that electric cooperatives be authorized to provide retail broadband service. In response to Representative WIRGAU's question about whether authorizing electric cooperatives to provide broadband would lead them to expand coverage in unserved areas, Dr. OWEN said that electric cooperatives that have built out networks in other states are providing broadband in previously unserved portions of their electric service areas in addition to areas that were already served.

Representative WIRGAU moved approval of the report, Mayor GREER seconded the motion, and it was approved unanimously.

Following the approval of the report, the Commission heard a presentation on the Haslam Administration's proposed Tennessee Broadband Accessibility Act from Stephen SMITH, senior advisor to Governor Haslam. Mr. SMITH said that the administration used the Commission's research to develop its proposal, which reflects many of the recommendations in the Commission's report. The proposal focuses on improving broadband access and adoption through investment, deregulation, and education.

Mr. SMITH said that the proposal includes a request for \$30 million over three years to fund a state grant program for expanding coverage in unserved areas. In response to Representative WIRGAU's question about how unserved areas will be defined for purposes of the grant program, Mr. SMITH said that the proposal uses the Federal Communication Commission's current standard, which defines unserved areas as those without access to capacities of at least 25 megabits per second download and 3 megabits per second upload, though he said that priority will be given to areas without access to at least 10 megabits per second download and 1 megabit per second upload.

Representative WIRGAU also asked whether the proposal includes rate caps for grant recipients to ensure that coverage expansions subsidized by the state will result in affordable service. Mr. SMITH responded that rate caps are not included in the proposal but that they could ultimately be included among the rules adopted by the agency tasked with administering the program. In response to Chairman NORRIS' question about whether the proposal includes requirements for a follow-up study to determine the effectiveness of the grant program, Mr. SMITH said that the proposal requires that a report be submitted to the General Assembly every year in which grants are distributed.

Mr. SMITH said that the proposal would authorize electric cooperatives to provide retail broadband service if they make it available to all of the communities in their electric service areas. In response to Representative CARTER's question about how the proposed authorization for electric cooperatives differs from their authorization under Tennessee Code Annotated, Section 7-59-316, Mr. SMITH said that whereas the existing authorization only allows electric cooperatives to provide service as part of joint ventures with other providers, the proposed authorization would allow them to provide broadband individually. Further, the joint ventures authorized under current law are only authorized to provide service in unserved areas that have been developed for residential use for five years, are outside of an existing cable franchise area, and which no other provider intends to serve. Mr. SMITH said that, according to the Tennessee Regulatory Authority, no one has set up a joint venture under this law. In response to Representative WIRGAU's question about how long electric cooperatives will have to expand coverage to the entirety of their electric service areas, Mr. SMITH said that the proposal does not include a specific timeline but that electric cooperatives already provide other services using this area coverage principle.

In response to Senator YARBRO's question about whether the administration's proposal also includes any programs or initiatives to encourage broadband adoption, Mr. SMITH said that it includes funding for digital literacy training to help local libraries meet the Tennessee State Library and Archives technology services guidelines. Digital literacy training can encourage broadband adoption by increasing users' comfort level with technology and by showing them how they can benefit from broadband use. He said that the state can also help coordinate existing initiatives through its rural task force. Senator WATSON asked whether the administration's proposal includes any funding to subsidize the cost of service for consumers; Mr. SMITH responded that it does not but that the state could help raise awareness of existing federal subsidies for consumers as well as provider-led programs. Chairman NORRIS said that presentations on existing programs for encouraging broadband adoption that the Commission heard at its August 2016 meeting had been very informative.

4. Tennessee's Court Fees and Taxes: Funding the Courts Fairly – Final Report for Approval

Senior Research Associate Jennifer BARRIE presented for approval the final report on Tennessee's court fees and taxes. The report responds to a request from Senator Jon LUNDBERG, who at the time was the chair of the House Civil Justice Committee, to study court fees. Ms. BARRIE explained additions to the report made since the

December meeting, including information about civil court debt and driver's license revocations and more specifically worded alternatives.

Mr. Iliff McMAHAN moved approval of the report, Mr. Charlie CARDWELL seconded the motion, and the members approved it unanimously.

