OVERSIGHT OF THE AMERICAN RECOVERY AND REINVESTMENT ACT: BROADBAND, PART 3

HEARING

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HOUSE OF REPRESENTATIVES

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OVERSIGHT OF THE AMERICAN RECOVERY AND REINVESTMENT ACT: BROADBAND, PART 3

THURSDAY, MARCH 4, 2010

House of Representatives,
Subcommittee on Communications,
Technology, and the Internet,
Committee on Energy and Commerce,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:01 a.m., in Room 2123 of the Rayburn House Office Building, Hon. Rick Boucher [Chairman of the Subcommittee] presiding.

Members present: Representatives Boucher, Markey, Stupak, Doyle, Matsui, Christensen, Space, McNerney, Welch, Dingell, Waxman (ex officio), Stearns, Shimkus, Buyer, Terry, Blackburn, Barton (ex officio) and Griffith.

Staff present: Roger Sherman, Chief Counsel; Bruce Wolpe, Advisor; Amy Levine, Counsel; Tim Powderly, Counsel; Shawn Chang, Counsel; Greg Guice, Counsel; Sarah Fisher, Special Assistant; Michael Perry, Intern; Elizabeth Letter, Special Assistant; Neil Fried, Minority Counsel; Will Carty, Minority Professional Staff; and Garrett Golding, Minority Legislative Analyst.

OPENING STATEMENT OF HON. RICK BOUCHER, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF VIRGINIA

Mr. BOUCHER. The subcommittee will come to order.

Good morning to everyone, and welcome to our hearing today, our third oversight hearing regarding the $7.2 billion provided by the Economic Recovery Act for broadband programs. The programs are administered by the U.S. Department of Commerce through the NTIA and the Department of Agriculture through its Rural Utilities Service. It is our pleasure this morning to welcome the NTIA director, Assistant Secretary for Communications and Information, Larry Strickling, and Rural Utilities Service Administrator Jonathan Adelstein, who will discuss the process that they have undertaken for awarding grants for the first round of funding and the standards their agencies have developed that will govern the funding awards during the second round.

The Recovery Act's broadband program presents an historic opportunity for increasing the availability of broadband and elevating the standing of the United States among developed nations and the percentage of our population that uses it. How effectively these

goals are met will be determined in large part by the standards that govern the deployment of the program's funds.

During our last oversight hearing, I expressed a range of concerns about the standards that had governed the first round of funding and encouraged the agencies to consider modifying those standards prior to publication of the notice of funds available for the second round. I am pleased to note this morning that the rules for round 2 largely address those concerns. For example, in the RUS program, grants of more than 50 percent of project cost are no longer only available to communities that are deemed remote, meaning that those communities are more than 50 miles from a city of at least 20,000 people. That round 1 restriction had disqualified from major grant awards small, isolated communities, typically those ringed by mountains that are located throughout the astern United States. I am pleased that this remoteness test has been removed from the round 2 standards.

The rules for round 2 have also been changed so that rural applicants are no longer required to apply first to RUS and be rejected before NTIA can make an award to that applicant, and I am pleased to note that in round 2, RUS has specified a measure of funding that will be available for satellite-delivered broadband services. I very much appreciate the agency's responsiveness to our concerns on these matters and I commend them for the positive changes that they have made in the program rules.

I do want to offer this morning a couple of suggestions for round 2. First, I urge the agencies to give round 1 applicants whose applications were rejected ample guidance so that they can improve their applications for round 2. For example, round 1 applicants at the present time cannot find out how many points the winning applications scored during round 1 so those who were not successful in round 1 currently really don't know how close they came to receiving an award. Many of those round 1 applicants could have been on the cusp of receiving an award and they may be discouraged from applying in round 2. If they knew they were close, they would be encouraged, they should be aware of that fact, and the agency should give them guidance about how to improve their round 2 applications.

I also urge the RUS to give serious consideration to granting waivers of the requirement that projects cost no more than $10,000 per home passed. Many areas without access to broadband today are among the most difficult and expensive to serve due to terrain—many of these communities are mountainous—and also because of the distances that are involved over which the infrastructures would have to be deployed, and many communities of the eastern United States that are in fact isolated, ringed by mountains, a long way from the nearest metropolitan area will simply not be served if the requirement that the project costs no more than $10,000 per home passed remains inviolate. And so I would strongly encourage generous waivers to that requirement where the situation merits those waivers.

I want to commend NTIA and RUS for the tremendous work that they have done on the broadband program to date. The agencies have had to crease these programs out of whole cloth. You have had to hire staff and train that staff over a short period of time

and then begin to make grant awards, and I believe you have done an outstanding job of that and you have this committee's thanks for the fine work that you have both performed and that your staffs have performed. You have done so under short time frames and with a lot of uncontrollable events, like the snowstorm that I know was a major impediment but didn't slow you down, and so congratulations for that performance.

Mr. Strickling, Mr. Adelstein, thank you for joining us this morning. I look forward to your comments on the matters that I have raised and matters that other members will raise.

At this time I am pleased to recognize our ranking member, the gentleman from Florida, Mr. Stearns.

OPENING STATEMENT OF HON. CLIFF STEARNS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. STEARNS. Good morning, and thank you, Mr. Chairman. Thank you for holding this hearing, and I want to also thank our witnesses for being here. We look forward to their testimony.

Mr. Chairman, before we go any further, I would like to recognize the newest member of our Subcommittee on Telecommunications, and the Internet, Mr. Parker Griffith from Alabama. So welcome. We are delighted to have you on the subcommittee.

I think, Mr. Chairman, your terms when you said you have a range of concerns, I like that terminology that you used. That was diplomatic and also pointing out there are some legitimate feelings here on both sides. We feel that the NTIA and RUS broadband stimulus programs are not working as well as they could. There are a number of cases that we want to bring up to question the effectiveness of the programs, and I know many on that side particularly touted that this would be a huge stimulus and start sort of a new technological revolution, which ultimately I believe it can. I think honestly done right, this can move towards huge opportunity for everybody.

But let me just, for example, give you a case where it has come to my attention there have been some specific complaints about the overbuilding of existing networks. In north Georgia, NTIA awarded a $33.5 million grant to an area that already has extensive broadband service. According to a letter from the incumbent provider Windstream, 90 percent of the homes and businesses in the project already have access to broadband. All Americans should have access to broadband, robust broadband, but if the goal of the stimulus was to bring broadband to areas without any access, then this $33.5 million could have been better spent. We all agree on that.

Now, supporters of the stimulus promise that it would create millions of new jobs and that all Americans would have access to fast and affordable broadband, yet here we are a year later. I am not sure we see the huge change and the early reviews don't bear that out.

Now, during the markup, as I mentioned, all of us were hopeful that this would create more jobs. In fact, many people talked about it would spark sorely needed economic development and creation. I mean, those are the exact words of some people on the other side. It appears that some of this money may be going to pay for dupli-

cate services and facilities where consumers already have broadband access. If that is the case, the money will not be bringing access to unserved areas. Moreover, it will make it much more difficult for the existing providers to operate their businesses in the face of a government-subsidized competitor.

For the United States to achieve ubiquitous broadband deployment, the private sector will have to shoulder the bulk of the financial burden. To the extent that any government money will be spent on financing broadband deployment, such money should be made available in areas that are otherwise uneconomic to serve. The broadband stimulus programs violated, I think, this central tenet.

Congress attached strings to the NTIA program in the form of network neutrality and interconnection obligations that dissuaded experienced providers from participating in the program. In addition to driving away the companies most likely to help us achieve ubiquitous broadband deployment, NTIA is now actually subsidizing broadband competition rather than extending coverage to unserved areas.

During the first round of funding, NTIA set up a process whereby providers only had 30 days to identify applications that would grant funding in areas they already served and to contest such applications. The consensus is that 30 days has not been enough time. And NTIA has granted applications that appear to subsidize broadband competition rather than extent services to unserved areas. Now NTIA has actually proposed to shorten the window for contesting applications to 15 days. Now, I just can't conceive of how a 15-day window will ensure that NTIA is not subsidizing broadband competition rather than extending service to rural areas. In fact, during the stimulus markup we had a Republican amendment that would have ensured that unserved areas would get priority over underserved. Unfortunately, this amendment failed on a party-line vote. This program would have really benefit if our amendment had been adopted.

If the NTIA and RUS broadband programs were subsidizing areas where existing providers are already offering service, the programs will harm deployment and cost jobs rather than promote broadband and stimulate the economy. Further deployment in areas that already have access will not expand broadband availability and providers in high-cost sparsely populated areas already have difficulty covering the cost of deployment. Splitting their subscribers based upon subsidizing a new competitor will only make it harder to recover broadband investments, putting jobs in jeopardy rather than creating them.

So those, Mr. Chairman, are my range of concerns and I appreciate you having the hearing. I look forward to our witnesses.

Mr. BOUCHER. Thank you very much, Mr. Stearns.

The gentleman from Massachusetts, Mr. Markey, is recognized for 2 minutes.

OPENING STATEMENT OF HON. EDWARD J. MARKEY, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF MASSACHUSETTS

Mr. MARKEY. Thank you, Mr. Chairman, and thank you for having this very important hearing.

You know, we had a very bad period of time during the 8 years of the Bush Administration where we dropped from second in broadband deployment and adoption to 15th in the world. It was not a good record. And since broadband deployment is for all intents and purposes a proxy for kind of determining how rapidly our economy is advancing, we obviously need a plan to make sure that we get back on the road where we don't allow Luxembourg and Finland and other countries to pass us, which they have done over the last 8 years.

So that is really what this is all about, and the Recovery Act was a significant step forward in increasing deployment and adoption levels and unleashing the power of broadband to create jobs, improve health care. Actually looking right across the whole board including public safety tools and the national broadband plan which I inserted language into the stimulus bill to require the Administration to produce a national broadband plan is due back on March 17th, and to the Irish, that is a very lucky day, you know, not only for the Irish but for the whole country when this broadband plan is produced, and I look forward to that plan being released in the next couple of weeks.

In addition, there is non-discrimination in network interconnection obligations that was built into the stimulus bill, and I was proud to be able to write that language in as well because that is central to ensuring that all of those applications, all those new gadgets that are out there have an incentive to be developed because they will have access to this network. That is the whole key. It is competition. It is to ensure that we do have that set of incentives, and the broadband mapping plan so that we know where we have to go, what we have to do. All of that is central as well, all of that in legislation.

So Mr. Chairman, this is about as important a hearing as we can have for our country long term in economic growth. I thank you for having it. I look forward to our witnesses.

Mr. BOUCHER. Thank you very much, Mr. Markey.

The ranking Republican member of the Energy and Commerce Committee, the gentleman from Texas, Mr. Barton, is recognized for 5 minutes.

Mr. BARTON. Thank you, Mr. Chairman, and thank you for holding this hearing. Thank you to our witnesses. I am used to seeing Mr. Adelstein as part of the FCC. It is a little bit difficult to recognize him in his new role, but we appreciate you being here.

I am going to submit my written statement for the record, Mr. Chairman. The concern that myself and I think most of the minority have is that we really feel this money should have gone to unserved areas before going to areas that are already served, and there appears to be quite a bit of evidence that a number of the projects that have been awarded have gone to areas that are already being served, and in round 2, there doesn't appear to be any requirement at all that they discriminate between served and

unserved. So that would our big objection, that we really try to target these projects to areas that don't have broadband before we begin to give awards to areas that do.

And with that, I will yield back.

[The prepared statement of Mr. Barton follows:]

**Statement of the Honorable Rep. Joe Barton
Ranking Member, House Energy & Commerce Committee
Subcommittee on Communications, Technology, & the Internet
"Oversight of the American Recovery and
Reinvestment Act: Broadband, Part 3"
March 4, 2010**

Thank you, Mr. Chairman. This hearing speaks to the basic

stated reason for the economic stimulus bills: jobs, jobs, jobs. But it

also speaks to the basic objection to it: government waste, waste,

waste.

Overseeing the spending of taxpayers' dollars is a fundamental

responsibility, and we must do everything we can to ensure money

is not being misspent or simply thrown away. So thank you, Mr.

Chairman, for calling this hearing, and I also want to thank Assistant

Secretary Strickling and Administrator Adelstein for making

themselves available to the Subcommittee.

The FCC says that getting high-speed broadband to 100

million households will cost approximately $350 billion. That's

billion with a "b." The combined cost of the NTIA's and the RUS's

programs is $7.2 billion. That's barely 2 percent of the stated total

cost, but it is not pocket change for taxpayers, and I want to make

sure that we don't treat any number of billions of taxpayers' dollars

like it was walking around money.

So while very real, very large costs are involved, it will be

difficult to move the needle with these programs, especially if we

are not very precise in how we spend the money. Luckily, there are

people in this country who are still willing to risk their own money

in the hopes of building a strong business, delivering customers

good service, and making a profit. And if we don't tax them out of

existence, that will continue, even in a down economy. In fact, the

industry has invested more than $60 billion in broadband in the last

year alone. That is a testament to the competitive and dynamic nature of this economic sector and these businesses.

What disturbs me most are the rumors that some of the funds that have been distributed by NTIA and RUS are for projects that overlay existing broadband infrastructure. I'm aware of at least two projects that appear to be overbuilds, and given the relaxing of the rules for the next round of funding from the NTIA, this problem will only get worse. What due diligence are the NTIA and the RUS doing themselves to ensure money is not being spent where facilities already exist?

