



# TENNESSEE REGULATORY AUTHORITY



2010-2011  
ANNUAL REPORT



## TENNESSEE REGULATORY AUTHORITY

460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

**Kenneth C. Hill**, Chairman  
**Sara Kyle**, Director  
**Mary W. Freeman**, Director

February 1, 2012

The Honorable Bill Haslam  
Governor, State of Tennessee

The Honorable Ron Ramsey  
Lieutenant Governor

The Honorable Beth Harwell  
Speaker of the House of Representatives

Members of the General Assembly

It is with great pleasure that we present to you the Annual Report of the Tennessee Regulatory Authority for Fiscal Year 2010-2011. This report has been prepared in accordance with Tennessee Code Annotated § 65-1-111. The Authority works to ensure that fair market competition is fostered and that all stakeholders are participating on an equal playing field in the private utility sector.

Respectfully submitted,

Kenneth C. Hill, Chairman

Sara Kyle, Director

Mary W. Freeman, Director



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## Message from the Chairman

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It is with great pleasure that I present to you the 2010-2011 Annual Report of the Tennessee Regulatory Authority. The TRA was established in 1996 and charged with the responsibility of promoting the public interest by balancing the interests of utility consumers and providers while facilitating the transition to a more competitive environment.

The Authority has jurisdiction over Tennessee's investor-owned utility companies including electric, telephone, water and wastewater, natural and methane gas. We also serve as the agency that performs safety inspections of natural gas pipelines that travel across the state, as well as mediates consumer complaints against utility service providers.

Through our numerous consumer outreach efforts, the TRA continues to provide Tennessee citizens with information that can enhance their daily lives and provide protection and relief from unwanted telephone solicitations and fraudulent activities. Among the Authority's more popular programs are the Tennessee Do Not Call Program and the Telecommunications Devices Access Program ("TDAP"). To date there are over 4.5 million telephone numbers registered in the Do Not Call Program, and through the TDAP program over 9,000 devices have been distributed, enabling thousands of Tennessee consumers with disabilities to communicate more effectively over the telephone. Moreover, through our various public and private partnerships the TRA continues promote awareness of the Lifeline and Link Up telephone assistance programs to promote universal access to telephone service.

We remain focused on the work that we have been entrusted to perform, as well as the role we play in protecting Tennessee consumers and maintaining an environment that is vigorously competitive. To the members of the Tennessee General Assembly, we look forward to working with you and in continued service to the citizens of the Volunteer State.

With Warmest Regards,

Dr. Kenneth C. Hill



## Authority Overview

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*The directors are: Chairman Kenneth C. Hill, Sara Kyle and Mary W. Freeman.*

### **Introduction**

The Tennessee Regulatory Authority (the Authority), the governing body to regulate utilities in Tennessee was created in 1996. The Authority's mission is to promote the public interest by balancing the interests of utility consumers and providers while facilitating the transition to a more competitive environment.

The Directors of the TRA are appointed by the Governor, Lt. Governor, and Speaker of the House. At the beginning of each fiscal year, the TRA Directors elect a new Chairperson. Director Kenneth C. Hill, is the Authority's current Chairman. Chairman Hill is the appointee of Lt. Governor Ron Ramsey. Chairman Hill is joined by fellow Directors Sara Kyle, appointee of House Speaker Emeritus Jimmy Naifeh and Mary W. Freeman, the joint appointee of the Governor, Lt. Governor, and House Speaker.



## Directors



### Dr. Kenneth C. Hill

Dr. Kenneth C. Hill was appointed to the Tennessee Regulatory Authority in 2009 by Lieutenant Governor Ron Ramsey. Dr. Hill is married and lives with his wife, Janet, in Blountville, Tennessee. The couple have three children.

Dr. Hill's educational achievements include a Bachelor of Science degree in Speech (Broadcasting) and History from East Tennessee State University; a Master of Science Degree in Speech (Broadcasting) from Indiana State University; a Bachelor of Arts degree in Biblical Studies from Baptist Christian College; a Master of Religious Education from Manahath School of Theology; and a Doctor of Religious Education from Andersonville Baptist Seminary.

Dr. Hill has been active in communications and broadcasting all of his adult life, having been involved for over three decades in virtually every aspect of television and radio. For the past twenty-seven years, Dr. Hill has been affiliated with the Appalachian Educational Communication Corporation (AECC) Bristol, Tennessee and at the time of his appointment to the TRA was Chief Executive Officer of AECC and served as General Manager of five radio stations reaching portions of East Tennessee and four surrounding states.

Dr. Hill has also provided consulting and contract services for over two decades in the areas of technical writing and editing, public relations, proposal writing and editing, independent R&D documentation, corporate and business communication, media acquisition, media appraisal and media utilization.

Dr. Hill is active in the community, serving as Chairman of the Publications Board of the Evangelical Methodist Church, Member of the Board of Directors of the Tri-Cities Mass Choir, Member of the Board of the Sister Community Project (Sullivan County, Tennessee and Siguatepeque, Honduras), and Member of the Bristol Evening Lions Club. Dr. Hill also served as Secretary of the General Conference of the Evangelical Methodist Church for twelve years and is a former member of the Sullivan County Board of Zoning Appeals.

Since his appointment, Dr. Hill has been involved with the National Association of Regulatory Utility Commissioners (NARUC) and the Southeastern Association of Regulatory Utility Commissioners (SEARUC). He is a member of the NARUC Committee on Water and the Committee on International Relations and has been a presenter at the NARUC Annual Meeting. Dr. Hill has also been a panelist at the National Association of Water Companies (NAWC) Conference and the Emerging Issues Policy Forum.



### Sara Kyle

Sara Kyle was born in 1952 near the Tri-Cities area of Upper East Tennessee just a few days before her uncle, the late Frank G. Clement, was elected to his first of three terms as governor of Tennessee. She attended Lincoln Elementary in

Kingsport, and after moving to Middle Tennessee, graduated from Dickson High School. The daughter of Mr. and Mrs. Bruce Peery, she attended the University of Tennessee in Knoxville before graduating from Austin Peay State University and teaching elementary school in Clarksville. She attended graduate courses at Middle Tennessee State University while teaching. She received her law degree in 1987, the same year she married Senator Jim Kyle (D-Memphis). She practiced law in the same firm with her husband and was an assistant public defender until she was elected to the Memphis City Court bench in 1991. A member of a family with a proud tradition of public service in elective office, she has studied the ways government relates to its citizens and worked to make that government and its agencies and courts sensitive to the needs of its citizens.

Director Kyle resigned from the bench in March 1994 to become a candidate for the Public Service Commission—a race in which she stressed a strong ethics and reform program as a way to restore public confidence in the commission. She was nominated on February 29, 1996 by House Speaker Jimmy Naifeh to become one of three members of the new Tennessee Regulatory Authority. She was reappointed by Speaker Naifeh in 2002 and again in 2008 to serve another six-year term. The Kyles have four children and attend Second Presbyterian Church in Memphis. Long active in organizations promoting better government and public awareness, she is involved in numerous community and civic organizations. Additionally, she is a board member of the National Association of Regulatory Utility Commissioners (NARUC), serving on the Telecommunications Committee, and is past president of the Southeastern Association of Regulatory Utility Commissioners (SEARUC).



## Directors (cont.)

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### **Mary W. Freeman**

Mary Freeman began her term as a Director of the Tennessee Regulatory Authority on July 1, 2008. A joint appointment of former Tennessee Governor Phil Bredesen, Lieutenant Governor Ron Ramsey and Speaker of the House Jimmy Naifeh, Ms. Freeman's appointment distinguished her as the first African-American woman to serve as Director of the TRA.

Director Freeman has over fifteen years of legislative and policy experience in state government. Prior to her appointment to the TRA, she served as legislative director for Governor Phil Bredesen where she assisted the Governor and the Senior Policy Advisor for Legislative Affairs in developing the Administration's legislative agenda. Director Freeman served as executive assistant to State Representative Lois DeBerry, Speaker Pro Tempore of the Tennessee House of Representatives prior to joining the Bredesen Administration.

A Memphis native, Director Freeman was born in 1966 and is the daughter of Grace Freeman and the late Wiley Freeman. She graduated from Central High School and holds a bachelor's degree in Speech Communications from Tennessee State University.

Director Freeman is a member of the National Association of Regulatory Utility Commissioners and serves on the Committee on Energy Resources and the Environment as well as on the Consumer Affairs Committee. She also serves as Secretary of the Board of Directors for the Organization of PJM States, Inc. and is a member of the Eastern Interconnection States' Planning Council. Chairman Freeman also serves as Chair of the TRA's 2-1-1 Advisory Council.

Director Freeman resides in Nashville and attends St. Luke CME Church where she serves in various capacities. In 2008, the Nashville National Association for the Advancement of Colored People recognized Director Freeman as one of the Top 40 Under 45. Very active in her community, Director Freeman serves on the Executive Committee for United Ways of Tennessee; Advisory Board of the Davidson County Community Corrections Program; Board of Directors of the St. Luke Geriatric Center, Inc.; St. Luke Housing Ministry; Creative Artists of Tennessee, and is a member of Alpha Kappa Alpha Sorority, Inc.



## Our Mission

*To promote the public interest by balancing the interests of utility consumers and providers while facilitating the transition to a more competitive environment.*

The Authority’s mission is fulfilled through two major operational components: consumer assistance and regulatory oversight of utility operations and market conditions.

### Consumer Assistance Component

In alignment with its consumer assistance component, the Authority offers an efficient forum for the filing, investigation, and hearing of consumer complaints against regulated utilities. The Authority also engages in consumer outreach activities in an effort to educate consumers on its services and the regulated utilities. The Authority manages consumer-friendly programs developed by the General Assembly, such as the Do Not Call Program, the Do Not Fax Program, the Telecommunications Device Access Program (TDAP), and the Life Line and Link Up telephone assistance program.

### Regulatory Oversight Component

The Authority operates as Tennessee’s regulatory oversight engine for privately-owned utilities serving Tennessee consumers. The Authority provides an accessible and efficient process that is fair and unbiased. Through this process, the Authority evaluates many items, including requests for rate modifications, applications for authority to provide service, requests for approval of financing transactions, requests for approval of mergers, petitions for transfer of authority to

provide service, numbering appeals, requests for numbering allocations, requests for rule modifications, petitions for approval of interconnection agreements and utility-to-utility complaints. The Authority also monitors utility markets to evaluate current trends and determine the need for future action. The Authority is also designated to ensure the safety of natural gas distribution and transmission pipeline facilities in the state.

The Authority has jurisdiction over public utilities including:

- ◆ Electric companies
- ◆ Telephone companies
- ◆ Water and wastewater companies
- ◆ Natural gas companies
- ◆ Methane gas companies

The Authority is financially independent of Tennessee’s general fund. The Authority’s operational expenses are covered wholly by the industries it regulates, with a small portion coming from the federal government.