5. Tennessee Valley Authority Payments In Lieu Of Taxes—Annual Report for Approval

Dr. Reuben KYLE presented the annual update on Tennessee Valley Authority (TVA) payments in lieu of taxes (PILOT) for approval. He said that the amount Tennessee is estimated to receive from TVA decreased because of reduced power sales even though Tennessee's estimated share of the Authority's PILOT increased.

Mayor Brent GREER said that he recently attended a meeting of the Association of Tennessee Valley Governments (ATVG) at which presenters confirmed that power demand is expected to be flat again next year. Mayor GREER requested that Stephen SCHOOLFIELD, Program Manager-Taxes at Tennessee Valley Authority, be invited to speak at the next presentation of the TVA annual report.

County Executive Jeff HUFFMAN asked whether there was an expectation that any of the new gas-fired units that will replace the coal-fired units would be privatized. Dr. KYLE responded that there was no way to make an accurate prediction about privatization in the future. Dr. KYLE said that TVA might use the lease-lease-back model before they would sell a facility to a private owner.

County Executive HUFFMAN asked whether existing private gas-fired units have a negative effect on TVA power sales. Dr. KYLE said there could be a public-private partnership in the future, but it would not have a negative effect on the PILOT and could be beneficial to a local government if it were to receive property taxes.

County Executive HUFFMAN asked whether it is time for local governments to be worried if they have debt service that is dependent on PILOT funds. Dr. KYLE responded that revenue growth is not expected in the foreseeable future.

In response to Chairman NORRIS's question about whether fees related to pole attachment are included in the PILOT, Dr. KYLE responded that the PILOT payments are based on five percent of prior-year gross proceeds from power sales. [Note: PILOT payments do not include fees related to pole attachments. 16 USC 831(l) defines gross proceeds as "total gross proceeds derived by the Corporation from the sale of power for the preceding fiscal year, excluding power used by the Corporation or sold or delivered

to any other department or agency of the Government of the United States for any purpose other than the resale thereof.”]

In response to Representative Tim WIRGAU’s question about whether there were plans to convert the Johnsonville plant to a gas-fired facility, Dr. KYLE responded that he was not aware of any. Mayor GREER stated that TVA might consider placing a gas-fired facility at Johnsonville.

Vice Mayor Kay SENTER moved approval of the report, County Executive HUFFMAN seconded the motion, and the members approved it unanimously.

Chairman NORRIS adjourned for the day at 2:53 p.m.



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**MINUTES OF THE
 TENNESSEE ADVISORY COMMISSION
 ON INTERGOVERNMENTAL RELATIONS**

27 January 2017

Meeting Called to Order

The Tennessee Advisory Commission on Intergovernmental Relations met in Legislative Plaza Room 16 at 8:36 a.m., Vice Chairman Tom ROWLAND, presiding.

Present 15	Absent 9
Metropolitan Trustee Charles Cardwell	Mayor Tom Bickers
Representative Mike Carter	Mayor Ernest Burgess
City Commissioner Betsy Crossley	Ms. Christi Gibbs
Assistant Commissioner Paula Davis	Representative Harold Love Jr
Mayor Brent Greer	Senator Mark Norris
County Executive Jeff Huffman	Representative Antonio Parkinson
Mayor Kenny McBride	Representative Charles Sargent
Regional Director Iliff McMahan	Senator Jim Tracy
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Representative Tim Wirgau	
Senator Jeff Yarbro	

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6. Emergency Communications Services Funding (Public Chapter 795, Acts of 2014) – Update and Panel Discussion.

Senior Research Associate Jennifer BARRIE explained to the Commission that staff sent a survey to the 100 emergency communications district directors in the state and 54 have responded as of the meeting. She said a draft report will be presented at the May 2017 meeting and the final report will be presented at the summer meeting. She then introduced the panel of stakeholders:

- Tom Jankowski, Director of Public Policy, AT&T
- Levoy Knowles, Executive Director, Tennessee Telecommunications Association
- Mandy Haynes Young, Attorney, Butler Snow LLP, representing Verizon