When a company makes a decision to dig holes and lay fiber at great cost, it does so with the hope and expectation that it will recover its investment. When that construction is done in rural, remote, and sparsely populated areas, the decision is more risky because it is that much harder to make a profit. And when the

government subsidizes a competitor, the financial pressures on that business are increased, which may lead to cost-cutting measures, including job losses. This results in the polar opposite of the stated goals of the economic stimulus, these programs, the Congress, and the Administration. It certainly isn't "job, jobs, jobs."

Everybody here will remember that the Republicans on this Committee made an explicit effort to avoid this problem. When we marked up the stimulus over a year ago, Mr. Blunt offered an amendment to ensure that the stimulus funds went to *unserved* areas before they went to *under-served* areas. Not one Democrat voted for the amendment. That vote was confirmation that the broadband stimulus funds were not about quickly getting service to those who don't have it, but about subsidizing companies and projects that were not otherwise economically viable.

Looking back from today, it is clear that the only idea was to flood the country with money regardless of whether the arrival of that money produced recovery. It was a talking point instead of a program.

Now, I have some sympathy for the agencies that are before us today. They were given a huge job and not much time to get it done. While there have been—and there will be—some flaws in the administration of these programs, the problem is the underlying law that some of us knew would finance an explosion of waste. But I hope, Mr. Chairman, that as these agencies move forward, they do so with the goal of significantly improving broadband penetration. If you are going to meet that goal, you must prioritize.

Ranking Member Stearns and I wrote a letter in March to the Commerce and Agriculture Departments with some ideas for how this should be done. First, we suggested that you prioritize projects

in states where broadband mapping is complete. Second, you

should prioritize money toward unserved areas. No one should get

"seconds" before others get "firsts." Third, you should prioritize

money toward projects that are sustainable without additional

government funding. And finally, you should give priority to

projects that can increase broadband availability the most for every

dollar spent. If these guidelines are followed, as more money is

granted, we can avoid the criticisms and the overbuild problems that

we are already hearing about.

Thank you, Mr. Chairman, and I yield back.

Mr. BOUCHER. Thank you very much, Mr. Barton.

The gentleman from Michigan, Mr. Stupak, is recognized for 2 minutes.

OPENING STATEMENT OF HON. BART STUPAK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. STUPAK. Thank you, Mr. Chairman, for holding this hearing.

One provision in the ARRA that has generated excitement in rural communities is the broadband funding. In the coming months, due to a broadband stimulus grant from the Rural Utilities Service, 14 townships in Michigan's Upper Peninsula with populations ranging from 5,000 to as few as 175 people will begin to realize the benefits of high-speed broadband access for the first time ever. The private company that received the funding estimates that during construction of the broadband project, approximately 170 jobs will be created in the area. My office has received numerous letters from constituents in the area asking one simple question: will this project finally give me broadband services? While I wish I could respond to every single letter with an emphatic yes, the project will only benefit residents in three of the 31 rural counties in my district, so more work remains.

The NTIA will also provide a loan and grant for a Michigan company to build a fiber optic network which will run through nine counties in the northern Lower Peninsula. This project will for the first time in Michigan's history connect the Upper and Lower Peninsula with fiber at the Mackinaw Bridge. An immediate impact of this fiber connection will be that Michigan Tech University will have access to the Internet to high-speed network and will be connected to 210 educational institutions, 70 corporations and 45 nonprofit and government agencies. These projects never would have happened without the stimulus broadband funding, so I have a special appreciation for the benefits that the NTIA and RUS programs will provide for rural communities.

However, I want to caution both NTIA and RUS to be diligent in distributing this funding in a timely manner but not to rush it out the door without ensuring it is going to where it will do the most good. I am specifically concerned with NTIA's rule change from 30 days for incumbent rural broadband providers to inform the agency of a proposed project that overlaps with their service area. I want this proceed to succeed. I do not want us to look back and talk about waste, fraud and abuse at the end of this year.

Mr. Chairman, thanks for holding this hearing. I look forward to discussing these issues with our witnesses, how we can work together to maximize broadband deployment throughout rural America.

Mr. BOUCHER. Thank you very much, Mr. Stupak.

The gentlelady from Tennessee, Ms. Blackburn, is recognized for 2 minutes.

OPENING STATEMENT OF HON. MARSHA BLACKBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mrs. BLACKBURN. Thank you, Mr. Chairman, and again, I welcome our witnesses. I had the opportunity to visit with them before

the hearing started, and I think that they know we are all interested in seeing how quickly broadband is going to get to our State. We do know, as Secretary Strickling mentioned, we have had two awards in Tennessee and we know that there will be more that are going to come forward.

As we go forward on the Recovery Act, which so many of us have really been skeptical of in the first place, and we talked about that, it is troubling to hear a steady flow of stories that much of the money being spent is duplicative. Furthermore, when these grants are subsidizing areas that already have broadband service, which in essence is government-subsidized competition, there is the opportunity for lost jobs and overbuilding, which defeats the purpose of these funds. It seems odd that we have put aside all this money for broadband deployment, have instructed the Administration to send the money out to the States without the staff to execute or a reasonable timetable in which to do it and to top it all off, we are doing all of it before we even have the mapping plan. And as I mentioned to you in our conversation, this is something that our constituents are aware of. The creative community that is headquartered in my State is watching this very closely and they are very conversant on this issue and come to us regularly, and we are going to look forward to drilling down a little deeper on these issues with you, and we are so appreciative of your time of coming before us.

And Mr. Chairman, thank you for the hearing.

[The prepared statement of Mrs. Blackburn follows:]

Honorable Marsha Blackburn (TN-07)
Committee on Energy and Commerce
Subcommittee on Communications, Technology, and the
Internet
Hearing: "Oversight of the American Recovery and
Reinvestment Act: Broadband, Part Three"
Opening Statement
March 4, 2010

Thank you, Chairman Boucher for calling this important hearing. This serves as a great opportunity to evaluate how the ARRA has been implemented and how we can improve upon our mistakes and best move forward.

As we go forward on this Recovery Act, which so many of us were skeptical of in the first place, it is troubling to hear a steady flow of stories that much of the money being spent is duplicative. Furthermore, when these grants are subsidizing areas that already have broadband service, which in essence is government-subsidized competition, there is the opportunity for lost jobs and overbilling, which defeats the purpose of having these funds.

It seems odd that we have put aside all this money for broadband deployment, have instructed the Administration to send this money out to the states without the staff to execute or a reasonable timetable in which to do it, and to top it all off, we're doing this BEFORE we even have a mapping plan.

I look forward to drilling down a little deeper with Administrator Adelstein and Assistant Secretary Strickling and yield back the balance of my time.

Mr. BOUCHER. Thank you very much, Ms. Blackburn.

The chairman of the Energy and Commerce Committee, the gentleman from California, Mr. Waxman, is recognized for 5 minutes.

OPENING STATEMENT OF HON. HENRY A. WAXMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WAXMAN. Thank you, Chairman Boucher, for holding this hearing to continue our committee's oversight of broadband programs created by the Recovery Act.

The broadband funding in the Recovery Act is dedicated to building essential digital infrastructure for the 21st century throughout the United States and it is creating jobs for today and tomorrow. This is the subcommittee's third oversight hearing to review this important Recovery Act program, and it will likely not be the last. Although I am confident that the National Telecommunications and Information Administration and the Rural Utilities Service have been managing this program diligently, the committee will continue to fulfill its oversight role going forward.

I know that the Obama Administration is also committed to conducting rigorous oversight of Recovery Act programs including broadband funding. In addition to unprecedented transparency, the President's 2011 budget proposes to reallocate funds to allow specifically for continued NTIA oversight, monitoring grant evaluation and reporting essential to meet the highest standards for transparency and accountability in this program.

At our first oversight on this matter, I stated NTIA and RUS have the difficult task of spending the taxpayers' money quickly yet wisely. They would have to act in a decisive manner but so in ways that were fair, open and transparent to the taxpayers. As the first funding cycle for the Broadband Technology Opportunities Program and the Broadband Initiatives Program comes to a conclusion, I believe the agencies have met this difficult challenge. To date, the two agencies have awarded over 60 projects totaling over $1.25 billion in grants and loans. The NTIA has also awarded nearly $100 million in broadband mapping grants to almost every State and several territories. The projects are touching every corner of the country and range from the creation of a fiber optic network throughout Maine to broadband connectivity in 65 communities in southwestern Alaska to digital literacy training throughout southern California. BTOP and BIP projects will not only extend and enhance broadband offerings in the United States, they will also serve the Recovery Act's central objective of creating and preserving jobs. I want to commend Assistant Secretary Strickling and Administrator Adelstein for their efforts, not to mention the staff at NTIA and RUS, in rising to this challenge. NTIA and RUS also merit praise for being open to suggestions for improvements.

I am encouraged by the changes made in the second Notice of Funds Availability issued late last year. The reduced administrative burdens on applicants streamline the application process and now allow satellite providers to play a role in providing broadband service to rural areas. I am particularly pleased with NTIA's emphasis on so-called middle mile projects and a commitment to provide the best services at the best value to the American taxpayer.

I look forward to your testimony today and I appreciate the participation and the active role of our subcommittee. Thank you, Mr. Chairman.

Mr. BOUCHER. Thank you very much, Chairman Waxman.

The gentleman from Nebraska, Mr. Terry, is recognized for 2 minutes.

OPENING STATEMENT OF HON. LEE TERRY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. TERRY. Thank you, Mr. Chairman.

I must admit, Mr. Chairman, that the entire process of establishing a policy that will spur broadband deployment in this country seems to be a little backwards. Soon we will have a document submitted to Congress by the FCC that will provide us with a national broadband plan. I support the efforts of the FCC and everyone involved in creating such a document but I find it odd and backwards that the FCC was instructed to create a national broadband policy within the same legislation that appropriated over $7 billion to build out broadband. If we acknowledge that our broadband infrastructure in America is in need of a national policy to make us more competitive with the rest of the world, then would it have not made more sense to give the FCC to community the national broadband plan and then legislate policy that would stimulate our economy by creating these incentives needed to build more broadband. Instead, Congress rushes to spend money and we have the hope that they get it right.

While I hope to stand corrected, I am sure that we got the broadband stimulus right. I am growing increasingly concerned that NTIA and RUS are finding entities that want to build broadband networks over existing broadband networks. The term "underserved" is too subjective and it is an excuse to use taxpayer dollars to build networks that the government wants to build under their terms and conditions.

Mr. Chairman, over a year ago before the stimulus passed Congress, this subcommittee had the opportunity to use its sacred taxpayer dollars to build networks for Americans that have no broadband today. Delivering broadband to unserved Americans will stimulate our economy and create jobs. That should have been the focus of the federal broadband stimulus program. Today I look at the list of projects funded under the first round and I see $7.5 million to the city of Los Angeles, $1.9 million to the city of Boston and $25 million to a fund network in Maine that completely overlaps existing fiber network yet many unserved areas received nothing.

Yield back.

Mr. BOUCHER. Thank you very much, Mr. Terry.

The gentleman from Pennsylvania, Mr. Doyle, is recognized for 2 minutes.

OPENING STATEMENT OF HON. MICHAEL F. DOYLE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. DOYLE. Thank you, Mr. Chairman.

Well, we have given you guys a pretty tough task. From hearing our members here today, want you to have all this money deployed yesterday, but we also want you to do your due diligence to make sure that you are not putting projects out there that are later going to embarrass you and embarrass all of us. So it is a tough balancing act that we have given you but I think you are up to the task.

I would say to some of my friends, I support deploying broadband in areas that don't have it. That is what we want to do and that is the key to the future, but I would also say to my friends that many of us who represent urban areas and especially poor urban areas have many communities that are underserved. The private sector has not put broadband or not sufficient, you know, the up-to-date broadband in these areas and people are falling behind, and as a result, these people aren't going to have access to the jobs of tomorrow if we are not able to serve these underserved areas also. So I don't think it should be an either-or proposition. Obviously we need to do both, and I support both.

The projects in Pennsylvania so far, the two projects that have been awarded, I am happy to see the Pennren project that is going to create a high-speed middle-mile network to connect anchor institutions like schools and libraries and universities, community colleges and hospitals and more to each other while helping these last-mile companies connect to that high-speed network. The other project, which invests in wireless and wireline backhaul, provide wholesale access over an existing public safety wireless network in my State. Both of these projects I think they make sense. They leverage existing revenues and both serve areas that are in need of broadband.

So with that being said, I look forward to asking some questions on the sustainable broadband adoption grants that are coming up in round 2. I would just say it is one thing to have connectivity but it is another thing to use it and use it effectively to promote education, economic development and improve health care. Broadband is the dial tone of the 21st century, Mr. Chairman, and I am looking forward to the testimony of our witnesses and the questions to follow. Thank you.

Mr. BOUCHER. Thank you very much, Mr. Doyle.

I would like to add the subcommittee's welcome to the gentleman from Alabama, Mr. Griffith, and Mr. Griffith, you are recognized for 2 minutes.

Mr. GRIFFITH. Thank you, Mr. Chairman, and I have no comment, and I appreciate so much the opportunity to participate in the committee. Thank you.

Mr. BOUCHER. Thank you, Mr. Griffith. We will add 2 minutes to your questioning time for this distinguished panel of witnesses.

The gentleman from California, Mr. McNerney, is recognized for 2 minutes.

Mr. MCNERNEY. Thank you, Mr. Chairman. I want to thank you for holding today's hearing to discuss the current status of the broadband grants provided by the American Recovery and Reinvestment Act. As we all know, expanding broadband access is crucial to promoting American innovation and improving our economy.