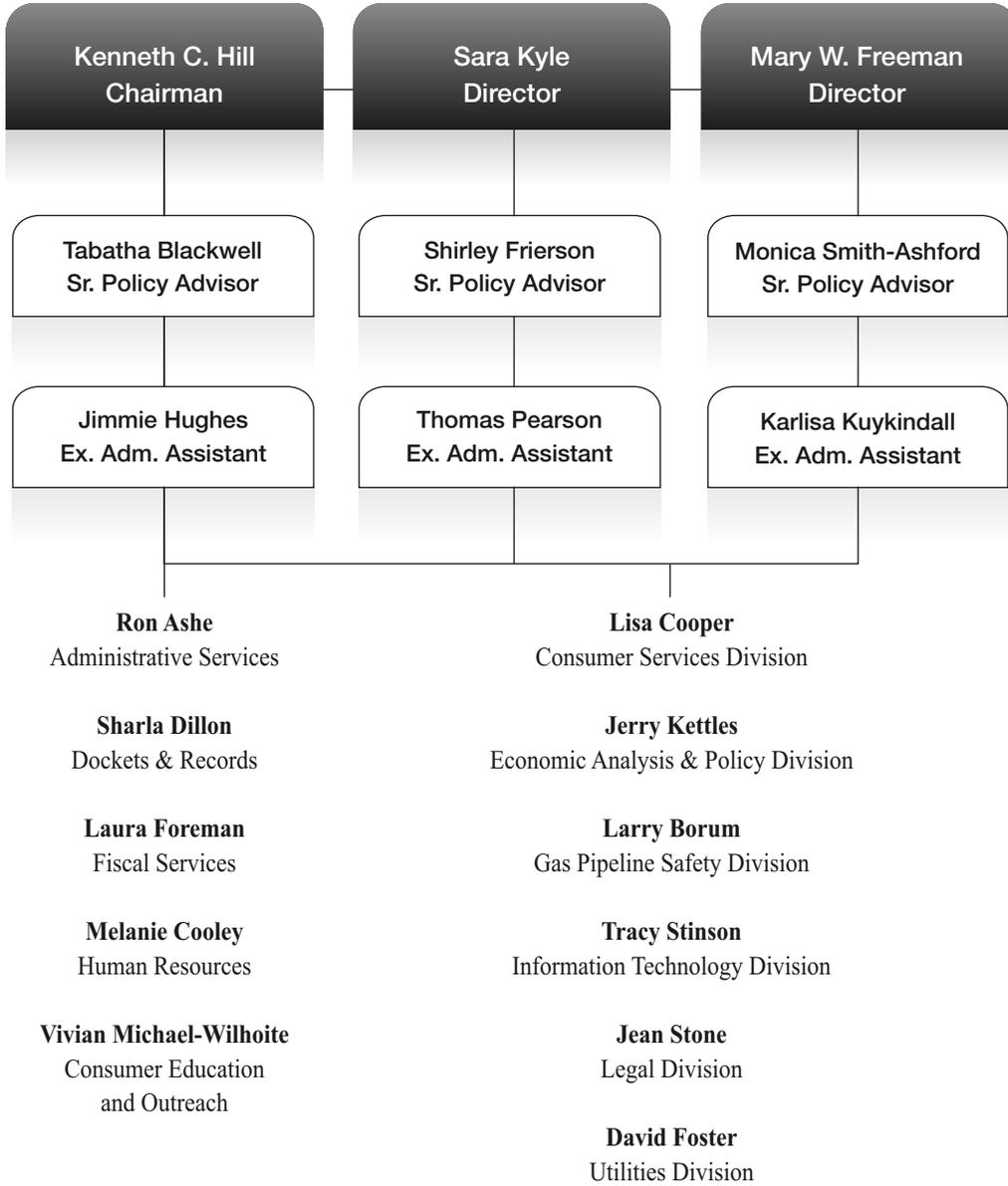
Authority staff includes accountants, administrators, attorneys, consumer specialists, economists, engineers, information technology specialists, a consumer outreach manager, and administrative support.

### As of June 30, 2011, the TRA was budgeted for 71 Positions

TRA Employees	Total Positions	Abolished 10-11	Added 10-11	Total Positions	Filled	Vacancies
Directors	4			4	4	0
Directors’ Staff	8			8	8	0
Administrative Staff	7			7	6	1
Consumer Services	15			15	12	3
Utilities	15	(1)		14	13	1
Gas Pipeline Safety	7			7	6	1
Information Technology	2			2	2	0
Legal	7			7	5	2
Economic Analysis and Policy	3			3	3	0
ARRA Electric Grant	3			3	2	1
Cable & Gas Damage Prevention	1			1	0	1
<b>Total Positions</b>	<b>72</b>	<b>1</b>	<b>0</b>	<b>71</b>	<b>61</b>	<b>10</b>



# Tennessee Regulatory Authority Organization Structure





## Utilities Under the Authority's Jurisdiction

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The following are the approximate number of utilities under the jurisdiction of the Tennessee Regulatory Authority as of June 30, 2011.

### Energy and Water

Electric	3
Natural Gas Companies**	5
Water & Waste Water	18
Methane Gas Provider	1
Intrastate Pipeline	1

### Telecommunications

Competing Telephone Service Providers	133
Customer Owned-Coin Operated Telephone Providers	90
Incumbent Telephone Companies	27
Resellers and Operators Service Providers	207
Long Distance Facility Providers	6

### Gas Pipeline Safety

Direct Sales*	16
Intrastate Pipeline*	18
Liquefied Natural Gas (LNG) Operators*	2
Master Meters*	30
Municipalities*	72
Utility Districts*	25

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<b>Total Public Utilities</b>	<b>654</b>
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\*These entities are regulated by the Authority only to ensure compliance with Minimum Federal Safety Standards for the transmission of natural gas.

\*\*The Authority also has jurisdiction over these companies' gas pipeline safety.



## The Office of the Chairman

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### Mission

*The office of the chairman serves as the TRA's chief administrative officer with the power and duty to conduct the ordinary and necessary business in the name of the Tennessee Regulatory Authority.*

The duties of the chairman's office include, but are not limited to, the following:

- ◆ Serve as the chief operating officer of the Authority responsible for the supervision and hiring of all joint staff members and ensuring that all divisions operate efficiently;
- ◆ Recommend to the Authority such rules and policies as necessary and appropriate to efficiently and economically provide internal management of the Authority;
- ◆ Coordinate the preparation of the annual report to the General Assembly as required by Tennessee Code Annotated Section 65-1-111;
- ◆ Keep the official record of all proceedings and transactions of the Authority;
- ◆ Schedule and prepare the docket for the Authority's hearings;
- ◆ Prepare and distribute the Authority's conference agendas;
- ◆ Coordinate and expedite matters pending before the Authority;
- ◆ Serve as the Authority's designated contact for all media inquiries;
- ◆ Oversee the expenditure of funds and compliance with all applicable provisions of state and federal law in receipt and disbursement of funds;
- ◆ Prepare the annual budget.





## Budget Summary

### Appropriations, Fees and Expenses

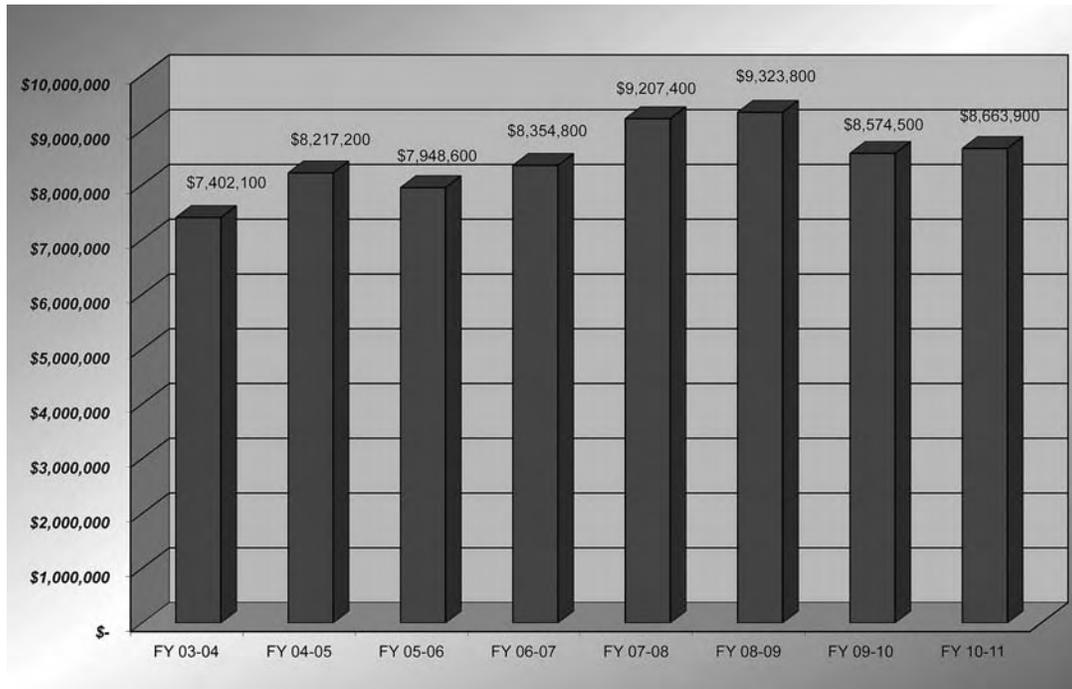
The Tennessee Regulatory Authority (TRA) began fiscal year 2010-2011 (FY 10-11) with a budget of \$8,663,900. Due to cost efficiencies realized during FY10-11, the TRA's actual FY10-11 operational costs were \$7,008,628 - a total savings of \$1,655,272 (19.1%) from the original FY 10-11 budget.

Total revenues collected by the TRA during FY 10-11 were \$8,053,144 the majority of which was derived from utility inspection fees paid by the public utilities regulated by the TRA. Total inspection fee revenue received during FY 10-11 was \$6,352,575. In addition to the inspection fee revenue, the TRA received \$285,754 in federal revenue for the gas pipeline safety programs, \$116,612 in federal ARRA funds, \$297,226 in registration fees from telemarketers for

the "Do Not Call" program, \$130,858 in fines and penalties, \$750,000 in contributions to the Telecommunications Devices Assistance Program, \$111,000 in application and amendment fees from certain cable companies, \$2,579 in current services, and \$6,540 in filing fees. All of the revenues are earmarked for the Public Utilities Account and are to be used to defray the cost of regulation by the TRA. Should revenues in a future fiscal year(s) not be sufficient to cover the costs of the TRA for that fiscal year, the deficit is funded by the Public Utilities Reserve Account.

The TRA also funds the majority of the administrative costs of the Office of State Assessed Properties. For FY 10-11, the TRA's inspection fee revenue was reduced by \$427,433 for its share of the cost of the Office of State Assessed Properties.