Ms. Mandy Haynes YOUNG said she worked on the 911 legislation in 1998, and there are many more cell phones now than anyone predicted at that time. Although the legislation that passed is fair and does not negatively affect their customer base, merely taxing phones to pay for 911 may be past its time. Verizon believes that the 911 fee is a tax and should be increased or decreased only by the state legislative body. Many providers worry that as 911 fees have increased over the years, they may now disproportionately affect wireless customers because so many more cell phones exist than anticipated when the original legislation passed. In addition, as Next Generation 911 (NG911) is implemented in Tennessee and the state 911 board begins paying trunking costs for each public safety answering point (PSAP), it will save PSAPs money and free up dollars to be used at the local PSAP level. She said Verizon believes the use of 911 fees should be limited to the cost of relaying the emergency call to the primary 911 call center. Any cost incurred after the 911 call reaches the PSAP should be the responsibility of the PSAP and local government. The discussion about how calls are relayed, what the costs are, and who should pay was occurring when the 911 bill was passed and has a lot to do with dispatching.

Mr. Levoy KNOWLES said that the Tennessee Telecommunications Association's (TTA) membership includes 21 small rural telephone companies and cooperatives scattered throughout Tennessee. He responded to research questions 5 through 9, which pertain specifically to TTA members. Question 5 asks whether a flat rate communications service surcharge is the best manner in which to fund 911 system costs or whether such costs should be funded in other ways. He said the TTA encourages the Commission and the state to find other means of funding 911 services. Telephone bills have been used as a revenue collection source since the late 1980s and are already complicated with various taxes and charges—the 911 charge is just one more charge to explain to the consumer. The TTA encourages researching the possibility of using water or electric

bills as the collecting point. If the Commission and the state legislature decide to continue collecting the charge from local telecom bills, then the TTA feels the flat rate collection process is by far the best method because it is consistent, fair, and easier to administer, collect, and explain.

Question 6 asks whether the board membership of the state emergency communications board should include other stakeholders. Mr. KNOWLES said they feel that each segment of stakeholders who are expected to participate in the implementation, delivery of service, and collection of fees should be represented on the state board. Many of the local communications boards include telecom representatives. It is a great method of keeping the communications between agency and provider. The same is true for state board representation. Other states have telecom representatives on their boards.

Question 7 asks whether there is a need or benefit for the board to have the ability to raise the 911 surcharge rate should there be a financial reason to do so. The TTA feels the fee is a tax. Only the state legislature should be able to set rates and this would result in much more oversight and accountability in reviewing expenses that are being incurred.

Question 8 asks whether there is a need or benefit for the providers of communications services to register with the board prior to providing service. He said that because TTA members have been collecting the 911 surcharge for many years, he does not see a need for them to register. However, it would be reasonable to require new providers to register with the state board prior to providing service. Many of the new telecom companies are IP (internet protocol)-hosted providers, and it is difficult to determine whether they are collecting the correct amount or providing the appropriate service. Registration would also help ensure that the important testing phase between the provider and the communications district occurs.

Question 9 asks whether there is a need or benefit for providers of communications services to notify the board when there is a known service interruption. He said that all regulated telecom companies are already under an FCC reporting requirement for outages and have to notify the FCC when they hit a certain threshold. Perhaps the threshold could be adjusted, but the local district and possibly the state board should know when extended outages are occurring. Setting up a reporting process seems appropriate and would require all providers to play by the same rules. TTA members would be willing to assist in setting up rules for reporting outages. Mr. KNOWLES concluded by saying that the TTA feels that any additional costs needed to provide NG911 service should be paid by the state board or the communications districts rather than the providers.

Mr. Tom JANKOWSKI said that Tennessee is a model for 911 funding. The private-public sector partnership is also a good model. Historically, the 911 fee was intended to provide 911 call service, not public safety service. AT&T's position is that future 911 funding should migrate towards a general revenue type of imposition, which is an efficient, equitable, and reliable source for local government, as opposed to relying on technologies and subscribers that change over time. Broad-based funding would be reliable like the state sales tax is for other consumer products.

He said AT&T also believes that NG911 efficiencies will help reduce the cost to local governments for 911 delivery and help keep the fee where it is today. The statutory number already set should be adequate. They support the state administration of the fee. Local governments really gain by having the Tennessee Department of Revenue administer the fee because the department has the expertise to audit, administer, collect, and register. The department has already registered retailers and this is the most efficient and effective way to do that.