I do hope to learn today about how the NTIA is progressing with its Broadband Technology Opportunities Program now that the agency is accepting a second round of funding distribution proposals. I understand that some changes have been made to improve the application process and I am anxious to see how these changes have resulted in positive outcomes. It is crucial to fully understand where to focus our energies as we continue working to expand broadband services and I am eager to see the results of the broadband mapping grants.

Again, I want to thank the panelists, Mr. Strickling and Mr. Adelstein, for coming today and I look forward to working with you to improve the grant process.

Thank you, Mr. Chairman.

Mr. BOUCHER. Thank you very much, Mr. McNerney.

The gentleman from Illinois, Mr. Shimkus, is recognized for 2 minutes.

OPENING STATEMENT OF HON. JOHN SHIMKUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. SHIMKUS. Thank you, Mr. Chairman, and I want to welcome Secretary Strickling and of course Jonathan Adelstein, who we worked with a long time ago.

It is unfortunate that we are doing this and we still don't address what is underserved and what is unserved. We have been trying to get a definition of underserved. The opening statements are part of this debate. In bills, we try to define that. We weren't allowed to get a definition of that, and that is why we are going to continue to have this frustration about where does the money go and are people being incentivized by the fact that we have gone into additional debt. That is what we have done with ARRA. We have gone into additional debt to help an undefined purpose, whether it is unserved or underserved, and the definition of underserved, what is that?

So, Mr. Chairman, I would recommend we clarify this to help us as we move forward, and if anything, that should be part of the oversight hearing. If we are incentivizing people who already have broadband access with taxpayers' dollars and there are areas of our country that have no service, shame on us. And that is simplistic and that is clear, and we should get it straight.

Now, to be on the nicer side, I would like NTIA to come in so we can talk about E911, the digital platform, where do we move next, but this is key in this whole debate. If 911 services are going to go over a broadband platform, we better have broadband deployment in areas where there is not broadband deployment now. And as the commissioner from the State of California said in testimony here, if we are giving out money before we have a plan, we are going to waste money, and I fear that is where we are going. Thank you, Mr. Chairman.

Mr. BOUCHER. Thank you very much, Mr. Shimkus.

The gentlelady from the Virgin Islands, Ms. Christensen, is recognized for 2 minutes.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman, and I want to again thank you, Chairman Boucher, and Ranking Member Stearns for holding this third oversight hearing on the broadband

programs and initiatives created under the ARRA and for your commitment to exercising our oversight responsibilities on these programs. The ARRA is making a positive difference in many, many areas and we just want to ensure that the same is true for broadband reaching unserved and underserved areas. As Mr. Stupak said, the programs and initiatives are particularly important to rural areas, and although people don't think of the Virgin Islands as a rural area, I understand that we are just second to Puerto Rico in the lack of Internet access. We are very, very much un- and underserved.

I want to applaud both NTIA and RUS, though, for what I see as a continuing great collaboration between the two agencies as well as for the outreach you have done, the technical assistance you provided, for extending the deadlines, for the simplification and streamlining of the process and the other changes that you have made to assist applicants and to better meet your mandate. Obviously there are several concerns and I look forward to hearing your testimony and being able to interact with you during the question-and-answer period.

Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. BOUCHER. Thank you very much, Mrs. Christensen.

The gentleman from Indiana, Mr. Buyer, is recognized for 2 minutes.

OPENING STATEMENT OF HON. STEVE BUYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. BUYER. Thank you very much.

I also would like to welcome Dr. Griffith. I welcome you to the Republican Party. I welcome you to the committee. I think your expertise is going to be very valuable to the committee. I also want to note that as you go into the next Congress, I am not going to be here so I am going to bring this to your attention. Since you are sitting way down at the bottom of the dais, what happened in this committee was something that we had not seen here in Congress for a very, very long time, and it was the distortion of the committee ratios, and this committee's ratio got distorted because we had a new President who said he is going to deliver change that America can believe in, and what we have learned in order to deliver the change that he thinks America needs, he needed a process that he could jam it through. In order to do that, you control the process by manipulating it. So they distorted the ratio on this committee so they could actually achieve the goal of passing a climate change bill and passing health care which Americans said they don't want. So what has happened is, some of the Democratic colleagues have folded over onto this side of the aisle. So Republicans, which I believe are going to take control of the next Congress, do not be upset when you are sitting back on the Democrat side of the aisle, okay? I just want to alert you ahead of time.

The other is, I am going to call you Dr. Griffith. I am going to call you Doctor because you understand triage. You take care of the worst patients first. We are dealing with what I call a policy of shame, a policy of shame because we aren't even waiting for the maps to be done and we are pushing the money out. Why? To make sure money gets to underserved instead of unserved. So we are ac-

tually leaving people out. So your premise as a doctor in how you view the world, you are going to have some challenges here because we are actually exercising policies of shame and I think it is absolutely wrong, and I am very, very bothered that we are doing that in this committee and I welcome your dimension.

With that, I yield back.

Mr. BOUCHER. Thank you very much, Mr. Buyer.

The gentleman from Ohio, Mr. Space, is recognized for 2 minutes.

OPENING STATEMENT OF HON. ZACHARY T. SPACE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. SPACE. Thank you, Mr. Chairman, and thank you, Ranking Member Stearns for holding this hearing this morning.

Before I begin, I would like to welcome my colleague Parker to the committee. It is not how I envisioned you ascending to this committee but it is good to see you here, Parker.

To date, the State of Ohio has received a total of six awards under the Recovery Act for the broadband programs, four of which are RUS programs, two NTIA, and all are worthy. However, the NTIA programs deal primarily with—one deals with state mapping, one deals with awareness, both of which are very important. The RUS programs deal kind of on a microcosm basis, small programs covering no more than three or four counties, and I don't want to forget that these are very important projects and we are supportive of all of them. However, we haven't seen what we believe is necessary in terms of providing a regional approach, in Appalachian Ohio in particular where regardless of how you define underserved or unserved, we will meet that definition. The counties that I represent, and I represent 16, almost all of them fall within Appalachia proper and we are missing out on the hope that broadband provides, both with respect to economic development but pertaining to quality-of-life issues as well, health care access, educational access, all areas where we find ourselves at a disadvantage, and we know that broadband fulfills and will fulfill the promise of bridging those divides.

We have been working with stakeholders in the district, and I am optimistic that in spite of the successes that the NTIA and RUS have had thus far, you understand and are fully appreciative that there is much more work to be done, and I certainly hope that some of that work will be done in Appalachian Ohio.

Again, thank you gentlemen for being here today and for your hard work in your capacities.

Mr. BOUCHER. Thank you very much, Mr. Space.

We welcome now our witnesses for this morning, a distinguished panel consisting of the two individuals who are responsible for administering the $7.2 billion stimulus fund enacted through the American Recovery Act. Mr. Larry Strickling is the Assistant Secretary of Communications and Information at NTIA, the U.S. Department of Commerce. Mr. Jonathan Adelstein is the Administrator of the Rural Utilities Service and the U.S. Department of Agriculture. From 2002 until 2009, he served as a commissioner on the Federal Communications Commission. We welcome both of you. This is your third appearance, as I recall, before our subcommittee,

and we thank you for taking the time to share your views with us this morning on round 1 and your plans for round 2.

Without objection, your prepared written statements will be made part of the record. We would welcome your oral summary and ask that you keep that to about 5 minutes.

Mr. Strickling.

STATEMENTS OF LAWRENCE E. STRICKLING, ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION; AND JONATHAN S. ADELSTEIN, ADMINISTRATOR, RURAL UTILITIES SERVICE, USDA

STATEMENT OF LAWRENCE E. STRICKLING

Mr. STRICKLING. Thank you, Chairman Boucher and thank Ranking Member Stearns and thank members of the subcommittee for the invitation to testify today on our programs to expand broadband access and adoption pursuant to the Recovery Act. I am also very pleased to make what is now the sixth appearance with Administrator Adelstein as we make the rounds of oversight hearings among the various committees that are interested in this topic, and I think that points out how important this topic is to so many people.

I am pleased to report that by the end of this week, we at NTIA will have awarded over $1 billion in grants to build broadband infrastructure, to equip public computer centers, to increase the adoption of broadband services, and to have the States collect data for the national broadband map. These investments will help bridge the technological divide. They will create jobs. They will improve health care and education in communities across America.

When I testified here before the subcommittee last September, we had just received the first round of applications and were starting our review of more than 1,800 applications that had been submitted. I want to assure you that projects that we have funded to date, for those projects the money is well spent and I report to you today that the projects we have selected for funding constitute a major investment in upgrading our Nation's infrastructure, creating new jobs and improving our economic health.

As I indicated, by the end of this week we will have awarded over $1 billion in grants. We have awarded grants in all 50 States and in several of the territories. This includes 54 broadband mapping grants totaling about $100 million and 49 BTOP grants worth more than $960 million. We are funding four types of projects, and I would like to give you a brief update on each of those.

First, the infrastructure projects. These are funds to build out improved infrastructure or new infrastructure in unserved and underserved areas, and I look forward to clearing up what is obviously a misunderstanding about exactly what the difference is between unserved and underserved. We will do that in the question-and-answer period. But the point I want to make is that our infrastructure projects are what we call comprehensive community infrastructure projects. We bring high-speed middle-mile infrastructure into communities or regions and then connect key community anchor institutions—the libraries, the hospitals, the community col-

leges. This core infrastructure once it is built is available to any service provider in the area under our open network requirements. This feature, which is required of all of our projects and indeed the Recovery Act, enables companies who are already present in the area who offer broadband to homes and businesses to improve their service offerings and reach neighborhoods that are not adequately served today. We would need to come back to this in the questions and answers, but it is fundamentally not the case that we are subsidizing competitors here. These projects benefit the existing providers because they have access to these facilities to reach customers that perhaps for economic reasons they haven't been able to adequately serve before this project is built.

So let me give you some examples. In Michigan, we have funded Merit Network to build a 955-mile advanced fiber optic network through underserved counties in Michigan's Lower Peninsula. This project will build direct connections to 44 anchor institutions like libraries, universities, community colleges, but as I noted, this infrastructure is available to all the providers in the area which means that this investment can lead to new or improved broadband service for more than 886,000 households, 45,000 businesses and 422 anchor institutions. In north Florida, we awarded $30 million to the North Florida Broadband Authority, a collaboration of 14 north Florida county governments who had assessed that they had a need for these services in those counties. It is a 1,200-mile fixed wireless broadband network that will directly 300 anchor institutions, but again, existing service providers will be able to use this network to offer broadband to an estimated 150,000 households and 27,000 businesses. Overall, the infrastructure projects we are funding in round 1 will result in the construction of 20,000 miles of broadband networks. They will build connections into more than 5,000 community anchor institutions and they will enable existing providers to offer new or improved broadband services to an estimated 10 million households.

The Recovery Act also directs us to award grants to public computer centers. These grants are important for communities where residents cannot easily subscribe to broadband at home due to its unavailability or affordability. They can be a vital link to give people access to jobs, health and educational information and to gain the skills they need to get jobs and compete in the 21st century economy. The 18 projects we have selected for funding will all significantly increase the ability of thousands of Americans to get access to high-speed Internet services at their local libraries, their community centers and other local institutions. For example, our $6 million grant in South Carolina will enable a computer center to be open to the public in every community college in the South Carolina Technical College system, will serve 21,000 new users per week. Rhode Island, a $1.2 million grant will serve an additional 7,000 users per week. Michigan, we awarded a $900,000 grant to Michigan State University to upgrade computer centers at public libraries, serve an additional 13,000 users per week across the State.

Our third group of projects is sustainable broadband adoption. These focus on how we can spend a dollar to increase the adoption rate for broadband services. Last month, we issued a report ana-

lyzing data collected by our sister bureau, the Census Bureau, on the levels of broadband subscription across the country. We asked folks why do they not use broadband, and the reasons they gave us were, one, they didn't need or understand the service, or two, they found it too expensive. So our sustainable broadband adoption projects have therefore focused on addressing the reasons people have given for not subscribing. So for example, just this week we awarded $18 million to the Cleveland-based organization One Community for a largely Ohio project that will reach over 330,000 people with an awareness campaign. It will train 33,000 people in both urban and rural areas and provide households with discounted computers. For all these adoption projects, our key focus is on the ability of the grantee to measure the level of subscribership in the target communities both before the program and at various times throughout the program. We want to make sure that the dollars are well spent, and it is imperative that we be able to measure the program impact to determine which of these approaches to increasing adoption actually work.

Our last category, broadband mapping. By the end of this week, we will have awarded 54 out of a possible 56 grants to States and territories totaling approximately $100 million. They will use these funds to collect and verify broadband subscription and infrastructure data, and we are expecting the first data by the end of the month. This will be used to create the national broadband map, and assuming the carriers follow through on their promises to supply the data, we hope to use it in our review of the second round applications for infrastructure projects.

Very quickly, I will just talk about round 2. Earlier this week we announced an extension of our March 15th deadline for all infrastructure projects to March 26th. Our deadline for public computer center and sustainable adoption projects remains March 15th. In round 2, we will continue our focus on funding comprehensive community infrastructure projects, and Administrator Adelstein at the RUS will be focusing on rural last-mile projects. I tell you that I am confident that we will continue to meet the challenges we face between now and the statutory deadline of September 30th, and I expect that by the end of this year, as the Recovery Act requires, our program will have benefited every State to the extent practicable.

So thank you for the opportunity to testify, and I look forward, I really look forward to your questions.