### TRA Budget Summary





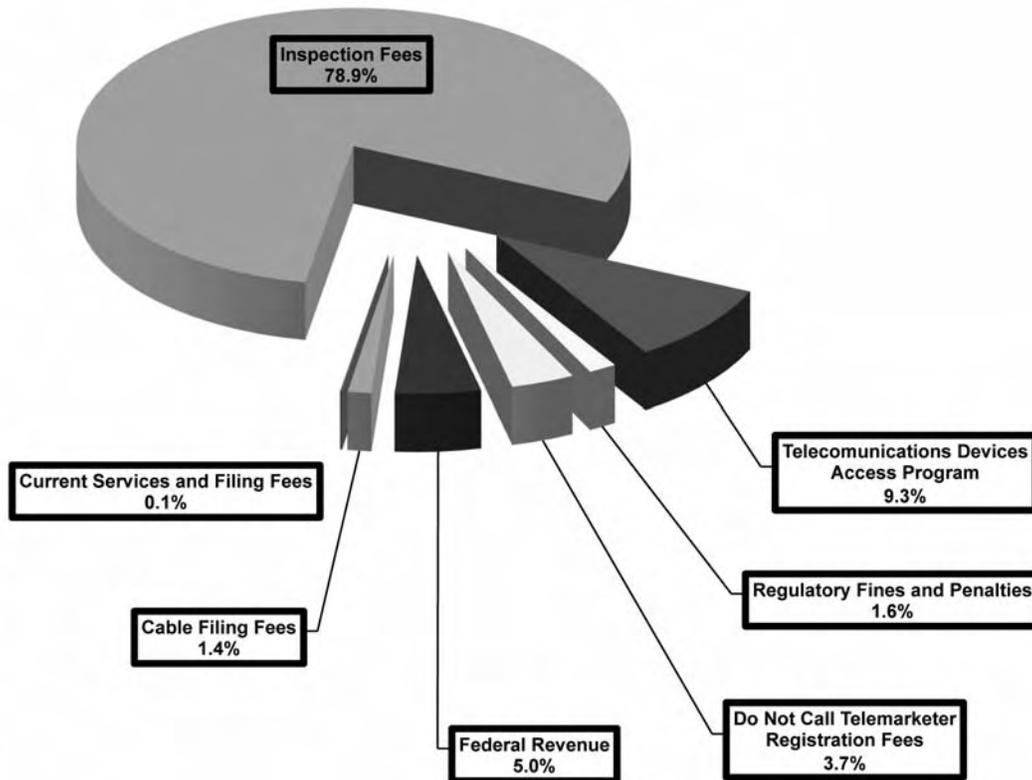
## Budget Summary (cont.)

### FY 10-11 Revenues

Inspection Fees	\$6,352,575	78.9%
Telecommunications Devices Access Program	\$750,000	9.3%
Regulatory Fines and Penalties	\$130,858	1.6%
Do Not Call Telemarketer Registration Fees	\$297,226	3.7%
Federal Revenue	\$402,366	5.0%
Cable Filing Fees	\$111,000	1.4%
Current Services and Filing Fees	\$9,119	0.1%
<b>TOTAL REVENUES FOR FY 10-11</b>	<b>\$8,053,144</b>	<b>100.0%</b>

The FY10-11 Actual Inspection Fee Revenue received by the TRA was \$6,780,008. However, this amount was reduced by \$427,433 by the Comptroller's Office for the amount charged the TRA for its share of the cost of State Assessed Properties.

### TRA FY 10-11 Revenues





## Docket Room and Authority Activity

TRA directors conduct the business of the Authority through regularly scheduled Authority conferences. The official minutes of the conferences are kept in the Docket Room and are available for public inspection during regular business hours. The minutes show every action taken by the Authority and are prepared in a manner permitting immediate reference to the actions of the Authority. The Docket Room also maintains all filings made with the Authority and updates the official calendar of the agency. In addition to paper files, the Authority

maintains an electronic file room on its website which contains all documents filed since January 1, 1999.

The following information is available in the Docket Room:

- Docket numbers
- Name of applicants/petitioners
- Subject matter of applications/petitions
- Dates of final orders
- Summaries of Authority action

### Docket Activity

(overview since 2008 Fiscal Year)

Type of Docket	Fiscal 2009	Fiscal 2010	Fiscal 2011
	(7/1/08 - 6/30/09)	(7/1/09 - 6/30/10)	(7/1/10 - 6/30/11)
	<b>219</b>	<b>251</b>	<b>223</b>
Arbitrations	0	3	0
Inconx/Resale Agreements	70	73	45
PGAs, Audits,CCN Amendments	21	15	15
CSD Staff Investigations	2	2	6
CCNs	17^^	11	11
COCOTS	8^^	13 (8 reopened)	10 (10 reopened)
Name Changes	13	15	14
Resellers	13^^	8 (1 reopened)	11 (10 reopened)
N11 / Pooling	9	12	8
Rulemaking	3	0	0
Telecom Dockets (ETC)	2	6	3
Notice - Market Regulation**	-	30	28
Cable Franchise**	-	4	1
Transfers, Mergers, Financing	26	32	35
Misc. (not otherwise listed above)	35	27	36
	206 New	242 New	203 New
	13 Reopened	9 Reopened	20 Reopened

^^ 7 COCOT dockets, 2 CCN dockets and 4 Reseller dockets were reopened fiscal year 2009 for cancellation or revocation of authority.

\*\*New docket type due to legislation.



## Consumer Services Division

### Mission

*To ensure consumers receive an adequate level of service from regulated companies and to educate consumers regarding changes and new programs in the regulated utility sector. This mission is accomplished through consumer outreach, monitoring services utilities provide using quality of service reports and tests, initiating investigations, and mediating consumer-utility disputes resulting from consumer complaints.*



Lisa Cooper, Chief

### Duties

The Consumer Services Division (“CSD”) is responsible for monitoring the quality of services provided by regulated utilities and enforcing the rules and regulations of the Authority. One aspect of this responsibility is to investigate and mediate consumer complaints filed against regulated utilities pursuant to T.C.A. §§ 65-4-119, 65-4-401 et seq., and 65-4-501 et seq. The CSD also performs other functions such as: providing consumer education/outreach including developing and implementing programs to educate the public on various utility issues; administering the Do Not Call telemarketing initiative through the registration of telemarketing companies and maintaining the Do Not Call Register; administering the Do Not Fax Program which is designed to prevent unsolicited faxes; and qualifying/certifying the Lifeline and Link-up Telephone Assistance Program candidates based on income.

The CSD administers the Telecommunication Devices Access Program (TDAP), which is designed to improve access to the telephone network by distributing equipment to assist individuals with disabilities. Additionally, the CSD monitors the operation of the Tennessee Relay Center for individuals with a hearing loss or speech disability.

The CSD conducts service hearings, community outreach meetings and utility service audits; provides testimony at utility proceedings and provides recommendations in enforcement actions involving utilities not in compliance with state law or the rules and regulations of the Authority.

The CSD staff consists of a chief, deputy chiefs, program administrators, administrative service assistants, and consumer protection specialists.

### 2011 Major Activities

- ◆ Investigated 1310 Consumer complaint filed against regulated utility companies.
- ◆ Assisted in securing \$183,956 in refunds for consumers as a result of investigations.
- ◆ Initiated enforcement action against various utility companies resulting in \$58,530 dollars in fines being assessed.
- ◆ Distributed 1150 TDAP devices costing \$291,890 to 1103 Tennessee residents qualifying for assistive communication devices.
- ◆ Investigated 21 complaints against telephone companies for the unauthorized switching of consumer’s phone service. A total of \$1,860 was refunded to consumers from companies found not to have proper authorization to switch the customer’s service.
- ◆ Administered the Link-up Telephone Assistance Program. This program assists low-income citizens by reducing the installation charge to establish or transfer local telephone service.
- ◆ Administered the Lifeline Telephone Assistance Program. This program assists low-income citizens by reducing, up to a maximum of \$13.50, their monthly telephone bill.
- ◆ Fiscal year 2011 there are 406,500 Tennesseans receiving the Lifeline credit on their bills. Of this total, 93,687 Tennessee residents are receiving a discount on their landline service and 312,813 are receiving the discount toward their wireless service
- ◆ The Tennessee Regulatory Authority approved 1,278 residents based on income and 338 residents based on public assistance.

<sup>1</sup> This information is based on data provided by USAC, [Reimbursement distribution filings]. 2010/2011 Lifeline subscribers include wireless Tennessee residents. (Landline only - 2010 – 106,273 / 2011 – 93,687)



## Consumer Services Division (cont.)

- ◆ In October 2010 the Tennessee Regulatory Authority joined forces with the Department of Human Services, the Department of the Attorney General and other state agencies to provide outreach and information to Tennessee residents in recognition of the National Lifeline Discount Awareness Week.
- ◆ Reviewed the operations of the Tennessee Relay Center TRC to ensure that it is complying with the Authority's rules and regulations. The TRC is a service designed to assist individuals with hearing loss and speech disabilities to make and receive telephone calls. The TRC processed approximately 103,441 calls during the fiscal year 2011.
- ◆ Reviewed the operations of the Tennessee CapTel Service to ensure that it is complying with the Authority's rules and regulations. The CapTel Service is designed to assist individuals who are late deafened or hard of hearing to make and receive telephone calls with a captioning feature offered by this service. The CapTel Service processed approximately 264,032 calls during the fiscal year 2011. The CapTel Service began in Tennessee in November of 2005.
- ◆ Administered the Tennessee "Do Not Call" Program. Currently there are 4,536,017 Tennesseans registered. There are 326 active telemarketers registered with the TRA at the end of fiscal year 2011. The TRA investigated 474 Do Not call telemarketing complaints by consumers against telemarketing companies during the fiscal year 2011.
- ◆ Administered the Tennessee "Do Not Fax" Program. The TRA has investigated 175 fax complaints from consumers involving unsolicited facsimiles during the fiscal year 2011.

### Consumer Education and Outreach

Consumers continue to look for resources that can help them to make informed decisions. Particularly, consumers look for ways that can help them meet everyday life challenges. From tips on how to pay their telephone bills to paying their energy bill to reducing unwanted telemarketing calls, the TRA's outreach efforts, within the Consumer Education and Outreach component, focuses on empowering the consumer when they are faced with issues relating to their gas, water, telephone

and electric utilities. The Consumer Education and Outreach goals are:

- 1) Make available the information that will help the consumer to make informed decisions.
- 2) Increase public awareness and understanding of TRA's programs and services.
- 3) Encourage informed decision-making or to seek help when making utility decisions as a result of the TRA's outreach and education efforts.
- 4) Encourage consumers to share the TRA's outreach with consumers.



*Vivian Michael-Wilhoite*

Other than the consumer in general, the TRA's Consumer Education and Outreach places an emphasis on reaching Tennesseans who could be the target of unfair utility practices and those who may be financially challenged. The Consumer Education and Outreach works to create effective partnerships with organizations that provide assistance to those in these targeted areas and various other organizations that are considered to be the go-to facilities in the community.

The Consumer Education and Outreach accomplishes its goals through presentations to community groups, sponsorship of exhibits at public events, creation of new and strengthening current partnerships with other Tennessee local, state and federal agencies and social service organizations.