Representative WIRGAU asked whether we will see growth in the number of cell phones and asked whether this will result in a net revenue increase. He would like the Commission to look at how many cell phones were being used in Tennessee two years ago compared to now. There could be a temptation to spend excess revenue on needs outside of 911. He asked whether we could project the number of cell phones in the future. Ms. YOUNG responded that when they first passed the legislation 15 years ago they could not anticipate the growth of cell phones. Now growth has flattened, and she said that the growth in cell phones in the future probably won't be as much as it has been over the last 15 years. She can get those numbers. They considered cell phone growth when calculating the 911 fee amount. It is hard to keep up with the numbers of landlines and cell phones, but landline cancellations may balance out the increase in cell phones. She said the 911 state board has authority to, and does, distribute excess monies to the local districts.

Representative WIRGAU asked whether the excess money that was given as grants was part of the \$5 million for broadband that is included in the Governor's program. Ms. YOUNG said the 911 grant money is for PSAPs to use only for 911 purposes.

7. Southeast Tennessee Regional Water Supply Study—Information Update

Executive Director Cliff LIPPARD updated the Commission on the Southeast Tennessee Regional Water Supply Study and water supply issues across Tennessee. He said the material for the update was prepared by Lynnis ROEHRICH-PATRICK, who was unable to attend this meeting but was invited to attend the May Commission meeting to provide updates. The Commission approved, without objection, inviting to the May

Commission meeting a panel of representatives of the Tennessee Department of Environment and Conservation, the US Army Corp of Engineers, and the Tennessee Attorney General's Office.

8. Development Districts Overview of Infrastructure Inventory Survey Process – Information Update

Senior Research Associate Dave KEISER said that at the December 2016 Commission meeting, Mayor GREER asked TACIR staff to invite representatives from Tennessee's development districts to attend the January meeting and share how they use the public infrastructure needs inventory (PINI) and the PINI report, and ways to improve the survey and report. To that end, Mr. KEISER introduced the two panelists representing the development districts:

- Susan Reid, Executive Director, First Tennessee Development District
- Michael Skipper, Executive Director, Greater Nashville Regional Council (GNRC)

Ms. REID said development districts believe the information in the inventory is very accurate. She said the PINI report is used across the state to assist agencies with identifying needs, provides the foundation for grant applications by showing that local governments have well thought out plans, and serves as the Capital Improvement Planning (CIP) document for small, local communities without large planning resources and as the building block for CIPs for larger communities with more robust planning resources. She said the report also serves as a planning document for state government, provides information to congressmen who are trying to link projects to funding sources (for example communities needing potable water), and assists with strategic planning and investments. The report puts Tennessee ahead of other states in anticipation of President Trump's proposed infrastructure initiatives. Ms. REID read a letter strongly in support of PINI from Washington County Mayor Dan ELDRIDGE about how Washington County uses PINI, and how it has been invaluable in the county acquiring its very favorable bond rating. Mayor ELDRIDGE believes the PINI report is a valuable and current resource for all of Tennessee's communities.

Mr. SKIPPER offered GNRC's strong support for PINI. He said it is the basic building block for what they help their local communities do. He echoed much of what Ms. REID said, emphasizing PINI is important for strategic planning and understanding the distribution of needs in the region and across the state. The PINI process and report also educates the public about the need for public infrastructure. He spoke about how the project could possibly be improved. He said a more continuous data collection effort allowing for timelier reporting would be one possibility. He suggested increasing

resources for analysis at the local level, improving the definition of an infrastructure “need,” and improving the data and reporting so it can be integrated into other agency efforts and programs.

Mayor GREER thanked the development districts for their work and emphasized that it is the responsibility of local officials to report accurately. He also thought it might be a good idea to separate conceptual projects from those already identified in CIPs.

Mayor MCBRIDE asked that TACIR take a look at infrastructure needs in relation to Governor Haslam’s fuel tax bill. Mr. SKIPPER added that PINI looks beyond what the Tennessee Department of Transportation (TDOT) reports—mainly because locals report the need for transportation improvements before they reach TDOT.

Dr. LIPPARD asked Mr. SKIPPER to elaborate on what he meant by coming up with a better definition for a need. Mr. SKIPPER thought needs should be broken into three categories; conceptual needs that are hard to estimate, program needs, and needs that are under development. It is much more difficult to report estimated costs for conceptual projects.

Vice Chairman ROWLAND adjourned the meeting at 9:35 a.m.