[The prepared statement of Mr. Strickling follows:]

Testimony of
The Honorable Lawrence E. Strickling
Assistant Secretary for Communications and Information
United States Department of Commerce

Before the
Subcommittee on Communications, Technology and the Internet
Committee on Energy and Commerce
United States House of Representatives

Oversight of the American Recovery and Reinvestment Act: Broadband

March 4, 2010

Chairman Boucher, Ranking Member Stearns, and Members of the Subcommittee, thank you for your invitation to testify on behalf of the National Telecommunications and Information Administration (NTIA) on the implementation and successes of the Broadband Technology Opportunities Program. Last year, Congress allocated $4.7 billion to NTIA to implement two Recovery Act initiatives to expand the availability and adoption of broadband Internet access-- the Broadband Technology Opportunities Program (BTOP) and the State Broadband Data and Development Program (Broadband Mapping Program). When we first testified on these initiatives, we were at the very earliest stages of conducting outreach and standing up a complex and large-scale grant program. Now, one year later, I am gratified to report that NTIA has already awarded over one billion dollars for projects that will have a significant impact on achieving President Obama's broadband agenda. The Agency is on track to meet our statutory obligation to award all grant dollars by September 30, 2010.

I.   Progress To-Date.

By the end of this week. NTIA will have awarded 111 Recovery Act grants totaling $1.1

billion. NTIA has funded projects in all 50 States and several territories as well. This includes

52 broadband mapping grants totaling approximately $100 million, and 59 BTOP grants worth

more than $960 million. An additional $270 million in matching contributions has been pledged

by the applicants themselves. These diverse projects are designed to increase broadband access

and adoption in unserved and underserved communities across America as well as to create jobs.

promote broadband training and adoption, and lay the groundwork for sustainable economic

growth for years to come.

Over the past twelve months, we have met the challenge of implementing these critical

broadband programs. balancing the urgency to address one of the worst economic crises in

history with the need to demonstrate prudent stewardship of taxpayer dollars. NTIA is focused

on ensuring that its broadband initiatives are successful and that the projects we fund will have

an enduring impact in communities across the nation. As described more fully in my testimony,

we have funded some truly excellent projects that promise to be game changers in the

communities in which they are deployed. We are working diligently to ensure that projects will

be sustainable. that taxpayers will get solid returns on their investment. and that the risk of waste

and fraud will be minimal. As we look forward to our second funding round, NTIA is fully

committed to making all grant awards by the September 30, 2010, deadline.

a.   <u>BTOP</u>.

Of the available grant funds, we will award $4 billion to fund infrastructure projects to

expand and enhance broadband capacity and adoption in areas where the need is great. Over the

course of the program. at least $250 million will be used to encourage sustainable adoption of

broadband services, and at least $200 million will enhance public computer center capacity to make it easier for those without computers or broadband at home to search and apply for jobs and receive workforce training opportunities. These funds not only meet the near-term economic objectives of the Recovery Act, but they also will continue to pay dividends far into the future in the form of improved education and healthcare, heightened innovation, and long-term global economic and competitive benefits.

For the first round of funding, NTIA undertook an extensive and thorough review of applications to ensure the prudent use of taxpayer funds. The multi-step process included an eligibility pre-screening, an evaluation by expert reviewers to identify the best projects, and a thorough top-to-bottom scrubbing during our due diligence review phase to ensure that only the highest quality and most sustainable investments were funded.

As depicted in the attachment to this testimony, our due diligence includes:

- performing detailed assessments of the application's proposed project benefits and service areas;

- analyzing the project's technical viability;

- analyzing the project's budget and financial sustainability;

- reviewing audit findings and credit checks;

- evaluating potential environmental and historic preservation impacts of the project;

- validating the proposal's feasibility, consistency, and accuracy; and

- reviewing information supplied by existing service providers to evaluate the served status of applications.

During due diligence review, NTIA staff engaged directly with applicants to resolve concerns or questions, requested supplemental information in order to support the in-depth application

review, and analyzed any requests for waivers from programmatic or statutory requirements. I think this process worked well to ensure funding of solid and sustainable projects.

During the first funding round, a compelling common theme – "Comprehensive Communities" – among strong applications began to emerge. "Comprehensive Communities" projects bring high-speed middle mile infrastructure into communities or regions and then connect key community anchor institutions – such as libraries, hospitals, community colleges, universities, and public safety institutions. These types of projects will allow community institutions to obtain the robust broadband connections necessary to enable them to deliver critical services such as remote medical care, distance learning, online job training, access to e-government benefits, and more. Building this core infrastructure will also enable providers of services to homes and businesses to improve their service offerings and reach neighborhoods that are not adequately served today. The comprehensive communities theme also synthesizes well the infrastructure, computer center, and broadband adoption aspects of our broadband program into a fully-integrated approach to solving the nation's broadband challenges.

As of this week, we have funded 34 infrastructure projects, 18 public computer center projects, and seven sustainable broadband adoption projects. These projects will improve broadband use and capabilities in 34 states and territories. The following provide a sense of the breadth and scope of BTOP awards:

- Merit Network, Inc., REACH Michigan Middle Mile Collaborative Project: An infrastructure grant totaling $33.2 million with an additional $8.3 million applicant-provided match to build a 955-mile advanced fiber-optic network through underserved counties in Michigan's Lower Peninsula to serve institutions, businesses, and households. The project will directly connect 44 anchor institutions including libraries, universities, community colleges, and community health centers and make broadband more easily available to more than 886,000 households, 45,800 businesses, and 422 anchor institutions. In addition, the proposed service area includes 86 government organizations, 69 K-12 institutions, 63 public library systems, 58 major healthcare facilities, and 50 higher education locations.

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- Mid-Atlantic Broadband Cooperative Middle Mile Expansion for Southern Virginia Project: An infrastructure grant totaling $16 million with a $4 million applicant provided match to add 465 -miles of new fiber to an existing 800-mile fiber network, directly connecting 121 K-12 schools, a majority of which are in unserved and underserved areas of southern Virginia. The project will spur affordable broadband service to local consumers by enabling more than 30 Internet service providers to connect to the project's open network and benefit public safety agencies by providing access to the open network to improve emergency coordination and services.

- Virginia Tech Foundation, Inc., Allegheny Fiber: Extending Virginia's Open Access Fiber Backbone to the Ridge and Valley Middle Mile Project: An infrastructure grant totaling $5.5 million with a $1.4 million applicant provided match to construct a 110-mile open access fiber-optic network between Blacksburg in Montgomery County to Bedford City in Bedford County. The project will spur affordable broadband service to local consumers, potentially including up to 98,500 households, nearly 5,400 businesses, and 128 anchor institutions, by enabling more than 30 Internet service providers to connect to the project's open network.

- Zayo Bandwidth, LLC Indiana Middle Mile Fiber for Schools, Communities, and Anchor Institutions Project: An infrastructure grant totaling $25.1 million with a $10.7 million applicant provided match to deploy a 626-mile fiber-optic network. The project will provide 413 points of interconnection along the route, enabling last mile providers to serve an area with an estimated 480,000 households, 49,000 businesses, and almost 4,800 anchor institutions, including health centers, schools, public safety organizations, and government offices.

- Keystone Initiative for Network Based Education and Research's Pennsylvania Research and Education Network Project: An infrastructure grant totaling $99.7 million with an additional $29 million applicant-provided match to build a network of nearly 1,700 miles of fiber and directly connect 60 critical community anchor institutions in 39 counties across south and central Pennsylvania. The award will enhance health care delivery, research, education, workforce development, and public safety.

- MCNC Building a Sustainable Middle Mile Network for Underserved Rural North Carolina Project: An infrastructure grant totaling $28.2 million with an additional $11.8 million applicant-provided match to build a 494-mile network serving almost one half the population of North Carolina in 37 counties. The project connects all 58 community colleges, the remaining independent colleges, the State's charter schools, 50 free healthcare clinics, 179 county health agencies and hospitals, 181 libraries and their public computer centers, and the three largest state museums. It will also enable service providers to directly connect to the network to make broadband more easily available to approximately 1.8 million households, 139,000 businesses, and more than 2,400 anchor institutions.

- North Florida Broadband Authority Ubiquitous Middle Mile Project: An infrastructure grant totaling $30.1 million with an additional $9.2 million applicant-provided match to bring high-speed broadband service to underserved areas in 14 North Central Florida counties through the deployment of an 1,200-mile fixed wireless broadband network. The network plans to directly connect more than 300 community anchor institutions, such as public schools, universities, libraries, health care facilities, public safety organizations, and government agencies.

- California Emerging Technology Fund Broadband Awareness and Adoption Project: A sustainable adoption grant totaling $7.3 million with an additional $2.1 million applicant-provided match to increase adoption of broadband in vulnerable and low-income communities in Los Angeles. The project will provide digital literacy training for more than 678,000 low-income individuals, including more than 300,000 youth. The project expects to increase household adoption of broadband in these high-priority, low-income communities by more than 133,000 households. The project also focuses on the unemployed, African Americans, Latinos, other ethnic and rural residents, and people with disabilities, whose technology usage lags significantly behind the rest of the State.

- New York State Education Department Broadbandexpress@yourlibrary Public Computer Center Project: A public computer center grant totaling $9.5 million leveraged with a $5.4 million applicant match to provide approximately 860 computers in 30 libraries and five mobile training centers across 41 economically distressed Upstate New York counties. The project is designed to address unemployment; a lack of affordable broadband service, education, training, and technical support; and to increase access to essential e-government and other online resources necessary to facilitate work, health care, education, and citizenship. The grant will allow the State Library to extend library hours, provide 24/7 access to job search resources, and serve an estimated 50,000 users per week system-wide.

- DeltaCom, Inc. East Tennessee Middle Mile Fiber Broadband Project: A $9.4 million broadband infrastructure grant with an additional $2.3 million applicant-provided match to build a 544-mile high-capacity fiber-optic broadband network that will provide high-speed connections for more than 50 community anchor institutions in five Eastern Tennessee communities, from Chattanooga through Knoxville to Johnson City and Bristol. The project expects to spur more affordable broadband Internet access for over 34,000 households, 5,000 businesses, and 270 anchor institutions by allowing local Internet providers to connect to the project's open network.

- Level 3 EON Expanding Broadband Across Texas Project: A $4.7 million broadband infrastructure grant with an additional $1.6 million applicant-provided match to build 17 new access points on Level 3's existing broadband network. These additional points of interconnection will offer broadband speeds between 50 Mbps and 10 Gbps on an open and nondiscriminatory basis to local Internet service providers, enabling them to provide enhanced broadband capabilities to as many as 400,000 households, 21,000 businesses, and 214 community anchor institutions, including schools, government agencies, and healthcare providers.

As stewards of taxpayer funds, we are determined to invest every dollar wisely. My goal is to not make a bad grant, and you have my assurances we have the processes and protections in place to prevent that from happening. Our review process helps guard against investments that are not cost-effective or where it appears that the applicant cannot financially sustain the project beyond the life of the grant. Another aspect of responsible stewardship of the BTOP funds is to provide every opportunity for our grantees to be successful through post-award orientation, training, and technical assistance.

        b.   Broadband Mapping Program.

The Recovery Act directs that up to $350 million of BTOP funding be used for the development and maintenance of a national broadband inventory map. We have now awarded 52 of a possible 56 grants, totaling approximately $100 million. We will award the remaining four grants shortly, and we are expecting the states to submit the first data sets by the end of this month. We are partnering with the Federal Communications Commission (FCC) to utilize these data in the National Broadband Map, which will be available to the public no later than February 2011. The map will educate consumers and businesses about broadband availability, enable broadband providers and investors to make better-informed decisions regarding the use of their private capital, and allow Federal, State, and local policy-makers to make more data-driven decisions on behalf of their constituents.

II.   Round Two.

Earlier this week, NTIA announced an extension of the March 15, 2010 filing deadline for all infrastructure projects to March 26, 2010. The deadline for filing applications for Round 2 PCC and SBA projects remains March 15, 2010.

The Rural Utilities Service (RUS) and NTIA issued separate NOFAs in Round Two to allow each agency to focus on its distinct funding objectives. We took this action in response to feedback received from Round One applicants, and it will help speed application review. RUS and NTIA will continue to collaborate to maximize the impact of available federal funding, to best leverage the experience and expertise of each agency, and to avoid duplication in projects funded by the two agencies.

NTIA also made a number of targeted changes to increase efficiency, sharpen BTOP's funding focus, and improve the applicant experience. Based on our Round One experience, NTIA formally adopted the "comprehensive communities" approach under which we will give review and funding priority to infrastructure projects that emphasize middle mile broadband capabilities offering new or substantially upgraded connections to community anchor institutions. NTIA also made adjustments to the online application that will streamline the intake of information and reduce applicant burden. These steps include eliminating the joint NTIA-RUS application, increasing the amount of time available to applicants to submit due diligence materials, and eliminating or altering a number of previously required attachments. These improvements, coupled with significantly upgraded applicant support services and bolstered back-office portal functionalities, will improve the applicant experience and facilitate the application process this time around.

Early indications suggest there will be a strong demand for Round Two funding. In January, we established BroadbandMatch, which allows applicants to identify potential project partners. This online tool allows a broadband infrastructure provider to identify potential project partners, like universities, hospitals, or libraries for a proposal to bring high-speed Internet service to their facilities. More than 1,200 entities have signed up for BroadbandMatch.

including anchor institutions, small and disadvantaged businesses, non-profits, public safety entities, municipalities, tribal organizations, technical experts, and others. I have high hopes that this forum will lead to truly comprehensive projects that meet the broad needs of entire communities, which is the centerpiece of Round Two funding. In addition, we are encouraged by the number of applications that applicants have started online, including many from new applicants who did not participate in Round One. These early results are encouraging and show that there is keen interest in the grant program across the stakeholder community.