As a result of the Consumer Education and Outreach efforts, in 2010-2011, the Consumer Education Outreach participated in a total of 83 outreach events. The types of organizations visited represented senior citizens, veterans, non-English speakers, people with disabilities, low-income consumers, some who for the first time were in need of additional resources as a result of the economic downturn, and entities working on behalf of the underserved and general Tennessee population. Read what some of those groups are saying about the TRA's Outreach and Education efforts:

"This was valuable and relevant information to the attendees. I observed how attentive they [seniors] were and many said that the information was very feasible to them. This information has empowered our group and will help them make informed decisions when it comes to how to handle telemarketers,



## Consumer Services Division (cont.)

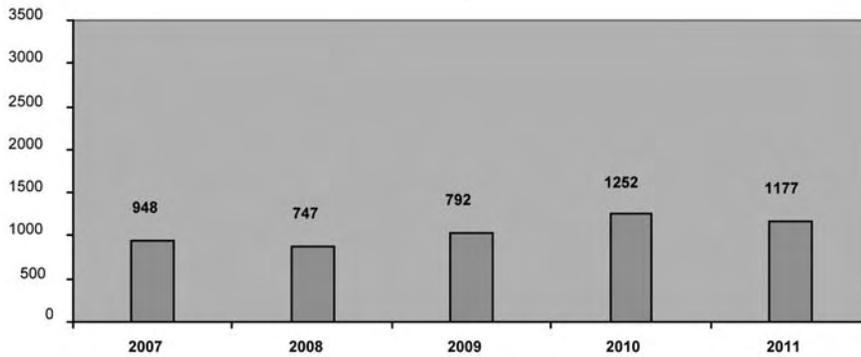
discounts available on phone services and where they can get special phones that can help them to make calls.” – *Karen Semones, Assistant Chaplain, Widow’s Might, Estill Springs, Tennessee.*

“This was a gold mine of information. I needed the information about the telephone services for a friend. Now I can help him. I am glad that I came to this presentation.” – *Mr. Locke, veteran, J. K. Lewis Senior Center; Memphis, Tennessee.*

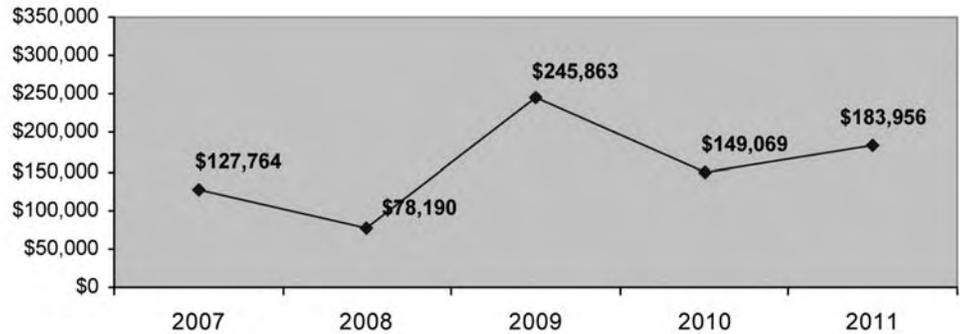
“TRA provided to our seniors a wealth of information. We really enjoyed learning about the many services like the Lifeline, Link-up, the free telephone equipment and tips on how to protect from telemarketers. The presenter was sensational. We learned a lot. This truly is information that anyone, especially seniors, can use.” – *Peggy Houston, Executive Director of Fairpark Senior Center and Delegate to the National Institute of Senior Centers and National Council on Aging, Crossville, Tennessee.*

### Consumer Services Activities Highlights

**Total Complaints Investigated  
2007-2011**



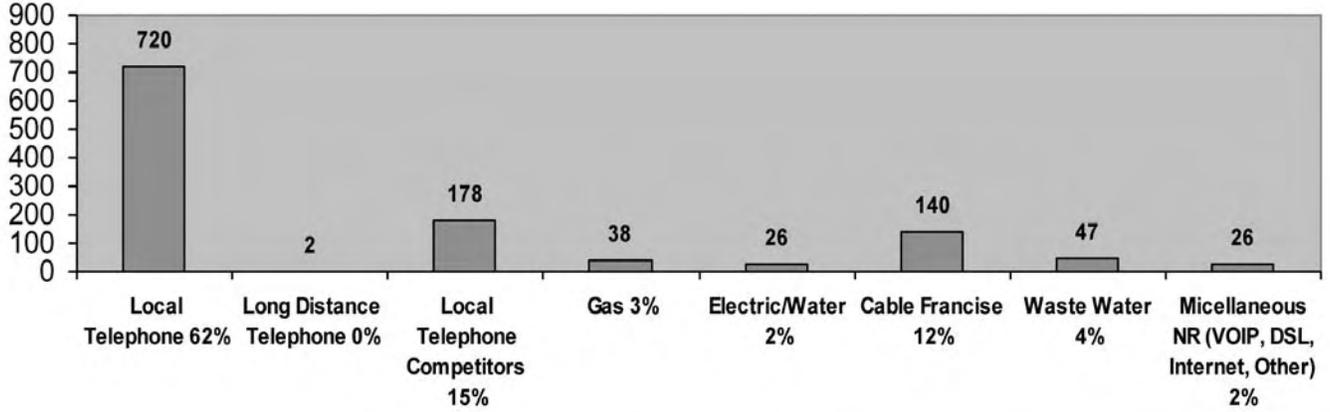
**Consumer Complaint Refunds  
2007-2011**



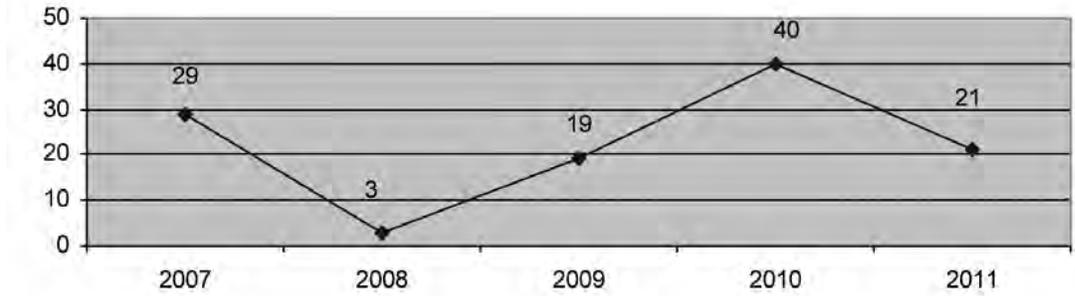


## Consumer Services Division (cont.)

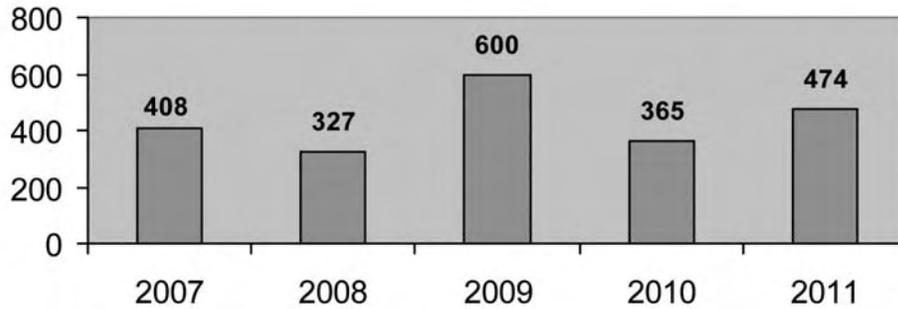
### Complaints by Utility Sector 2011



### Slamming Complaint Investigations 2007-2011



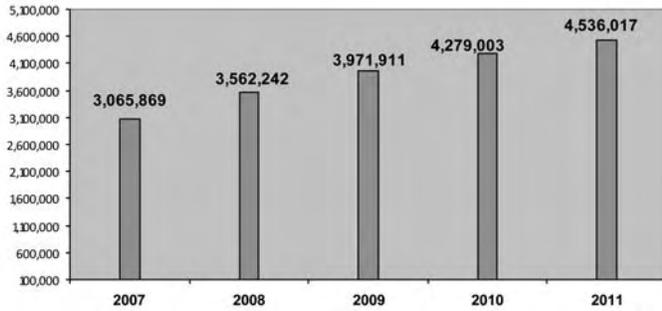
### Telemarketing Complaint Investigations 2007-2011



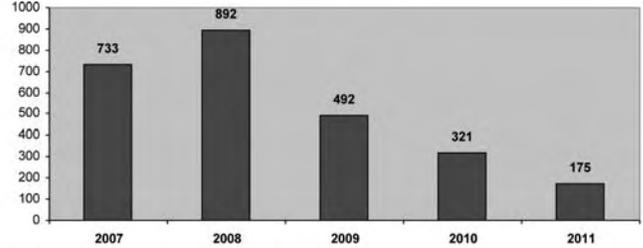


## Consumer Services Division (cont.)

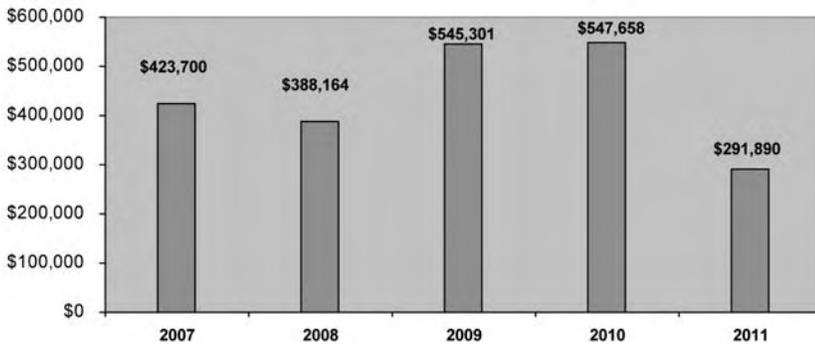
**Consumer Registration History  
Do Not Call List**



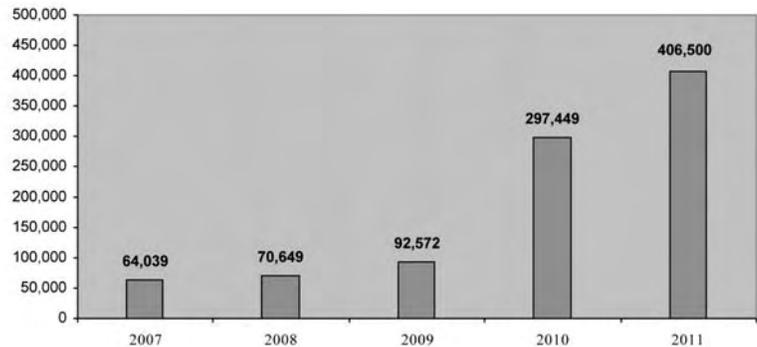
**Do Not Fax Complaint Investigations  
2007-2011**



**TDAP Device Costs  
2007-2011**



**Tennessee LifeLine Telephone Assistance Subscribers  
2007-2011\***



This information is based on data provided by USAC, [Reimbursement distribution filings].



## Economic Analysis and Policy Division (EAPD)

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### Mission

*The EAPD is comprised of talented professionals with diverse backgrounds including academia, consumer protection and industry experience.*

The primary role of the division is to formulate recommendations on economic and policy matters pending before the Authority. The Division identifies and analyzes market trends that may impact regulation or consumers in electric, telecommunications, water, wastewater and natural gas markets. EAPD Staff continues to provide resources to support several task forces including the Tennessee Broadband Task Force and the Low-Income Energy Efficiency Task Force. The EAPD also monitors and evaluates the impact of TRA decisions on market outcomes in the various regulated industries. The Division also has responsibility for analysis of mergers, acquisitions and the issuance of financial instruments by public utilities.