III.   Oversight and Compliance.

As Round One wraps up and Round Two starts, we are also making headway on of the necessary oversight and compliance of awardees. Since the inception of the program, NTIA has been working with the Department of Commerce's Inspector General to design the program in a manner that minimizes the risk of waste, fraud, and abuse. NTIA has developed rigorous post award processes for grants including:

- training sessions for applicants and awardees;
- oversight of every awardee's project progress;
- auditing of an awardee's grant administration;
- requiring extensive reporting from awardees; and
- developing an outline of best practices.

NTIA is committed to ensuring that taxpayers' money is spent wisely and efficiently.

NTIA has been working to develop comprehensive monitoring, reporting, and oversight systems to ensure that BTOP funds fulfill the purposes of the Recovery Act. We are using a risk assessment model to determine the level of monitoring required for each project. Recipients that expend $500,000 or more of federal funds during the fiscal year will be required to submit an

organization-wide financial and compliance audit report. For-profit awardees will be required to comply with the program-specific audit requirements.

In addition, grant recipients will be required to report quarterly and annually on the progress of their project and their use of grant funds. Infrastructure awardees will be required to demonstrate progress in achieving important programmatic goals such as broadband availability, adoption, transmission speeds, and prices associated with their projects. Recipients of Public Computer Center funding will be required to provide information on the expansion of their facilities and training provided to their users, and Sustainable Broadband Adoption recipients will report information on their success in stimulating demand and adoption. In addition to these BTOP-specific reporting requirements, grant recipients must comply with Recovery Act reporting requirements that include detailed information regarding the use of funds and jobs created.

IV.   Short- and Long-Term Benefits.

The lessons learned from the BTOP-funded projects and broadband mapping efforts can be leveraged to help improve the nation's broadband landscape in the coming years. In the short-term, the metrics associated with these programs are just starting to materialize. The first awardees are in the early stages of turning their funded proposals into reality, and will file their initial reports next month; mapping grantees will provide their first data sets at the end of the month. I think, however, that it will be important to measure the results against the baseline, capture the lessons learned, and share the information so that successes can be replicated.

In the short-term, the Department of Commerce's investments will help create thousands of jobs for building infrastructure, installing computers, and developing and implementing outreach to broadband consumers. At this early stage, it is impossible to predict the precise

number of jobs the BTOP program will create. However, the jobs range from manufacture of fiber optic cable and other high-tech components, to the stringing of that fiber from pole-to-pole, to trenching, and to the installation of broadband networking hubs. Computer centers need to be built, and new computers and related hardware and software will be installed and networked into public computing centers in the short-term as well. Outreach strategies need to be planned and executed, and trainers will need to be trained how to best provide communities with needed broadband information and skills. The data we collect in the near-term will show how the broadband initiatives contributed to the overall Recovery Act economic stimulus activity. It will also start establishing the measurable impact these projects will have.

In the longer-term, BTOP investments will have secondary benefits that will be critical to our nation's overall economic future. BTOP-funded projects will help bridge the digital divide, improve the nation's education, provide improved access to better health care, heighten safety and security, increase employment options, foster innovation, and boost economic development for communities held back by limited or no access to broadband. These investments will also help preserve America's economic competitiveness in the world, and will accrue benefits especially to disadvantaged, rural, and remote America. The ripple effects of these broadband investments could be positively transformative.

V.   Looking Ahead.

Once the application window for Round Two closes, NTIA will again carefully review and analyze the merits of each application, based upon the funding priorities and requirements outlined in the second Notice of Funds Availability. Looking forward, I am confident that the team will continue to meet the challenges it will face between now and September 30th. By the

end of the fiscal year. as the Recovery Act requires. our program will have benefitted every state to the extent practicable.

As you know, the Recovery Act does not provide authority or funding for administration and oversight of BTOP-funded projects beyond the end of Fiscal Year 2010. For this reason. the President's budget set forth authority and funding for NTIA to administer and monitor the execution of grant projects and carry the program to its conclusion. These funds are vital to ensuring that BTOP projects are seen to their successful completion. and I look forward to working with you to achieve this important objective.

Thank you again for the opportunity to testify. I am happy to answer your questions.

Broadband Technology Opportunities Program
Round 1 Application Review Process
January 2010
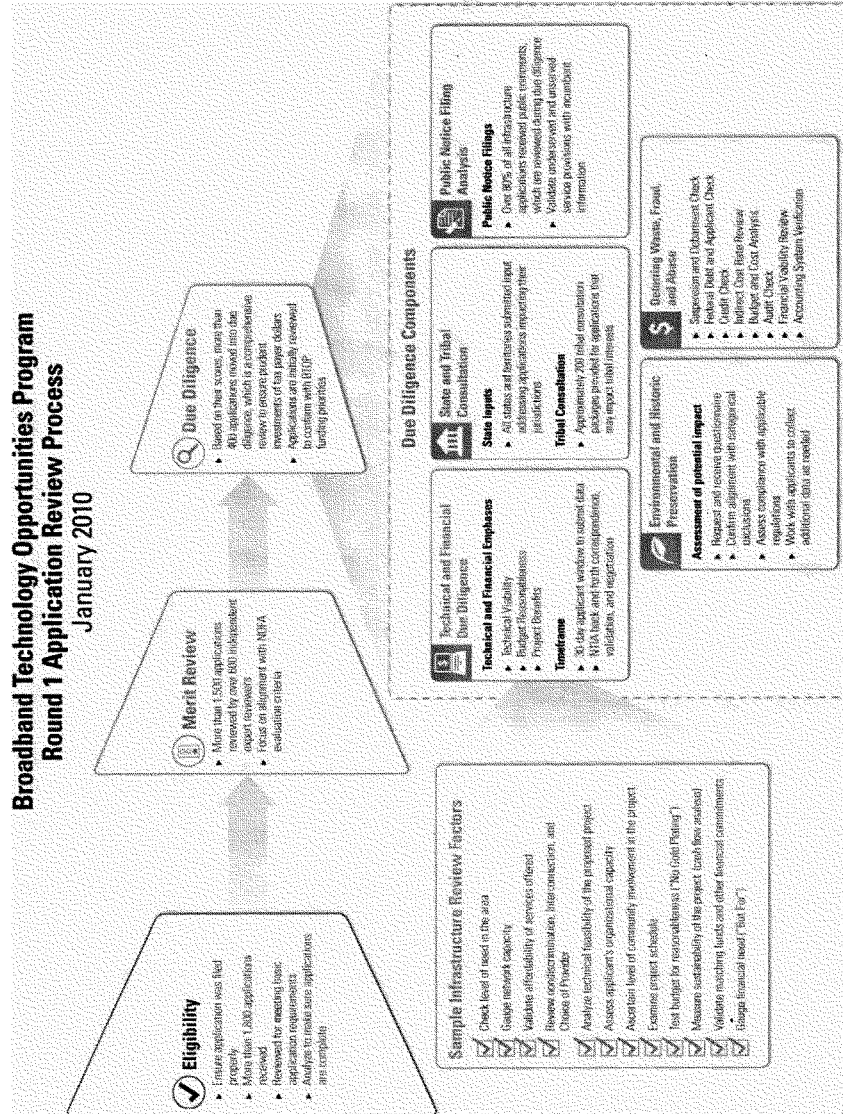
Mr. BOUCHER. Thank you very much, Mr. Strickling.
Mr. Adelstein.

STATEMENT OF JONATHAN S. ADELSTEIN

Mr. ADELSTEIN. Mr. Chairman, Ranking Member Stearns and members of the committee, it is great to have the opportunity to testify. It is great to be back. I certainly appreciate the leadership of this committee in promoting rural broadband deployment and deployment across the country. This committee has been really on top of bringing this back to the national agenda where it belongs. As Congressman Markey indicated, it was left behind for too long and I appreciate your resources and leadership.

On behalf of our secretary, Secretary Vilsack, and our Under Secretary, Dallas Tonsager, I do want to express the high priority that the USDA places on getting this job done and getting it done right. Broadband is one of the central pillars of the Secretary's view of supporting the future of rural America, and it is a special honor to appear with my friend and partner in this, Larry Strickling. He is such an outstanding leader. We work hand and glove on every aspect of this and will continue to until we complete this effort.

Today I am happy to announce that the USDA is awarding $254 million for 22 outstanding projects in 18 States. This brings our total to date of awards to over $895 million for 55 projects in 29 States and territories. These awards are going to bring broadband to hundreds of thousands of homes, businesses and key community anchor institutions.

Just in terms of this committee alone today, there have been previous awards made to members of this committee's districts but today's announcement includes an $11.4 million loan-grant combination in Congressman Hill's district that will serve 52,000 homes, 11,000 businesses and 135 community facilities. Today's announcement also includes an $8.3 million in Congressman Upton's district that will provide fiber to over 1,400 homes and it provides $2.3 million in Congressman Space's district that will deliver broadband to 11,000 homes that currently lack service, and I know this is our second award in your district. Also, we had the Consolidated Electric Cooperative get an award recent in Appalachian Ohio. It should also be of interest to Chairman Markey because it connects all of the substations of CEC's electric grid so they can provide smart grid, a real model for the future of rural electric cooperatives.

Now, in this first round, the number of applications, as you know, is higher than expected, and they underwent a very rigorous review process. We had to ensure that taxpayer funds were invested wisely. Applicants that didn't receive funding received a letter explaining why, and we have streamlined and refined the application process for the next round which should speed the assessment process. As you know, we have indicated that we announced our NOFA on January 15th. On February 16th, we opened the window. We are giving applicants more time this round to apply and to be notified about what the rules are the second time around. The original application deadline was March 15th, as Secretary Strickling noted. We have extended that. We went until March 29th in order to encourage applicants that were notified late in the

process to reapply and also to give everyone time to submit the best possible materials.

We have also recently issued clarifications regarding the extension of service to Native American lands, which remains a very high priority for this Administration because they are among the most underserved in the country.

Now, in response to your feedback and issues raised by stakeholders, as you indicated, Mr. Chairman, we have made major changes in our second NOFA. First, RUS and NTIA published separate but very coordinated NOFAs so applicants now can choose which program better suits their needs. Under NOFA 1, the only applicants eligible for 100 percent grants were those that were remote or 50 miles away from a city or town, although their applicants were limited to a grant of no more than 50 percent of the project cost. And as you noted, Mr. Chairman, in response to concerns raised by this committee, among others, and you, we eliminated the special funding category for remote projects. We heard you and we responded. RUS now offers a 75/25 grant-loan combination as a base instead of our 50/50 loan-grant combination, so we spilt the difference between 100 percent grant for remote areas and the 50 percent for non-remote areas, and to stretch our funds and our impact, we provided incentives for higher loan components and higher contributions of outside capital. Now, we can increase that grant amount up to 100 percent for areas where it is needed most, the most rural areas or the areas that are hardest hit by the economic downturn. RUS will focus on last-mile projects that are really urgently needed in many rural communities. They connect directly to homes, businesses and key community anchor institutions.

NOFA 2 allows us to have more flexibility to award points for projects that target essential community facilities, promote rural economic development and support persistent poverty counties or chronically underserved or unserved areas, and we are offering additional funding opportunities in the second NOFA. We are allowing satellite providers to compete for around $100 million to provide equipment and installation for rural premises that remain unserved after all other Recovery Act funds are obligated, and awardees of either NOFA can apply for technical assistance grants, to develop a regional broadband plan or to provide broadband to rural libraries.

We are on track to obligate the $2.5 billion the broadband authority provided to us by September 30. There was almost $900 million awarded to date by RUS. We have funded a wide range of technologies from wireless to wireline and we have funded a broad range of applicants from wireless broadband companies to cable companies to incumbent telecos. Our ability to offer these programs with these great economic opportunities for the future is really a result of your work and your support. It is an honor to work with you on behalf of the 50 million Americans in our rural communities, and I appreciate your continued oversight and how carefully you have overseen this program and look forward to your questions. Thank you.

[The prepared statement of Mr. Adelstein follows:]

Statement of Jonathan Adelstein
Administrator, Rural Utilities Service
United States Department of Agriculture

Before the Communications, Technology and the Internet Subcommittee
U.S. House of Representatives
March 4, 2010

Chairman Boucher, Ranking Member Stearns, and distinguished members of the Committee, thank you for the opportunity to testify on the U.S. Department of Agriculture's Broadband Initiatives Program (BIP).

Your continued guidance and support as we implement this critical program is deeply appreciated. The Obama Administration and Secretary of Agriculture Tom Vilsack share your goal of improving access to affordable broadband service. As members of this Committee know, broadband connectivity lays the foundation for economic development. Broadband can level the economic playing field, particularly for rural areas, and provide access to national and international markets, and help new, small and home-based businesses to thrive. It delivers health care services through telemedicine and offers educational opportunities through distance learning.

Building better networks to improve access to affordable high speed Internet service is not only central to jumpstarting our rural economy by creating urgently needed jobs now, but it will enhance the quality of life for rural families and businesses for years to come. On behalf of Secretary Vilsack, I am here to say that USDA stands prepared to fulfill its rural broadband mandate outlined by Congress and the President.

Economic uncertainty has been the hallmark of this past year. The programs Secretary Vilsack, the Administration and this Congress have put into place—renewable energy, expansion of local and regional food systems, regional collaboration and investment in broadband—are key pillars of USDA's focus toward rebuilding and revitalizing economic growth in rural America.