The EAPD provides information concerning the financial activities of regulated firms. In the past fiscal year, EAPD Staff continued its role of providing expert advice concerning cost-of-capital issues in rate case proceedings. The EAPD reviews requests to engage in



*Jerry Kettles, Chief*

financing transactions by public utilities. The Division also evaluates requests for corporate mergers and transfers of control of Tennessee certificated utilities. In many instances, mergers and transfers of control involve the transfer of customers to new service providers. To ensure the consumers receive adequate information, EAPD Staff reviews notification letters to be sent to customers for compliance with the TRA's consumer protection rules. During the past year, the Division has reviewed 34 requests for financing, merger or transfer of control. Given current economic conditions, recently enacted state-level deregulatory legislation and trends within the telecommunications industry, the current volume of mergers and transfers is expected to decline.

Changes in regulation, technology and industry consolidation have significantly altered the competitive landscape of the wireline telecommunications industry, creating new challenges for policymakers concerned about ensuring a healthy competitive environment. The EAPD continues to provide support to the Broadband Task Force as it continues its work with Connect Tennessee. The Division also has provided analytic support to other groups within the TRA concerning financial derivatives used in the natural gas industry. The division has been active providing technical support to the 2-1-1 Advisory Council. The EAPD also plays a key role in the TRA's implementation of Competitive Cable Act. The division participates actively in professional meetings, such as those sponsored by NARUC. Division Staff also attended training on Stimulus fund grant administration.



## Gas Pipeline Safety Division

### Mission

*The mission of Tennessee Regulatory Authority (TRA) Gas Pipeline Safety Division (GPSD) is to contribute to the safety and reliability of natural gas distribution and transmission pipeline facilities and to minimize the risk to public health and safety associated with the accidental release of natural gas.*



Larry Borum, Chief

### Compliance Program

Chapter 601, Title 49 of the United States Code provides the statutory basis for the pipeline safety program. Chapter 601 establishes a framework for promoting pipeline safety through Federal delegation to the States for all or part of the responsibility for intrastate pipeline facilities under annual certification or agreement. Chapter 601 authorizes Federal grants-in-aid of up to 80 percent of a State agency's personnel, equipment, and activity costs for its pipeline safety program.

The State of Tennessee annually enters into a certification agreement with the Secretary of the United States Department of Transportation and accepts the responsibility for regulation of intrastate natural gas pipeline facilities. The Pipeline and Hazardous Materials Safety Administration (PHMSA) directly administers the program under the U.S. Department of Transportation. The Tennessee Regulatory Authority is the state agency authorized to regulate intrastate pipeline facilities and does so through its Gas Pipeline Safety Division (GPSD). Calendar year 2010 will mark the fourteenth year the GPSD has submitted a certification agreement and been approved by the United States Department of Transportation to carry out an enforcement program based on regulations contained in Parts 191, 192, 193 and 199 of the Code of Federal Regulations. Part 192 is referred to as the Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (MFSS).

Energy needs are met for many Tennesseans through the use of natural gas. Natural gas is supplied through approximately 39,000 miles of distribution and transmission lines across the State. This length is equivalent to approximately 206,000,000 feet of pipeline and provides natural gas service to approximately 1,293,000 customers. The natural gas distribution operators in Tennessee range in size from eleven (11) to 306,000 customers.

Natural gas operational units include distribution systems, intrastate transmission lines, liquefied natural gas plants, apartment complexes, and housing authorities. Across the State of Tennessee there are a total of 182 operational units comprised of 165 jurisdictional and seventeen (17) non-jurisdictional operational units. The GPSD is responsible for inspecting selected records and facilities for the purpose of determining if each operator is

operating and maintaining the gas system in accordance with the Minimum Federal Safety Standards.



The GPSD has an inspection staff of five pipeline safety engineers. Each engineer completes mandatory pipeline safety courses at the PHMSA Training and Qualification center in Oklahoma City, OK. A minimum of one (1) onsite inspection is conducted on each of the 182 natural gas system jurisdictional and non-jurisdictional operating units during each calendar year. Depending on need some systems are inspected multiple times during a particular calendar year. The inspection staff accumulates approximately 450 inspection days annually. The goal of this work is to ensure that natural gas as a source of energy is available and that it is provided through facilities that are operated and maintained as safely as possible.

The state pipeline safety program is inspected by PHMSA personnel on an annual basis. The 2010 Tennessee program was evaluated in June 2011 and received a composite score of 100%. The results of the annual evaluation contribute to the determination of the level of federal funding received by Tennessee.





## Gas Pipeline Safety Division (cont.)

### Natural Gas Operator Inspections

The 182 operational units are controlled by 5 private companies, 72 municipalities, 25 utility districts, 30 master meter operators, and 32 intrastate pipeline companies. Operators are required to maintain records, compile reports, update operations and maintenance plans, and promptly repair all hazardous leaks. Drug and alcohol programs are reviewed annually to ensure that required testing is being conducted. The table indicates the inspection activity for the period July 1, 2010 through June 30, 2011.

#### Inspection Activity 10/11

Inspection Type	Number
Standard	180
Public Awareness	1
Specialized	150
Follow-Up	81
Construction	25
Incident	10
Training	11
Liquefied Natural Gas	2
<b>Total Inspection Days</b>	<b>460</b>

### Natural Gas Incidents

The Minimum Federal Safety Standards §191.3 defines an incident as any of the following: 1) An event that involves a release of gas from a pipeline or liquefied natural gas or gas from an LNG facility and i) A death, or personal injury necessitating in-patient hospitalization; or ii) Estimated property damage, including cost of gas lost, of the operator or



others, or both, of \$50,000 or more, 2) An event that results in an emergency shutdown of an LNG facility, 3) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of parts 1 or 2. One (1) reportable incident occurred in the past fiscal year. The ultimate goal of the GPSD is to enforce pipeline safety regulations to the extent that there are no accidents or reportable incidents throughout the State of Tennessee.

### Violations and Civil Penalties

The violations cited by the GPSD against an operator are recorded and filed on an ongoing basis. Each operator receives verbal and written notices of the violation(s) and is given sixty days from receipt of the written notice to correct any deficiencies that resulted in the citation. A follow-up inspection is scheduled after the sixty-day time period to ensure that the operator is taking action to correct these violations. Failure to take corrective action on cited violations could subject the operator to civil penalties in accordance with Tennessee Code Annotated §65-28-108. There were 95 violations cited and 76 violations corrected during this fiscal year. (Violations corrected include those cited from previous years.)

### Activities and Accomplishments

#### • Bare Steel and Cast/Ductile Iron Replacement Programs:

The GPSD continues to monitor efforts of natural gas system operators in Tennessee to eliminate all poorly coated steel, bare steel and/or cast iron pipe used in their distribution systems. As an example, Atmos Energy, Chattanooga Gas, Jackson Energy Authority, Knoxville Utilities Board, Lewisburg Gas, Memphis Light, Gas and Water, Covington Gas, Fayetteville Public Utilities, Harriman Utility Board, Humboldt Utilities and Springfield Gas System are presently replacing poorly coated/bare/unprotected steel and cast/ductile iron pipe that exists in their system. The GPSD staff receives periodic updates from representatives of the natural gas distributors relative to the status of their replacement programs.

The GPSD goal is to eliminate all bare/unprotected steel and cast iron material in the shortest time frame with the least cost to customers.



## Gas Pipeline Safety Division (cont.)

### • State Damage Prevention Program Improvement:

New damage prevention legislation was introduced in the Tennessee House and Senate on February 12, 2008. During the past fiscal year the Tennessee Advisory Committee on Intergovernmental Relations (TACIR) completed a study relative to the overall Tennessee damage prevention program and made recommendations for future action. The recommendations included; review of damage prevention rulemaking still in development by the PHMSA prior to making changes in the existing Tennessee Underground Utility Damage Prevention Act and initiate discussions with stakeholder groups for consensus building.



### • Federal Safety Initiatives:

Natural gas system operators continue to implement their programs of establishing communications and providing information necessary to help the public understand that pipelines are the major transportation system for petroleum products and natural gas in the United States, how pipelines function, and the public's responsibilities to help prevent damage to pipelines. These programs were mandated as a result of the Public Awareness rule added to the federal safety standards. GPSD pipeline safety engineers have been reviewing operator public awareness plans during the past fiscal year.

Tennessee natural gas operators are presently working to prepare programs to address the requirements of the Distribution Integrity Management rule as added to the federal safety standards. The purpose of a Distribution Integrity Management Program (DIMP) is to insure that each operator of a natural gas distribution system develops a systematic approach to minimizing threats to pipeline integrity. Although many operators are currently addressing these concerns, this will be a formalized program that can be monitored for effectiveness.

These are only two of many programs monitored by the GPSD in the work to achieve safe and efficient transportation and distribution of natural gas. Minimizing risk to persons and property is paramount in these efforts.

### • Underground Utility Damage Prevention and Three digit 8-1-1 number:

The Pipeline Safety Improvement Act of 2002 provided a tool to enhance the effectiveness of the Dig Safely® program by requiring the implementation of a nationwide three-digit number for use in dialing one call centers.



**Know what's below.  
Call before you dig.**

Tennessee was the first state to move forward with the assignment of this number designated by the FCC as 8-1-1. The three-digit number "811" was granted to Tennessee One Call System, Inc. on August 8, 2005 by the TRA.



## Information Technology Division

### Mission

*The mission of the Information Technology Division (IT) is to provide, support, and protect hardware and software computer systems used by the staff of the Tennessee Regulatory Authority.*

*The Division strives to meet the professional needs of its own staff members through training, team building, challenging work, recognition and personal and professional growth.*



Tracy Stinson, Chief

The division consists of an IT Chief and an Information Systems Resource Specialist II.

### Duties of the Information Technology Division:

- ◆ Develop the Information Systems three year plan
- ◆ Develop and maintain the Authority LAN
- ◆ Procure and maintain Authority desktop computer systems
- ◆ Develop new software systems
- ◆ Monitor software license needs
- ◆ Enforce state network acceptable usage policy
- ◆ Provide information resource training to Authority staff and IT staff
- ◆ Develop and administer Authority databases
- ◆ Oversee computer hardware inventory management
- ◆ Provide technical support and training to Authority staff
- ◆ Provide technical advice to Authority leadership

### TRA Website

The TRA Website, [www.tn.gov/tra](http://www.tn.gov/tra), provides cost effective, reliable, and timely access to programs administered by the Authority. During FY 2010 – 2011, the TRA website received 86,549 hits.

Authority information that can be obtained from the website:

- ◆ Appeals and Petitions to the Federal Communications Commission and Federal Trade Commission
- ◆ Assistance program information and forms
  - Captel
  - Lifeline and Link-up
  - Relay Center
  - TDAP
- ◆ Authority conference agendas
- ◆ Authority notices
- ◆ Authority orders
- ◆ Authority press releases
- ◆ Authority rules and regulations
- ◆ Descriptions of the Authority divisions
- ◆ Do Not Call information
  - Do Not Call citizen online registration
- ◆ Do Not Fax information
- ◆ Electronic Dockets
- ◆ Filings made to the Authority
- ◆ Information related to natural gas pipeline safety
- ◆ Regulatory information
- ◆ Special reports

### TRA Website Activity 2010-2011

Month	TRA Homepage Hits
July	5608
August	5689
September	5337
October	5522
November	4659
December	4860
January	5112
February	6212
March	6596
April	6128
May	6033
June	6052

**Total** **86,549**



## Legal Division

### Mission

*To provide the Authority with sound and timely legal advice, effective counsel in the deliberative process, and zealous representation before state and federal agencies, reviewing courts and the General Assembly.*



Jean Stone, Chief

It is the responsibility of the Legal Division to provide in-house counsel to the Directors of the Authority. Attorneys from the Division also represent the Authority and the Directors in their official capacities before the Chancery Courts, Tennessee Court of Appeals, Tennessee Supreme Court and in the Federal Courts. The Legal Division represents the Authority before the Federal Communications Commission and the Federal Energy Regulatory Commission. Attorneys in the Division often serve as Hearing Officers in contested cases and prosecutors in enforcement actions before the Authority. The attorneys provide legal advice and analysis to other divisions within the Authority and may represent staff designated as parties in Authority proceedings. The Legal Division reviews bonds and letters of credit submitted by regulated companies. Division Attorneys are responsible for bill analysis as requested by the Legislative Fiscal Review Committee. They also draft rules to be promulgated by the Authority. Members of the Legal Division prepare orders reflecting actions of the Directors in specific cases.

### Accomplishments

During the past fiscal year, 223 dockets were opened or required action by the Authority. Attorneys in the Legal Division provided continuing research, advisory memoranda and counsel to the Directors and staff in most of these dockets. The Legal Division also prepared 221 orders reflecting action by the Authority in active dockets including tariff matters, contested cases, mergers, debt issuances, transfers of authority, approvals and revocations of certificates of public convenience and necessity, franchise approvals, arbitrations and show cause actions. The Legal Division is committed to remaining current with order preparation and at the end of fiscal year 2011 was close to achieving this goal.

During the 2010–2011 fiscal year, pursuant to the Competitive Cable and Video Services Act, the Legal Division assisted

in the review of the application for a state-issued cable franchise of North Central Telephone Cooperative, as well as the review of amendments to the cable franchises of BellSouth Telecommunications, Inc. d/b/a AT&T of Tennessee and Comcast Cable Communications Management, LLC.

The Legal Division assisted the Consumer Services Division in investigations relating to enforcement of Tennessee’s Do-Not-Call and Do-Not-Fax statutes and assisted in proceedings against telephone companies for “slamming” and other violations. The Legal Division provided counsel to the Gas Pipeline Safety Division in its investigations and in reviewing applications related to federal safety standards.

During the 2011 session of the General Assembly, members of the Legal Division served as part of the agency’s legislative liaison team and assisted the Chairman’s office in tracking and providing research relating to legislation involving or of interest to the Authority.

Attorneys from the Legal Division served as Hearing Officers and provided counsel to the Authority in dockets involving: applications for certificates of public convenience and necessity; approval of franchise agreements; complaints between competing local exchange telecommunications carriers and incumbent local exchange telecommunications carriers; and practices and procedures of gas companies relating to asset management. Members of the Legal Division served as Hearing Officers or as advisory counsel in the hearings of rate cases filed by Tennessee American Water Company, Entergy Arkansas, Inc., Kentucky Utilities Company and Navitas TN NG, LLC. The Legal Division provided counsel to the Authority in arbitrations and approval of interconnection agreements pursuant to the federal Telecommunications Act of 1996.

Significant case activity for the 2010-2011 fiscal year included:

#### TRA Proceedings

- ◆ Application of Entergy Arkansas, Inc. to Increase Rates for Retail Electric Service (Docket No. 10-00001)
- ◆ Complaint By Walden's Ridge Utility District Against Tennessee American Water Company (Docket No. 10-00014)



## Legal Division (cont.)

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- ◆ Request of Chattanooga Gas Company for Approval of an RFP for an Asset Management Agreement and a Gas Purchase and Sales Agreement (Docket No. 10-00049)
  - ◆ Bellsouth Telecommunication, Inc. d/b/a AT&T Tennessee Petition to Extend Market Regulation to Rate Groups 1 And 2 (Docket No. 10-00108)
  - ◆ Staff Investigation of Express Connection, LLC for Alleged Violation of Tenn. Comp. R.& Regs. 1220-4-2-.13(3) (Docket No. 10-00134)
  - ◆ Provision of Enhanced Relay CapTel Service for the Hard Of Hearing and the Late-Deafened Citizens of Tennessee (Docket No. 10-00143)
  - ◆ Petition of Kentucky Utilities Company for Approval of Adjustment of Its Electric Rate, Terms and Conditions of Service and Revised Tariff (Docket No. 10-00223)
  - ◆ Petition of Renewco-Meadow Branch, LLC for a CCN to Construct and Operate a Renewable Landfill Methane Gas Pipeline In McMinn County, Tennessee (Docket No. 10-00179)
  - ◆ Petition of Tennessee American Water Company for a General Rate Increase (Docket No. 10-00189)
  - ◆ Application Of Renewco-Meadow Branch, LLC for a Special Permit to Install Glass Reinforced Epoxy (GRE) Thermoset Pipe (Docket No. 10-00195)
  - ◆ Staff Investigation of Associated Telecommunications Management Services, LLC d/b/a Angles Communications for Alleged Violation of Tenn. Code Ann. 65-4-125 (Docket No. 10-00196)
  - ◆ Consumer Advocate's Petition for a Declaratory Order that Berry's Chapel Utility, Inc. is a Public Utility Under Tennessee Law and should be regulated by the TRA (Docket No. 11-00005)
  - ◆ Petition Of Navitas TN NG, LLC for Emergency Relief for Natural Gas Rates (Docket No. 11-00060)
- ### Courts Proceedings
- ◆ Tennessee American Water Company v. TRA. Tennessee Court of Appeals, Petition for Review of the TRA's decision in Petition of Tennessee American Water Company to Change and Increase Certain Rates and Charges so as to Permit It to Earn a Fair and Adequate Rate of Return on Its Property Used and Useful In Furnishing Water Service to Its Customers, TRA Docket No. 08-00039.
  - ◆ Consumer Advocate & Protection Division v. TRA. Tennessee Court of Appeals, Petition for Review of the TRA's decision in Petition of Chattanooga Gas Company for a General Rate Increase, Implementation of the EnergySmart Conservation Programs and Implementation of a Revenue Decoupling Mechanism, TRA Docket No. 09-00183.
  - ◆ Berry's Chapel Utility, Inc. v. Consumer Advocate & Protection Division & TRA. Chancery Court for the 20th Judicial District at Nashville, Complaint related to issues in Consumer Advocate's Petition for a Declaratory Order That Berry's Chapel Utility, Inc., Is a Public Utility Under Tennessee Law and Should Be Regulated By the TRA, TRA Docket No. 11-00005.



## Utilities Division

### Mission

*To provide the Directors of the TRA with detailed analyses, financial recommendations and technical assistance needed to make informed decisions on issues related to the development of competitive markets and the preservation of just and reasonable rates for regulated utility services in Tennessee.*



*David Foster, Chief*

The Utilities Division encompasses review of investor owned electric, gas, telecommunications, water and wastewater service utilities operating within the state. Each utility segment has unique characteristics and distinctive federal and state mandates for review. The division is comprised of twelve individuals with diversified experience and background. The Staff's credentials and background consist of Certified Public Accountants, engineers, accountants and business managers. The Staff has nearly 200 years of combined experience in the utility industry.

### Electric

The Authority regulates three electric utilities in Tennessee: Kingsport Power Company d/b/a AEP Appalachian Power, Entergy Arkansas, Inc. and Kentucky Utilities Company. The Authority establishes all rates, terms and conditions for service for Kingsport Power via rate of return regulation. The other two other utilities, Entergy Arkansas, Inc. and Kentucky Utilities Company, have a very small presence in Tennessee and the Authority follows actions taken by the respective states in which they primarily operate.

Kingsport Power Company, through its parent company American Electric Power, is a member of the Pennsylvania, New Jersey, Maryland Interconnection, LLC (PJM). PJM is a regional transmission organization ("RTO") that is responsible for operating the wholesale electric market and managing the long-term regional electric transmission planning process in all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia. The Authority, through its membership in the Organization of PJM States, Inc. (OPSI), interacts with PJM, its Board of Managers, and its Market Monitor to ensure that Tennessee consumers are

served by an efficient, effective, and reliable wholesale energy market. The Division assists the Authority in consideration of RTO issues such as market monitor independence and capacity market revisions.

Kingsport Power Company does not generate the electricity it sells to consumers but rather purchases it from Appalachian Power, a business unit of American Electric Power. Since the electricity is purchased and transmitted from a source outside of Tennessee, it is considered an interstate service and thus regulated by the Federal Energy Regulatory Commission (FERC). Accordingly, the wholesale rate for electricity charged by Appalachian Power to Kingsport is regulated by the FERC. Kingsport, in turn, passes on any FERC approved rate increases or decreases to its consumers through a Purchased Power Adjustment Rider (PPAR) tariff without any profit margin added. With this tariff in place, the TRA allows changes in electricity costs to be passed on to consumers without a rate petition because the charges are not controlled by Kingsport itself, and it alleviates the need for rate petitions. The Division reviews these tariff filings, including all supporting information, to ensure that they comply with the approved PPAR tariff and that the company does not recover more from consumers than the additional cost incurred as a result of the wholesale rate increase.

### Gas

The regulated gas industry in Tennessee is comprised of five natural gas companies, two methane gas providers and one intrastate pipeline providing transportation service to industrial customers in Kingsport, Tennessee. Revenues for the largest three companies, Chattanooga Gas, Atmos Energy, Inc., and Piedmont Natural Gas totaled \$91 million, \$142 million and \$206 million respectively for the twelve months ended December 31, 2010. While the overall regulation of each company is rate of return, the volatility of the gas commodity costs necessitates a flow through mechanism to ensure a company's return on investment remains relatively constant. The mechanism, referred to as Purchased Gas Adjustment (PGA), is designed to provide immediate rate reaction to changes in gas prices. Subsequently, an Actual Cost Adjustment (ACA), audit is conducted to ensure that companies collect the actual cost of gas from ratepayers.

The Division also conducts annual Weather Normalization



## Utilities Division (cont.)

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Audits (WNAs) which is the mechanism that is in place to reduce the impact abnormal temperature has on customers' bills and on the gas utilities' operations. In periods of colder than normal weather, customers receive a credit on their bills, while in periods of warmer than normal weather, customers are billed a surcharge. Thus, customers' monthly bills should not fluctuate as dramatically and the gas company should have a more stable rate of return. Incentive Plan Audits (IPAs) are conducted to ensure that utilities are prudent in their gas purchasing practices and that ratepayers are compensated appropriately for the companies' off system use of gas assets paid for by the ratepayers. The results of each annual audit is documented in Division audit reports and filed with the Authority for consideration.

The Authority also has in place a three-year experimental Alignment and Usage (AUA) mechanism for Chattanooga Gas Company which is aimed at stabilizing revenues. The AUA mechanism minimizes the effects of volumetric changes on overall company revenues by adjusting rates to account for changes in Authority approved volumes. The Authority also has an ongoing outreach program for Chattanooga Gas Company which provides free programmable thermostats to consumers as well as various other education and outreach programs.