We have worked side by side with our partners at the National Telecommunications Information Administration (NTIA) and the Federal Communications Commission to fulfill the President's vision for promoting broadband access nationwide. Assistant Secretary Lawrence Strickling has been an outstanding and visionary partner throughout this process. And the Federal Communications Commission has been an active contributor to this effort as well. Together, we have made significant advances since this new program was enacted last February. We recognize that there is much work left to do still.

Status of Awards

Under the first funding notice, RUS and NTIA received over 2,200 proposals from applicants wanting to improve broadband service. Applicants requested over $28 billion in funding. Of this total, 401 applications were BIP-only requesting a total of $4.974 billion; another 833 applications were joint applications to BIP and BTOP totaling $12.791 billion.

In December, we began announcing the awards under the first round of Recovery Act broadband funding. To date, RUS has announced over $895 million in funding for 55 projects in 28 states and 1 territory and expects to announce additional awards shortly. We are enthusiastic about potential of the projects announced thus far. Funding has been awarded to a diversity of providers – from small telecommunications companies, wireless providers, rural electric and telephone

cooperatives to cable providers - to build out our rural networks, creating urgently needed jobs in rural America. These projects feature a variety of internet technologies - from wireline to wireless - providing quality internet connectivity to hundreds of thousands of homes, businesses and key anchor institutions in rural communities.

On January, 15, 2010, RUS and NTIA announced their second NOFAs for the BIP and BTOP programs, opening the windows for accepting applications on February 16th. In the interest of ensuring that Recovery Act funding is made available in the most equitable manner, RUS extended its deadline for application submissions from March 15 to March 29, 2010. We wanted to give applicants the maximum opportunity to apply and to strengthen the quality of their applications.

As of March 1, RUS had sent over1000letters to non-selected NOFA 1 applicants, providing them with an opportunity to reapply under NOFA 2. These notifications also supplied applicants with information as to why their applications were not successful under NOFA 1. The most common reasons applicants were not funded were that they applied as proposing to serve "remote" areas, when in fact the areas they were proposing to serve did not meet the remote definition. The second reason was that applicants requested a grant amount greater than the 50 percent allowed for non-remote applicants. Both of these provisions have changed in the second NOFA, and we are encouraging those applicants not funded to resubmit their applications.

The applications and associated proposed maps of coverage areas have been and will continue to be posted on www.broadbandusa.gov for public review and comment.

The challenges that RUS encountered while reviewing the applications for the first round of funding, as well as feedback we received from you and others, resulted in development of alternative approaches to simplify the application process. After hearing concerns raised by members of this Committee and others, we made significant changes in the second BIP NOFA. We have addressed all of the major concerns that were raised, and believe this is a strong NOFA that will effectively address the needs of rural America.

Changes in NOFA II

The first NOFA was published jointly by USDA and the Department of Commerce. The NOFA required that all "rural" applications had to be filed with USDA or jointly with USDA and Commerce. Both USDA and Commerce received comments from the public and Hill over the "joint" application process. As a result, in the second round, USDA and Commerce published separate, but coordinated, NOFAs. Applicants must choose between BTOP and BIP.

Under the first NOFA, USDA offered either a 100 percent grant product for "remote" rural areas or 50/50 loan/grant product for non-remote areas. USDA now offers one product, which is a 75/25 grant/loan combination with incentives for higher loan components and greater outside leverage.

For the second NOFA, USDA eliminates the separate funding bucket for "remote" projects, as suggested by many members of this Committee. Instead, USDA offers higher points for projects in the most rural areas. USDA also allows applicants to request a grant amount greater than the

standard 75 percent grant, up to 100 percent grant. This waiver process will allow USDA to make viable awards to the most rural areas and those areas with density issues, low median income, and high unemployment.

With separate NOFAs and no joint applications, USDA and Commerce have elected to concentrate on specific types of projects. Commerce will focus on Middle Mile projects that connect community anchor institutions and USDA will focus on Last Mile projects, which are urgently needed in many rural communities and which directly connect to homes, businesses and key community anchor institutions. USDA will finance Middle Mile projects for current RUS borrowers and grantees.

The second NOFA also provides more flexibility. For example, USDA can add priority points for projects that provide significant assistance to essential community facilities, promote rural economic development, and support persistent poverty counties or chronically underserved areas. In addition, in the unexpected event that we receive an insufficient number of high scoring applications, RUS can elect a "second review" of meritorious applications which meet Recovery Act objectives. USDA may also accept an application from Commerce which it cannot fund but appears meritorious under USDA's BIP program.

Streamlining the application process

USDA received many comments on how to improve the application process. These suggestions led to the decision to issue separate but coordinated applications and to increase efficiency by eliminating the two-step application.

In addition, applicants previously had to list all Census blocks in their application. USDA's mapping tool now does this for them.

Additional Funding Opportunities

To ensure that all Recovery Act BIP funds are judiciously utilized, additional funding opportunities will be offered to ensure the long term benefits of the program in rural America.

The second NOFA allows satellite providers to compete for approximately $100 million to provide equipment and installation to rural premises—customers—that remain unserved after all other Recovery Act funds are obligated.

Awardees of both NOFAs, and applicants under NOFA 2, can apply for Technical Assistance grants for the development of a USDA-approved regional broadband plan. This will further broadband deployment and rural economic development beyond projects funded by the Recovery Act. Indian Tribes are encouraged to apply for the Technical Assistance grants whether they are awardees under both NOFAs or applicants under NOFA 2.

Awardees under either NOFA may also apply for grant funds to provide broadband connectivity to rural libraries funded by USDA's Community Facilities program.

Modification of Eligible Service Areas

In this second NOFA, RUS refocused efforts on rural economic development and unserved rural areas. As a result, any rural area where at least 50 percent of the premises in the area lack access to broadband service at the rate of 5 Mbps (upstream and downstream combined) will qualify for funding. USDA has determined that these areas lack high speed broadband service sufficient to facilitate rural economic development as required by the Recovery Act. Service offerings must still be within proposed funded service areas which are at least 75 percent rural as required by the Recovery Act.

Cost Effectiveness

To effectively leverage Recovery Act broadband funds for Last Mile projects, RUS will limit Federal assistance to no more than $10,000 per premise passed, unless a waiver is granted. In review of waiver requests, RUS will consider whether the application provides assistance to a significant number of critical community facilities, supports a recognized rural regional development plan, supports public safety projects, enhances broadband service to rural libraries, or supports persistent poverty counties or substantially unserved areas, including Indian country. If the waiver request is denied, any award may be made contingent on improving cost

effectiveness, or the application may be placed in the second review process and the Applicant will have an opportunity to revise its proposal.

Outreach Efforts

Outreach to the general public continues to focus on distribution of information to national, regional and local print and broadcast media. Additional information for the public has been provided in testimony before various Federal committees, such as this hearing. USDA staff have also participated as both panelists and keynote speakers for associations, state and regional governments, and at inter-agency functions.

Following the announcement of the second NOFA, RUS and NTIA conducted nine additional workshops for the general public to help prospective applicants better understand the mission, scope, process and requirements of the BIP and BTOP programs. The FCC was also invited to participate to provide information for prospective applicants regarding broadband technology and licensed spectrum. RUS and NTIA also jointly hosted six Pre-Workshop Outreach Events targeted toward vulnerable populations, including minority groups and tribal entities who otherwise might not fully participate in the Recovery Act broadband programs.

Our goals continue to be to modernize our nation's infrastructure, create or save jobs and begin addressing many of these long-neglected challenges. Secretary Vilsack directed the USDA's Economic Research Service (ERS) to examine the economic effects of having broadband access in rural communities. The result of this effort was the publication about six months ago of a report titled "Broadband Internet's Value for Rural America." This report concluded that employment growth was higher and non-farm private earnings greater in counties with a longer

history of broadband availability. In addition, this report found key benefits of broadband access in rural communities, such as access to online course offerings for students in remote areas and the access to telemedicine and telehealth services for patients living in rural areas in need of urgent and often specialized care. Agricultural producers and farm based businesses rely on internet access to conduct sales transactions, marketing and advertising, monitor real time changes in the commodities markets and track global trends that impact US crop prices to stay in business. The direct benefits of broadband to the rural economy are tangible and significant.

The report also clearly notes that areas with low or dispersed populations, or demanding terrain, generally have difficulty attracting broadband service providers. These characteristics, as you know, can make the fixed cost of providing broadband service too high to make a business case for investment. That is also where our years of expertise with a variety of technologies have a distinct advantage.

With the over $895 million in funding awarded by RUS, we have funded a diversity of technologies and a diversity of applicants to build out these broadband networks. This program is proof that leadership, policy support, resources, and community support overcome barriers to broadband expansion.

We welcome input from the Members of this Committee as we turn our attention to NOFA 2. . We will continue to ensure that implementation of the Recovery Act broadband initiative is a collaborative and coordinated effort with our partners at the NTIA, and we will continue to work to make this process as transparent and efficient as possible. The purpose of the Recovery Act is to spur job creation and stimulate long-term economic growth and investment. To date, we

remain on track to obligate the $2.5 billion in broadband budget authority by September 30, 2010.

Our ability to offer programs to create economic opportunity and improve the quality of life in rural America is a result of your work. It is an honor and privilege to work with you on behalf of the 65 million Americans in our rural communities. We look forward to working closely with Congress and our federal partners throughout the Obama Administration in making affordable broadband service widely available throughout rural America.

Thank you again for inviting me here to testify and I will be glad to address any questions you have.

Mr. BOUCHER. Thank you very much, Mr. Adelstein.

Mr. Strickling, we appreciate your sharing those thoughts with us this morning.

I have a question for both of you. I think to the extent that you provide guidance to the applicants from round 1 who were not successful, it might improve the quality of the applications you get for round 2 and those that were particularly close that almost made the award in round 1 should know that fact so they are encouraged to apply again, and those might be some of the best applications you get. So Mr. Strickling, Mr. Adelstein, what are your plans to provide that kind of guidance?

Mr. STRICKLING. Thank you, Mr. Chairman. So in terms of round 1 feedback, first off, we did not use a point system to decide whether we would fund or not. We used it to screen applications, and then once projects went into due diligence, we worked with the applicant to see if the project met our goals, did it deliver the benefits, was is sustainable, did it have experience management. So about 400 applications went into due diligence. Fewer than 100 will be funded. But I will tell you, that would be the group that you would call having been near the goal line, and through their discussions with us through the due diligence process, they have learned a tremendous amount about their applications, the strengths and weaknesses.

Mr. BOUCHER. So you have already given them that kind of guidance just as a part of the round 1 process?

Mr. STRICKLING. Yes, they will be well prepared to come back in round 2, and we hope many of them do.

Mr. BOUCHER. Okay. That is good.

Mr. Adelstein.

Mr. ADELSTEIN. We sent out a thousand letters by February 26th offering reasons, exact reasons why applications weren't funded. Now, we are still getting questions about that. We have a help desk that offers more detailed explanations to those who have questions and we are striving to answer those calls as quickly as we can. We will continue to be as responsive as we can. We are going up to put up materials on the Web, and we have, to explain some of the issues in the first round. We are really urging applicants to reapply in round 2. We think it is crucial they come back to us. We addressed a lot of the major factors that were affecting applicants in round 1, and round 2 is really a different ballgame, so we want them to focus on what is in the second NOFA and to get at it that way.

Mr. BOUCHER. All right. Thank you. I mean, if an applicant, Mr. Adelstein, that was not successful in round 1 has specific questions, do you have somebody they can interact with? Is there a process for doing that?

Mr. ADELSTEIN. There is. We have our help desk, and we will answer calls, and we have gotten a lot of them about people trying to ask for an explanation as to what was in their letter, and we have provided that and explained that to them. We plan to do more of that.

Mr. BOUCHER. Thank you very much.

Mr. Adelstein, you have a requirement for round 2 that in order to be eligible for assistance from RUS, the project must cost no

more than $10,000 per home passed, and let me just express some
real concern I have about that requirement. I represent and I know
that many other members do districts that are mountainous where
communities are a long way from the nearest municipality and
they may be ringed by mountains, meaning that literally you have
to cross mountains with infrastructure and that necessarily ele-
vates project costs, and these are some of the communities that
really was the purpose of the stimulus legislation to serve, and I
am concerned they are going to be disqualified. Now, I know you
have a waiver procedure that is attached to this $10,000-per-home
limitation. Tell me about how generous you intend to be with that
waiver procedure. I am looking for some reassurance that these
very deserving communities that are just expensive to serve are not
going to be disqualified.

Mr. ADELSTEIN. We certainly understand your concern. The goal
in the stimulus package is to stretch the tax dollars you have given
us as far as possible, and we aim to strike a balance between ex-
panding service and encouraging cost-effective investment. I under-
stand that more remote areas are more expensive to serve, and
that is why we do have the waivers that you indicated. Now, our
waivers do allow for going above that amount if there are per-
sistent poverty or chronically underserved areas, for regional devel-
opment, which some members have talked about today, connecting
rural libraries, tribal areas, community facilities. So we will be
looking at particular issues like that.

Mr. BOUCHER. All right. But you do intend to apply some waivers
in those instances where the community just by virtue of distance
or terrain can't meet that $10,000 standard?

Mr. ADELSTEIN. We will have to evaluate each waiver request as
it comes in based on the criteria that we put in the NOFA.

Mr. BOUCHER. Mr. Strickling, let me ask you this question. Did
the non-discrimination and interconnection requirements that were
a part of the NTIA set of standards discourage applicants from ap-
plying for benefits under your program?

Mr. STRICKLING. There is little evidence of that in the sense that
we received over 2,200 applications between our two programs in
round 1. We did hear from some of the larger carriers that not just
those provisions but I think the overall complexity of the program,
the fact that this was open to such scrutiny may have discouraged
some of them in round 1. I don't remember hearing any carrier tell
me it was solely because of the interconnection obligations that
that was a reason they didn't apply. I have heard other reasons
from other carriers. Some of them are reconsidering, I know, in
round 2.

But I want to come back on this interconnection issue. The fact
that we require interconnection in our projects I think is an impor-
tant one to putting to rest this idea that we are overbuilding or
building duplicative facilities. We are putting in these high-speed
middle-mile facilities that will serve an entire region and a set of
communities, and again, because they are open to everybody, every
provider can interconnect with them and offer service. So if you are
AT&T or a small incumbent telephone company, if you are the local
cable company, perhaps you haven't been able to serve a large an-
chor institution in your community because the anchor institution

didn't have the $30,000 you were going to charge to build the fiber out to the hospital.

Mr. BOUCHER. Well, okay, Mr. Strickling.

Mr. STRICKLING. We will pay for it and then the incumbent can then use that.

Mr. BOUCHER. I understand that completely. You are going to, I am sure, get questions on that very subject from some of my colleagues momentarily.

My time has expired. We have a series of recorded votes pending on the House Floor, three votes in all, and this will take about 45 minutes. So stay close. We are going to adjourn until those votes are concluded, and we will pick up momentarily.

[Recess.]

Mr. BOUCHER. The subcommittee will reconvene. I thank our witnesses for their patience.

Mrs. Christensen from the Virgin Islands, you are recognized for 5 minutes.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman. I am not sure I have all my questions together.

Let me ask this, and this would really go to Assistant Secretary Strickling. I have a letter that is actually dated yesterday from U.S. Telecom and they were suggesting a screening process that would again with the intention of ensuring that broadband really gets to those unserved areas, a screening process based on the presence of existing locations where connection to the Internet could be readily obtain, where they recommend relying on an Internet gateway and that the middle-mile project funding be focused on support and construction of new facilities extending from that gateway to the community institutions and households, et cetera, but not redundant with facilities or duplicating the process with those that already exist. When you were doing your opening testimony, it sounded pretty much like that is what you are doing. Have you seen this letter or the proposal?

Mr. STRICKLING. Yes, it came in at the close of business yesterday. I haven't had time to do anything other than skim it quickly. There are some interesting ideas in there, and we do intend to take a look at it. I don't know, given the fact that our second-round rules are already out, to what extent we could incorporate those ideas to the extent they make sense in what we are doing but we will be happy to take a look at it.

Mrs. CHRISTENSEN. It just sounded like you were pretty much doing the same thing. You are looking at sort of a gateway and funding there for the middle mile to move it out to the households, the businesses and so forth. It doesn't sound dissimilar.

Mr. STRICKLING. Your description is an accurate description of what we are doing. I can't confirm that that is what they are proposing.

Mrs. CHRISTENSEN. So are all of the funds out? All of the round 1 funds, have they already been allocated for sustainable adoption? I guess that is your——

Mr. STRICKLING. No, that would be me also. We are still looking at, I think, approximately eight adoption and/or public computer center projects still in round 1. Those are listed on our websites so

everybody can see what we are still looking at, and so there may be some additional awards yet this month in that area.

Mrs. CHRISTENSEN. I believe it was RUS that was, or probably both of you had gone to some of the round 1 applicants and I guess it was one of the other programs or initiatives and suggested that they reapply. Are they going to be given preference over new applicants even though they are reapplying for a second time? Is it a level playing field?

Mr. ADELSTEIN. There is no preference for reapplications but we certainly are encouraging applicants to do so. We had some great applications that for many reasons we weren't able to fund in the first round, and we aren't giving them preference but they do have the advantage of having gone through it once and be able to refine their applications for the next round.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman. I don't have any further questions.

Mr. BOUCHER. Thank you very much, Mrs. Christensen.

The gentleman from Florida, Mr. Stearns, is recognized for 5 minutes.

Mr. STEARNS. Thank you, Mr. Chairman. I request unanimous consent to submit for the record a letter from the Department of Commerce Inspector General expressing concern that the NTIA does not have the staff or resources to meet the September 2010 statutory deadline for completion of the Broadband Technology Opportunities Program.

[The information appears at the conclusion of the hearing.]

Mr. BOUCHER. Without objection.

Mr. STEARNS. Secretary Strickling, did the stimulus bill provide you with enough time and resources to run the program right and are you going to meet the statutory deadline?

Mr. STRICKLING. I fully expect to meet the statutory deadline. We can meet it with the resources we have. I will say that it is typical for programs of this nature that administrative expenses be budgeted at 6 percent of the total project cost. We are doing it at the statutory mandated amount of 3 percent, so we could probably do it better if we had been given the 6 percent. But we will get it done with what we have.

Mr. STEARNS. So would I say that you disagree with the letter I put in the record?

Mr. STRICKLING. Well, I think to be fair to the Inspector General, they raised it as a concern, but feel that we have answered that concern and are adequately staffed to do what we need to do.

Mr. STEARNS. Also, Mr. Chairman, I request unanimous consent to submit two letters into the record from the phone and cable associations to the NTIA and RUS expressing concern that they are granting awards to projects that are deploying broadband where it is already available.

[The information appears at the conclusion of the hearing.]

Mr. BOUCHER. Without objection.

Mr. STEARNS. So again, Secretary Strickling, and I guess, Administrator Adelstein, these two letters point out a problem. Do you agree with these letters, and what do you plan to do to make sure you don't grant additional awards that simply build redundant facilities?

Mr. STRICKLING. I most emphatically disagree with the letters. They are obviously quite self-serving, and they don't reflect what is actually happening on the ground.

Congressman Stearns, you mentioned the north Georgia project in your opening remarks. I would like if I can to take a minute and let us talk about the north Georgia project. Windstream claims that they have service available to 90 percent of the people who live in that area. Nonetheless, the governor of the State of Georgia rated this as his most important project to be funded because of the inadequate service that is being made available in that part of the State. The project was put together by five counties, each of which had their economic development agencies work with the anchor institutions and other people in the community to identify huge gaps in the adequacy of the service that Windstream is currently providing there. They took a survey of the area to determine that fewer than 40 percent of the people in the area actually subscribed to service, which again, if Windstream has it available to 90 percent and only 40 percent are taking it, that tells us there is a problem there.

We had the specific example of the university in that particular region having sent us a note indicating that they had tried to get adequate service from the incumbent. They were told they would have to wait 18 months to get it, and when they did get it, it would cost four times as much as the same service would have cost in Atlanta. That area in north Georgia is a perfect example of an area that is not being adequately served by the existing provider. The people in those communities came together with a project to solve that because they suffer from a lack of economic growth. Companies have been fleeing that region because of a lack of adequate infrastructure, and our project as recommended by the governor there as well as others we think will be an important addition to the overall economy there and will lead to the growth of new jobs in an otherwise very depressed area.

So I understand the concerns of a company like Windstream, but the fact of the matter is, every indication we have in the record on that project is that they are not doing their job.

Mr. STEARNS. Yes, but just——

Mr. STRICKLING. But more importantly, if I could just finish, Congressman——

Mr. STEARNS. I can't have you take all my time.

Mr. STRICKLING. Once this infrastructure is built——

Mr. STEARNS. I know. You know how it is. Windstream says it is 58 percent, you say it is 40. I don't know. Did you investigate independently or is this just your——

Mr. STRICKLING. That information, the 58 percent, was not provided to us in the challenge process.

Mr. STEARNS. Mr. Adelstein, why don't you answer the question I also asked.

Mr. ADELSTEIN. Yes, we have a major emphasis in our first and second NOFA to go into areas that are unserved, for example, give 10 points for the proportion of residents in unserved areas. We target rural areas. Distance from non-rural areas is still a factor. We are very carefully evaluating every complaint that comes in that we are going into an area where there is service. We independently

evaluate that and ensure that that is not the case. In the case of one of the concerns that was raised, I mean, 4,600 square miles, almost all of it, no broadband service. So I would take issue with the letter.

Mr. STEARNS. Okay. My last question, Secretary Strickling, in your February 24th remarks before the Media Institute, you acknowledged that the country's statutorily set policy was to leave the Internet unfettered—these are your words—"unfettered by federal or State regulation." You said that that policy was once appropriate but now it should be changed. If the policy was set by statute, doesn't that mean it is the providence of Congress, not regulators like yourself, to decide whether it needs to be changed?

Mr. STRICKLING. I did not say it was set by statute.

Mr. STEARNS. Well, you said that the policy was once appropriate but should now be changed.

Mr. STRICKLING. I think I raised the question as to whether it should be changed, and I pointed out in those remarks—

Mr. STEARNS. Okay. Well, let us just take your words today. Do you think it should be changed?

Mr. STRICKLING. I think there is a role for government to play to preserve trust on the Internet.

Mr. STEARNS. Do you think administrators should make that change or Congress?

Mr. STRICKLING. I think the type or intervention or facilitation, I talked about in my remarks which was to serve as a convener and a facilitator——

Mr. STEARNS. Just yes or no.

Mr. STRICKLING. To bring parties together does not require any intervention from Congress.

Mr. STEARNS. So you can make this decision yourself and Congress, it is not the providence of Congress to do it, so you have the right to make these changes yourself?

Mr. STRICKLING. To bring parties together to sit down and talk about copyright piracy, to try to come up with what might be a legislative proposal to Congress, yes, sir, I think I can do that without asking permission from Congress.

Mr. STEARNS. All right. Thank you, Mr. Chairman.

Mr. BOUCHER. Thank you very much, Mr. Stearns.

The gentleman from Nebraska, Mr. Terry, is recognized for 5 minutes.

Mr. TERRY. Thank you, Mr. Chairman, and to quote my good friend, John Dingell, I have utmost respect and appreciation for you but—so let us go into that.

Mr. Adelstein, I was a little disappointed that you decided to associate yourself with Mr. Markey's remarks. I am getting a little frustrated that somehow any problem is associated with the terrible 8 Bush years, and I think you belittle yourself when you engage in that, so I am disappointed in that. Other than that, I like you and I think you and I share the same dedication to getting broadband rolled out throughout America.

In the debate we had on the stimulus in here, I would say out of the entire package that we had before us, we probably spent a third of our time debating the nebulous terms on the broadband rollout of underserved and unserved, what does that mean. It be-

comes carte blanche to just put it anywhere and it is going to meet the definitions. The retort was, this money needs to get out. It isn't really about a comprehensive broadband policy, it was just about getting the money out the door as quickly as possible, which then we came back and said well, then you are going to have redundant systems and wasted money, and maybe there is evidence of that actually occurring and I want to walk through with you particularly on the Maine situation. Have I gotten permission to put the Maine up?

This was provided to us by one of the telecom associations, so I may have only gotten one side here, Mr. Adelstein. This is an NTIA project, so you get the question. But it appears from the map, and it is a little hard to see on the screen, but the red on there is the existing broadband infrastructure. A blue dotted line, which is right next to the main loop, is the grant applicant that is receiving, I think, $17 million. The grant applicant is Biddeford Internet Corp, now calling themselves Fiber Maine, that is ostensibly associated with the University of Maine. So it looks here that all we are doing is putting in a redundant line as opposed to providing unserved areas.

So first question is, what is the policy with the NTIA in regard to unserved versus underserved? Follow-up question for your answer, is this underserved? Is Maine underserved?

Mr. STRICKLING. Sir, this is my——

Mr. TERRY. No, I am asking Mr. Adelstein.

Mr. STRICKLING. My project.

Mr. TERRY. Oh, I was told this is NTIA.

Mr. STRICKLING. I am NTIA.

Mr. TERRY. Oh, I am sorry. You are RUS. I wanted to talk to you.

Sorry, Mr. Strickling. Well, you have been pretty combative and argumentative, so let us keep going with that.

Mr. STRICKLING. Very good. I would love to. Maine is definitely underserved, and that map I think is not an accurate reflection of actual broadband serving in terms of customer-serving facilities. I think what you have there is a map of interoffice fiber to allow the incumbent carrier to move their own traffic on their own network but it is not really being used to provide adequate broadband service to homes and businesses in that community. What our network will do when it is put in will be open to any provider, unlike the incumbent's network where nobody else can use it, who will then be able to tap into that network and serve homes and businesses that we are not serving directly in our funding but it now enables these homes and businesses throughout this area, most of which is underserved, if not unserved, and are not receiving consumer services from the incumbent of the sort that will now be made available with this funding.

Mr. TERRY. Well, I have 37 seconds left, and good job being combative again.

Mr. STRICKLING. No, sir, I am giving you the facts.

Mr. TERRY. You are, so hold on. Will you give me NTIA's definition of underserved?

Mr. STRICKLING. I would be happy to. It has been established from the NOFA last July. There are three parts to our definition.

Number one, does the area have less than—do the people in the area, less than 50 percent have access to broadband. That is one prong of the test.

Mr. TERRY. Okay, access.

Mr. STRICKLING. The second prong is, do fewer than 40 percent actually subscribe, and the third prong, any one of the three which is required to be met is, does the incumbent offer service of 3 megabits per second or greater. In the case of Maine, along that fiber that is being built in this project, there are many, many communities that satisfy the underserved test. I don't have a clear recollection of the unserved. I am sure there are some unserved——

Mr. TERRY. Would you——

Mr. BOUCHER. Thank you, Mr. Terry.

Mr. TERRY. Where do we get the information about what communities are underserved?

Mr. BOUCHER. Mr. Terry, your time has expired.

The gentleman from——

Mr. BOUCHER. Will we get a second round?

Mr. TERRY. I don't think we are going to have time for that today, Mr. Terry.