It is sometimes necessary for a public utility to enter into a Special Contract with certain customers, generally large industrial businesses, when the services to be provided are not covered by or permitted in the utilities' general tariffs. TRA Rule 1220-4-1-.07 requires these agreements to be filed with the TRA for its review and approval. After completion of the Division's review, the TRA approved six (6) special contract agreements.

Whenever a utility experiences large temporary increases in expenses due to natural disasters, federal mandates or other unforeseen events, it may petition the Authority for permission to accumulate and defer these expenses in a separate deferred account for potential recovery from customers in a future proceeding. The Authority may grant such requests, but only on the condition that the approved deferral does not guarantee future recovery without appropriate cost justification provided by the company. The TRA considered two (2) petitions for deferral during fiscal year 2011. Kingsport Power Company was permitted to defer \$1,629,352, which occurred as a result of severe winter storms from December 8, 2009 through December 15, 2009. Piedmont Natural Gas Company was permitted to defer \$912,055.10, which

resulted from unprecedented flooding in Nashville on May 1 and May 2, 2010.

Applications for authority to transport landfill methane by pipeline are subject to review by the Authority to ensure they will operate in accordance with the Landfill Methane Development Act, Tenn. Code Ann. § 65-28-201 et. seq. The Authority reviewed and approved the application of Renewco-Meadow Branch, LLC for a CCN to construct and operate a renewable landfill methane gas pipeline, located in McMinn County, Tennessee.

TCA § 65-4-107 provides that no franchise granted to a public utility shall be valid until approved by the Authority. The TRA reviewed and after hearing approved a total of seven (7) franchise agreements.

## Telecommunications

The TRA regulates the rates and service quality of investor owned telecommunications providers in Tennessee (not Municipalities, Cooperatives, Cable, Internet or Wireless providers). There are 18 incumbent local exchange companies (ILECs), 133 facility based competitive local exchange carriers (CLECs), 207 resellers of local and long distance service, 6 long distance facility providers, 90 pay telephone providers and 6,940 pay telephones (COCOTs) within the state.

The telecommunications industry has dramatically changed since passage of the 1995 and 1996 State and Federal Telecom Acts. In 1995, the Tennessee General Assembly enacted laws allowing local exchange companies (LECs) operating under traditional rate-of-return regulation to opt into price regulation as set forth in Tenn. Code Ann § 65-1-209. Rate of return regulation sets prices to provide the opportunity to recover a fair and reasonable return on regulated investment. This is accomplished by forecasting the company's revenues, expenses and investment for a certain period of time. Under price regulation, however, only prices and revenues are considered in the rate setting process. Furthermore, LECs' overall prices and revenues are allowed to increase pursuant to an indexing method set forth in the aforementioned statute and pursuant to more detailed methodology approved by the Authority. Price regulation is commonly referred to as "price caps".

Senate Bill 1954 enacting the Market Regulation Act became law on May 21, 2009. This law allows price regulated certificated providers of local exchange or intrastate long distance telephone service to elect Market



## Utilities Division (cont.)

Regulation at its sole discretion. Market Regulation exempts the provider from jurisdiction regarding retail pricing and retail operations except as defined in the Act. The largest two local incumbent telephone companies in Tennessee, BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee and Embarq Communications, Inc. d/b/a CenturyLink Communications, Inc. both elected market regulation. The local CenturyLink companies of Adamsville, Claiborne and Ooltewah-Collegedale have also elected market regulation along with numerous competitive telephone providers. The remaining ILECs have generally experienced limited landline competition and remain in rate of return oversight. The Authority retains limited jurisdiction over companies electing market regulation, including, but not limited to, exercising jurisdiction with respect to Lifeline and Link-up programs, the Tennessee Relay Service Center and the Telecommunications Devices Access Program (TDAP), universal service funding, intrastate switched access service, responding to specific customer complaints regarding residential telephone service and disputes between certificated carriers.

In 1997, the FCC issued an order implementing a federal universal service support system for telecommunications. The system is designed to meet the requirements of the Telecommunications Act, maintain affordable basic residential rates, ensure affordable basic service continues to be available to all users and bring the benefits of competition to as many consumers as possible. Criteria were established that a provider must achieve to be designated and maintain Eligible Telecommunication Carrier (ETC) status and receive support. The Authority has approved ETC designation for 34 providers. This total represents both the companies regulated by the Authority and the Telephone Cooperatives which are not regulated by the Authority. Further, the Authority accepts annually a self-certification from these providers in order to maintain support and reports those results to the FCC.

### ◆ Telecommunications Statistics In Tennessee

- It is estimated that 73% of Tennessee households now have Internet access (national average: 77%).
- As of December 31, 2010, depending on the source, 52% (FCC) to 64% (Connected TN Report) of Tennessee households had high-speed (broadband) Internet access.
- As of June 30, 2011, Tennessee had 367 companies

providing local telecommunications services in Tennessee including 27 incumbent providers (18 investor owned and 9 telephone co-operatives), 133 competitive local exchange carriers (CLECs) and 207 resellers of local telephone services. Note: Incumbent providers are those companies providing local telecommunications services prior to passage of the Telecommunications Act of 1995 on June 6, 1995 while CLECs are those companies who began offering facilities-based local telecommunications subsequent to June 6, 1995.

- As of December 31, 2010, 2.73 million regulated wired telephone lines were in service in Tennessee with approximately 872,000, or 31.9%, of those lines being provided by CLECs.
- As of June 30, 2011, CLECs were providing service in 89 of Tennessee's 95 counties; 48% of the CLEC lines are in the state's five largest metropolitan areas. Of the 89 counties served by CLECs, 8 counties have 15 or fewer access lines served by CLECs.
- Approximately 82% of the lines provided by CLECs in Tennessee are business lines while 18% are residential lines (as of June 2011).
- Three municipal electric utilities are providing telecommunications in Tennessee: Chattanooga Electric Power Board; Jackson Energy Authority; and Bristol Tennessee Essential Services.
- Penalty payments are made to the TRA by BellSouth after three months of continued non-compliance with the standards and benchmarks that were adopted to monitor BellSouth's wholesale operations. These payments amounted to \$72,328 for the twelve months ended June 30, 2011.
- To conserve telephone numbers and reduce the need to add area codes, Tennessee has ordered that telephone numbers be assigned to carriers in 1,000 number blocks instead of the 10,000 number blocks previously permitted by the FCC. Tennessee presently has six (6) area codes and has not needed to add an area code since September 2001.

The FCC has also delegated the "Safety Valve" issue to the



## Utilities Division (cont.)

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Authority which allows a provider that has had its application for number resources (number blocks) denied by the numbering administrator to appeal the decision to the Authority. The Authority then reviews the request for numbering resources and, when appropriate, orders the FCC's numbering administrator to reverse its decision. For the twelve months ending June 30, 2011, the Authority has reviewed six such petitions, each time reversing the FCC administrator's decision.

### Wastewater

There are 11 wastewater utilities with 129 wastewater systems located across Tennessee. Tariffs containing all rates, terms and conditions of service are on file with the Authority. There were two new company applications received and five requests for new wastewater sites filed during the year ended June 30, 2011.

The Division annually reviews all wastewater companies to ensure compliance with TRA Rules which requires the posting of a financial security by a public utility providing wastewater service to ensure continued proper operation and maintenance. To comply, all wastewater companies must provide evidence of the required financial security and file tariffs to recover the costs of providing this security. The Division reviews the filings and notifies the Directors of any discrepancies or non compliance.

The Division continues to work with the Tennessee Department of Environment and Conservation (TDEC) coordinating efforts to ensure there is a plan for ongoing operation and maintenance of wastewater systems. The Division also works with the industry to devise measures to accomplish the goals of continued operations and safe and healthy wastewater systems for the public.

### Water

The Authority regulates seven (7) water utilities in Tennessee. These utilities are rate of return regulated and have on file tariffs containing all rates, terms and conditions of service.

Five of the regulated water utilities in Tennessee have fewer than 300 customers. Substantial accounting and legal costs are incurred when any company determines a need to file for a rate increase. In order to minimize rate case expense and the corresponding recovery from ratepayers for these smaller companies, the Authority

considers the segregation of Utilities Division Staff to assist in the preparation and settlement of the matter.

On September 23, 2010, Tennessee American Water Company filed a petition to increase its overall rates by approximately \$9.98 million, a 27.66% increase. Several parties were granted intervention, including the Consumer Advocate Division of the Attorney General's Office, the Chattanooga Regional Manufacturers Association, the City of Chattanooga, and the Utility Workers Union of America, AFL-CIO, and UWUA Local 121. A Hearing was conducted in Chattanooga, Tennessee on February 28 through March 4, 2011 and in Nashville, Tennessee on March 7 through March 8, 2011. Based on review and analysis of all evidence presented in the case, the Utilities' staff prepared and submitted its recommendations to the Directors. The matter was deliberated at a regularly scheduled Authority Conference on April 4, 2011. The Authority approved an increase of \$5,551,013, a 14.98% increase.

### Activities

The Division continues to participate in various training opportunities including reading trade and industry journals and government reports to stay current on governmental and industry trends in the electric, gas, telecommunications, water and wastewater industries. We also meet regularly with industry representatives to encourage the sharing of ideas on how to improve customer service and operating efficiencies.

### Analysis - Industry and Filings

#### ◆ Tariff Review (215)

- Reviewed 146 tariff filings by telecommunications companies to introduce new services or to revise the rates, terms and conditions of existing services.
- Reviewed 32 tariff filings by electric, gas, water and wastewater companies to introduce new services or to revise the rates, terms and conditions of existing services.
- Reviewed 25 PGA filings and 12 Fuel Clause Adjustments.

#### ◆ Annual Report Reviews (44)



## Utilities Division (cont.)

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- Reviewed 44 annual reports. The Division Staff reviews these annual reports to ensure the completeness of their financial data.

### ◆ Gas and Wastewater Audits (17)

There are four (4) types of audits performed by the Division. These audits are: Compliance audits, Actual Cost Adjustment (ACA) audits, Weather Normalization Adjustments (WNA) audits and Performance Incentive Plan (IPA) audits.

**1) Compliance Audits - Escrow (6)** - Compliance audits are performed to monitor utilities' compliance with applicable laws, orders, and policies of the Authority, as well as utility accounting operations to ensure compliance with the Uniform System of Accounts (USOA) prescribed by the National Association of Regulatory Utility Commissioners (NARUC) and the Federal Energy Regulatory Commission (FERC). The Division schedules and conducts these audits as resources permit.

**2) ACA Audits (5)** - The Authority's Rule 1220-4-7-.02 permits a gas utility to recover, in a timely fashion, the total cost of gas purchased for delivery to its customers. The Purchased Gas Adjustment (PGA) Rule, which was adopted July 1, 1992, is the mechanism used to accomplish this recovery and consists of 3 major components:

- Actual Cost Adjustment (ACA)
- Gas Charge Adjustment (GCA)
- Refund Adjustment (RA)

The ACA is the difference between the revenue billed customers by means of the GCA and actual costs paid to suppliers as reflected in the Deferred Gas Cost account. The rule requires the utility to submit a filing each year detailing the transactions in the Deferred Gas Cost Account. The TRA Staff audits this filing to determine that the utility is following all the rules, regulations, and directives adopted by the Authority. This allows the Authority to adjust for over or under collected gas costs.

Each year, the Staff conducts ACA audits on the 5 gas distribution utilities under rate jurisdiction of the TRA:

Atmos Energy Corporation, Chattanooga Gas Company, Piedmont Natural Gas Company, Counce Natural Gas and Navitas TNNG, which purchased Gasco Distribution Systems effective January 1, 2011. During the 2011 fiscal year, the Staff reviewed gas invoices for these utilities totaling approximately \$341.6 million. The Staff also reviewed all adjustments made to the Deferred Gas Cost accounts, the underlying supporting documentation, the calculation of gas cost recoveries and compliance with PGA filings, including ongoing Refund Adjustments, and the calculation of interest on account balances. Audit results and recommendations are detailed in an audit report on each utility.

**3) WNA Audits (3)** - In setting rates, the Authority uses a normalized level of revenues and expenses for a test year to eliminate unusual fluctuations. One part of normalizing revenues in the test year is the adjustment of sales volumes to reflect "normal" weather, which is calculated based on the previous thirty years' weather data. Since "normal" weather rarely occurs, customer bills can fluctuate dramatically due to temperature changes from month to month, and gas companies' revenues likewise fluctuate, causing them to earn more or less than their authorized rate of return. In recognition of this fact, the TRA has approved a WNA Rider, to be applied to residential and commercial customer bills during the winter months.

The TRA Staff conducts audits each year of the WNA Rider as it is applied to the 3 major gas companies: Atmos Energy Corporation, Chattanooga Gas Company, and Piedmont Natural Gas Company. In order to meet the objectives of the audit, the Staff compares the following on a daily basis:

- (a) The company's actual heating degree days to National Oceanic and Atmospheric Administration (NOAA) actual heating degree days;
- (b) The company's normal heating degree days to the normal heating degree days calculated in the last rate case; and
- (c) The company's calculations of the WNA factors to the Staff's calculations.



## Utilities Division (cont.)

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The Staff also audits a sample of customer bills during the WNA period to verify that the WNA factors and all tariff rates have been correctly applied to the bills. Results of the audits and any recommendations are detailed in the annual audit report for each company.

During the 2011 fiscal year, WNA related revenues for the three gas utilities amounted to \$2,181,872 WNA revenues refunded.

**4) IPA Audits (3)** - Performance Incentive Plan mechanisms have been approved by the TRA for the three major gas utilities. These plans are designed to provide incentives to gas utilities in a manner that will produce rewards for customers and shareholders while improving the gas procurement process. All savings benefit the consumers to various degrees. The Incentive Plan replaces the after-the-fact reasonableness or prudence reviews of gas purchasing activities formerly required by the Purchased Gas Adjustment Rule. The Staff audits these filings in a manner similar to the audits conducted for the ACA filings. During Fiscal Year 2011, incentive audits were conducted on the three major regulated gas utilities.

### ◆ **Certification of Competitive Carriers**

- Analyzed and approved the application of six companies requesting designation as facility-based competitive local exchange carriers. The Division also reviewed three resellers of local and long distance service during the fiscal year.
- Analyzed and approved one application for a wastewater company seeking designation for new systems to provide services within the state.

### ◆ **Pay Telephone Certification**

- Registered two payphone providers.

### ◆ **Telecommunication Interconnection Complaints.**

- Resolved interconnection disputes between competing carriers and incumbent providers. In most cases, the Authority was asked to interpret the language and requirements of the interconnection agreement signed by the parties.



## Utilities Division (cont.)

### Customers Serviced By and Total Revenues of Electric, Gas, Water, Wastewater Utilities within Tennessee During 2010 Fiscal Year

	Residential	Commercial	Industrial	Other	Total	Total Revenues	Annual Avg. Bill Residential	Residential Revenues
<b>Gas Utilities:</b>								
Atmos Energy, Inc.	112,720	15,023	446	481	128,670	142,015,438	664	74,863,654
Chattanooga Gas	52,956	7,921	250		61,127	90,740,826	784	41,535,363
Counce Natural Gas	101	60	1		162	216,178	608	61,453
Navitas TN NG, LLC <sup>3</sup>	345	48	7		400		-	
Piedmont Natural Gas	147,848	16,624	46	144	164,662	206,631,453	807	119,281,104
<b>Electric Utilities:</b>								
Entergy Arkansas, Inc. <sup>4</sup>	8	4	3		15	15,435	749	5,990
Kentucky Utilities Company <sup>4</sup>	5				5	3,339	639	3,197
Kingsport Power Co.	41,108	5,644	171	147	47,070	154,691,289	1,489	61,195,508
<b>Water/Wastewater Utilities:</b>								
Antioch Water (W) <sup>2</sup>	249				249	69,993	281	69,993
Aqua Green Utility, Inc. (S)	70				70	8,849	126	8,849
Aqua Utilities (W)	365				365	102,019	247	90,019
Aqua Utilities (S)	291				291	72,970	213	61,970
Cartwright Creek (S)	502	36			538	350,799	540	270,833
Cumberland Basin Wastewater, LLC (S) <sup>1</sup>								
Foothills Water Properties (W)	94				94	76,999	819	76,999
Greenville Sewage, LLC(S)	1	1			2	8,699	8,699	8,699
Hickory Star (W)	124	2			126	66,644	537	66,644
Hickory Star (S)	49	4			53	20,542	222	10,902
IRM Utility, Inc.(S)	72				72	54,998	564	40,594
King's Chapel Capacity(S)	59				59	36,323	616	36,323
Lynwood Utilities (S)	829	7			836	437,198	427	353,782
Newport Resort Water System (W)	48				48	23,264	485	23,264
Shiloh Falls Utilities (S)	217	14			231	55,026	196	42,597
Tennessee American Water Co. (W)	65,177	8,306	152	762	74,397	38,469,185	245	15,954,216
Tennessee Wastewater Systems, Inc. (S)	1,297	811			2,108	1,430,730	711	922,645
Tennessee Water Service, Inc. (W)	549	3			552	298,957	531	291,563

"W" = Water / "S" = Wastewater (Sewer)

<sup>1</sup> Company filed a request for a Certificate of Convenience and Necessity (CCN) in March 2007. The Company has not begun servicing customers yet.

<sup>2</sup> Sold to Northeast Henry County Utility District, effective 7/1/11.

<sup>3</sup> Transfer of control from Gasco Distribution Systems to Navitas TN NG LLC effective 1/1/11. Navitas will file first annual report 4/1/12.

<sup>4</sup> Utilities are located in Arkansas and Kentucky. The TRA has jurisdiction over a few residential customers residing on the Tennessee side of the state line.



## Utilities Division (cont.)

### Telecommunications Service Providers

1. 1-800 RECONEX d/b/a U.S. TEL
2. Access Fiber Group, Inc.
3. Access Point
4. ACN Communication Services
5. Advantage Cellular
6. Aeneas Communications
7. Alec, Inc.
8. American Fiber Network
9. American Fiber Systems
10. AT&T Comm. of the So. Central States
11. Baldwin County Internet/DSSI Service, LLC
12. Balsam West FiberNet
13. Bandwidth.com CLEC, LLC
14. BCN Telecom
15. BellSouth Long Distance
16. Ben Lomand Communications
17. Big River Telephone
18. Birch Communications, Inc.
19. Birch Telecom
20. BLC Management d/b/a Angles Comm.
21. Bristol Tennessee Essential Services
22. Broadview Networks, Inc.
23. Broadvox-CLEC, LLC
24. Broadwing Communications, LLC
25. Budget Pre-Pay, Inc.
26. Bullseye Telecom
27. Business Telecom
28. CenturyTel Acquisition, LLC
29. CenturyTel Fiber Company
30. CenturyTel Solutions
31. Charter FiberLink-Tennessee
32. Cincinnati Bell Any Distance, Inc.
33. Comcast Phone of Tennessee
34. CommPartners
35. Covista
36. Cypress Communications Operating Co.
37. Deltacom Communications, Inc.
38. Dialtone & More
39. DIECA Communications
40. DPI Teleconnect, LLC
41. DSLnet Communications
42. DukeNet Communications, LLC
43. Electric Power Board of Chattanooga
44. ENA Services, LLC
45. EnTelegent Solutions, Inc.
46. ETC Communications, LLC
47. EveryCall Communications, Inc.
48. Four Star Marketing, LLC
49. Frontier Communications of America
50. Frontier Communications of TN/Vol
51. Georgia Public Web. Inc.
52. Global Connection Inc. of Tennessee
53. Global Crossing Local Services
54. Global NAPs Gulf
55. GoAmerica Relay Services Corp
56. Granite Telecommunications
57. Hamilton Relay
58. Hypercube Telecom, LLC
59. IBFA Acquisition Company
60. Image Access d/b/a NewPhone
61. Intrado Communications
62. Jackson Energy Authority
63. Kentucky Data Link, Inc.
64. Knology of Tennessee
65. Knoxville Data Link, Inc.
66. Level 3 Communications
67. Lifeconnex Telecom, LLC
68. Lightyear Network Solutions
69. LMK Communications, LLC
70. LoadPoint Telecommunications
71. Madison River Communications
72. Matrix Telecom, Inc.
73. MCC Telephony of the South, LLC
74. MCI Communications Services, Inc.
75. MCImetro Access Transmission Svs.
76. McLeod USA Telecomm Services
77. Memphis Networx
78. Metropolitan Telecommunications
79. Midwestern Telecom, Inc.
80. Momentum Telecom
81. MountaiNet Telephone Company
82. Navigator Telecommunications
83. Network Telephone Corp.
84. Neutral Tandem-Tennessee, LLC
85. New Edge Network
86. Nextlink Wireless, Inc.
87. Nexus Communications, Inc.
88. Norlight, Inc.
89. NOS Communications
90. NOW Communications, Inc.
91. OneTone Telecom Inc.
92. OnWav, Inc.
93. Pac-West Telecom, Inc.
94. Peace Communications
95. Peerless Network of TN, LLC
96. PNG Telecommunications, Inc.
97. Quality Telephone
98. Qwest Communications Corp.
99. RTC Solutions
100. SBC Long Distance, Inc.
101. Sprint Communications Company
102. Syniverse Technologies, Inc.
103. Talk America
104. TCG MidSouth
105. TEC of Jackson, Inc.
106. TelCove Operations
107. Tele Circuit Network Corp.
108. Telecommunications Systems, Inc.
109. Telepak Networks
110. Telescan, Inc.
111. Tele-Sys, Inc.
112. Tennessee Independent Telecommunications Group, LLC
113. Tennessee Telephone Service d/b/a Freedom Comm.
114. The Other Phone Company, d/b/a Access One Comm.
115. Touchone Communications, Inc.
116. TransNational Communications
117. TW Telecom of TN, LLC
118. Twin Lakes Communications, Inc.
119. UCN
120. US Carrier Telecom, LLC
121. US LEC of Tennessee
122. Vo2 Networx
123. Volunteer First Services
124. Wholesale Carrier Services, Inc.
125. Wiltel Communications, LLC.
126. Windstream NuVox, Inc.
127. Worldspice Communications, Inc.
128. XO Tennessee
129. YMax Communications



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