Mr. TERRY. Can we have another hearing?

Mr. BOUCHER. Well, we will be able to submit questions in writing to the witnesses.

The gentleman from Michigan, Mr. Dingell, is recognized for 5 minutes.

Mr. DINGELL. Mr. Chairman, I thank you for your courtesy. I would like to welcome our panel.

First question to Secretary Strickling. I hope you can give me a yes or no answer to this, Mr. Secretary. I notice in the second Notice of Funds Availability, that NTIA has removed the requirement that infrastructure projects connecting to community anchor institutions, community colleges and so forth must be located in unserved or underserved areas. This appears to me to be contradictory of the intent of Congress that stimulus funds would be used to bring broadband directly to unserved and underserved communities and households. Am I correct in this, yes or no?

Mr. STRICKLING. Yes.

Mr. DINGELL. Now, Mr. Secretary——

Mr. STRICKLING. At least you are correct in terms of whether we have removed it. I wouldn't necessarily agree with the rest of your comment.

Mr. DINGELL. Okay. Now, Mr. Secretary, what is the rationale then behind this shift? I find it very troubling because we have huge unserved areas and we have a real serious problem in the fact that funding for the kind of changes to bring them service is desperately needed and we are not giving it to them. Now, how does this relate to your policy?

Mr. STRICKLING. We are still quite consistent with that concern, Congressman. Number one, the statute had five purposes. In round 1, you are correct, that we did require anchor institutions to be unserved or underserved areas to qualify for funding. It was pointed out to us by many people including many people in this subcommittee that the statute did not require that. The statute allowed—suggested that we should support anchor institutions re-

gardless of where they are located. So in response to those criticisms, we removed it. But as we assess the benefits of the program, we will continue to evaluate the extent to which the applicant is serving unserved and underserved areas in order to demonstrate—

Mr. DINGELL. Now——

Mr. STRICKLING. That the benefits of the program will be realized.

Mr. DINGELL. I don't mean to interrupt you, Mr. Secretary, and I hope you don't regard this as discourteous, but you are telling me that you are not going to emphasize service to unserved and underserved areas.

Mr. STRICKLING. Just the contrary. I just said we will. It is in our NOFA that you get priority for serving unserved and underserved areas.

Mr. DINGELL. I am going to submit to you some questions in writing on this point, and I ask unanimous consent, Mr. Chairman, that I be permitted so to do.

Mr. BOUCHER. Without objection.

Mr. DINGELL. Now, Mr. Secretary, do you believe that this is—how do you intend to prevent overbuilding broadband infrastructure in areas of the country that are already served at the expense of the unserved areas?

Mr. STRICKLING. We engage in a very detailed analysis as we assess the benefits of any given project. So on the question of what is already in an area, we have the submission of the applicant, we have the submission of the carriers in the area should they choose to provide that information. This spring we hope to have information collected by the States pursuant to the broadband map——

Mr. DINGELL. Now, I beg your pardon for interrupting but we have limited time. What steps is NTIA taking to ensure that these funds are not being used to fund projects that would lead to overbuilding of broadband in already served areas while the unserved areas continue to be inadequately or unserved?

Mr. STRICKLING. Right. So we take all of that information I described and do an evaluation. Now, by its nature, a middle-mile project connects back into the Internet, so it will come into a served area almost certainly but we look at the overall project and the overall benefits that the project brings to ensure that the amount of overbuild is minimal and it is justified only when the facilities in the area are currently inadequate.

Mr. DINGELL. Now, with apologies again, Mr. Secretary, how many complaints have you received from incumbent providers contesting middle-mile projects to be funded under BTOP and what has NTIA done about these complaints?

Mr. STRICKLING. Well, we receive information during round 1, not—I wouldn't characterize them as complaints. They were information. If you are asking me how many complaints have we received for projects that have been funded, I am aware that Windstream is upset about Georgia and I understand FairPoint in bankruptcy is concerned about the Maine project.

Mr. DINGELL. It would be fair to observe, though, that the information you have received has not been complimentary. Am I correct on that?

Mr. STRICKLING. I think it has been very misguided and self-serving.

Mr. DINGELL. ARRA requires NTIA to make available not less than $250 million for programs to encourage sustainable adoption of broadband service. I note that in its second round of NOFA, NTIA pledges to award the minimum, i.e., $250 million, required under the statute for sustainable adoption projects. Given that a recent FCC report finds only 4 percent of Americans do not have access to broadband but 31 percent have access to it if they choose to, do you believe that the bare minimum required under the statute is sufficient to achieve ARRA's goal of sustainable broadband adoption? Can you answer that yes or no, Mr. Secretary, please?

Mr. STRICKLING. I don't know. I know that if we get quality applications, we will go above the $250 million.

Mr. DINGELL. Thank you, Mr. Secretary.

Mr. Chairman, I thank you for your courtesy.

Mr. BOUCHER. Thank you very much, Chairman Dingell.

The gentleman from Vermont, Mr. Welch, is recognized for 5 minutes.

Mr. WELCH. Thank you very much, Mr. Chairman. Thank you, members of the panel.

We have been pretty frustrated in Vermont with the kind of hurry-up-and-wait situation. We had some of our folks submitting applications in round 1 not getting much of an answer. We have been unsuccessful in getting any awards in round 1. But I think the biggest frustration that our applicants have had is trying to figure out what the rules and regulations and the requirements are, and I know from my colleagues that they share an awful lot of that same frustration. So I have a couple of questions that I want to get to on that.

But number one, my understanding, and correct me if I am wrong, is that only 15 percent of the amount promised for round 1 has been awarded. Is that right, Mr. Adelstein?

Mr. ADELSTEIN. The amount is actually larger than that. We have done——

Mr. WELCH. The percentage is what then?

Mr. ADELSTEIN. The percentage I would say, by the time we complete this round in the very near future, we will have probably done 33 percent.

Mr. WELCH. But by now it was supposed to have all been awarded, right?

Mr. ADELSTEIN. Not by now, no. It has to be awarded by September 30, 2010.

Mr. WELCH. When folks in round 1 who applied were denied, did you provide applicants with information about what their technical problems were so that the proposals would be ready for round 2? I mean, this is just a practical issue.

Mr. ADELSTEIN. We did. We provided letters, over 1,000 letters to folks that had applied in the first round explaining why the application wasn't funded. In addition, we have a help desk set up that offers more detailed explanations and we are striving to answer those calls as quickly as we can.

Mr. WELCH. You know, the dilemma—I don't want to be critical but I do want to express the frustration that our folks in Vermont

have had. They just don't get that sense that there is somebody on the other end of the line when they are making a call and they are not getting those practical answers. There may be somebody "answering" in an official way but it is not as though there is some helpful information and knowledge to give them confidence that it is worth the time, effort and expense to do a round 2. So that is just for your consideration.

Given the RUS focus on the last-mile projects and NTIA's emphasis on middle-mile projects, several Vermont companies or applicants have pointed out that they will be, from their perspective, unfairly disadvantaged by RUS preference for previous borrowers as they have traditionally avoided borrowing from government. Vermont needs the investments from broadband investments just like Mr. Terry's district does to build these last-mile facilities. So I am just wondering on a practical level, can you speak to that in a way that would be meaningful to our applicants in Vermont?

Mr. ADELSTEIN. We really want to see those applicants. I mean, we are dead serious about having diversity. Congress did mandate a priority, in the statute for existing borrowers but we really are funding the strongest applications we get in. We are funding a diversity of technologies, a diversity of applicants, many of whom are not Title II borrowers already. We really want to see those applicants come in.

Mr. WELCH. Well, let me ask you this, because you have got applications from all over. You know, this creates—there is available money. Some people call it free money and they are going to be scrambling to apply and try to get it. What were the considerations that were the basis of you deciding to make awards in round 1 and what were the obstacles or the deficiencies in applications that you found on a pattern in the rejected applications?

Mr. ADELSTEIN. Well, we were looking for projects that served areas that didn't have adequate service today was the main feature, particularly rural areas. Looking at Vermont, it was very much like much of the country. The issues that we looked at primarily that caused applications to fall through were that a number of applicants that were supposed to be more than 50 miles away from a town or city in fact weren't, and therefore we weren't eligible. We have eliminated that issue so in the second round people should be encouraged to apply on that. A number of applicants applied for more than a 50 percent grant amount, which is the maximum in the first round. Again, we have gone up to 75 and we have provided flexibility, and again, that should encourage applicants to reapply.

Mr. WELCH. Well, and there is a process by which incumbents can challenge the qualifications of an applicant's service area so it torpedoes an application. How are you going to handle that? I mean, how on a practical level will you handle that?

Mr. ADELSTEIN. We don't take the word of the incumbent or the word of the applicant. We actually will go into the field to determine whether there is service there. We have a field operation in virtually every State in the country and we will go out and look at an applicant's word versus the incumbent and make our own determination. Now, applicants will say their areas are underserved, incumbent will say it is served. We can't just take either one or the

other as a priority, what they are saying. We have to do our own analysis, and we do. So people, just because they are getting those assertions, they should really know who is in their area. If you are applying for funding, our competitive analysis requires them to say who else is in a district that they are trying to serve, the service area, and let us know and then we will evaluate that in terms of whether the project is actually feasible.

Mr. WELCH. Thank you. I yield back, Mr. Chairman.

Mr. BOUCHER. Thank you very much, Mr. Welch.

I want to say thank you on behalf of the subcommittee to Mr. Strickling and Mr. Adelstein for your time here this morning. You have been very forthright in your answers. We were informed by them. We thank you for that.

I want to congratulate you again on the good job you have done. I think given the time frames under which you have had to operate, your performance has absolutely been remarkable and you have this subcommittee's thanks for that.

Other members will be submitting to you written questions. Chairman Dingell has indicated his intention to do so. I think Mr. Terry may well have some additional questions, and other members. When those are received, please try to answer them promptly, and the record of this hearing shall remain open in order to receive them.

So with the subcommittee's thanks to both of you, this hearing stands adjourned.

[Whereupon, at 12:30 p.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

Statement of Representative Anna G. Eshoo
Subcommittee on Communications, Technology, and the Internet
House Committee on Energy and Commerce
"Oversight of the American Recovery and Reinvestment Act"
2123 Rayburn House Office Building
March 4, 2010

Thank you, Chairman Boucher for scheduling this hearing to follow-up on

the concerns that many of us expressed on September 10th about the

direction of the BTOP and BIP programs. These Stimulus grants are

essential to broadband deployment nationwide, and the sooner the money is

disbursed, the sooner we will have sustainable programs in place.

Those of us involved in drafting the funding language are well aware of the

importance of the expeditious distribution of these grants to achieve the

purpose for which the stimulus funding was intended: Ensuring the highest

speed broadband delivery services for Americans who might not otherwise

have access, and creating new jobs in a sector that is robust and destined to

drive the economy in the future.

I'm pleased to see Assistant Secretary Strickland and Administrator

Adelstein here again to give us their progress reports. The last time you

were here, we discussed the need to ensure the highest possible speeds for

winning applicants, and you assured me that the sky was the limit; that you had set a floor but no ceiling. I'm interested in hearing how this philosophy has fared during the application process.

I also want to commend you both for recognizing the importance of Anchor Institutions to nationwide broadband rollout. Along with my colleagues, Ms. Matsui and Mr. Markey, I asked you to re-emphasize the importance of using central locations to provide broadband service to as many people as possible. In many libraries around the nation, people without the means to afford their own computers or broadband service, line up 10 deep to access something which many financially secure Americans take for granted.

High Speed Broadband will provide essential tools to school children, as well as seniors and the generations in between. We all need access, regardless of our age, economic bracket or regional affiliation. Anchor Institutions can bridge this gap. It may take some time for national broadband service to reach remote areas or places where consumers are unable to pay for it, but we can at least provide the means for access.

My thanks to Assistant Secretary Strickland and Administrator Adelstein for listening to and ANSWERING our concerns.

I also want to take this opportunity to make clear my support for a national broadband wireless lifeline. The FCC can make this service available immediately by deploying the AWS-3 spectrum. I hope the FCC can help with broadband rollout by making this spectrum available expeditiously. Funding is essential to broadband deployment, but public interest oriented spectrum allocation will certainly grease the skids. Let's all work together to make nationwide broadband deployment a reality, and make the phrase "digital divide" an historical anachronism.

Thank you Mr. Chairman. I look forward to the testimony this morning.

Opening Statement for "Oversight of the American Recovery and Reinvestment Act: Broadband, Part 3" for Rep. Kathy Castor, FL-11

- Thank you, Chairman Boucher, and good morning to my colleagues. Today's hearing gives us all an opportunity to find out how successful we have been in terms of implementing the Administration's broadband plan created by the Recovery Act.
- I am looking forward to hearing the testimony of the witnesses, and I thank them for their contributions to the oversight process.
- Thanks to the Recovery Act, billions of dollars in grants and low-interest loans have gone to build out the nation's broadband infrastructure.
- Florida has already been awarded nearly $36 million for three separate projects under the Broadband Technology Opportunities Program.
- These projects will bring affordable broadband to some of Florida's poorest communities and will promote economic development and education throughout the region.
- Public schools, universities, libraries, and emergency response services, among others, will benefit from access to high-quality, high-speed access to the internet and other wireless data services.
- Those of us in this room, I'm sure, already know the benefits of broadband and how it has truly revolutionized the way we learn, do business, communicate, and interact with the world.
- We are already on board this high-speed train, so to speak, but many people have been left behind for far too long.
- Leveling the broadband playing field holds the promise of elevating entire communities—from improvements in the classroom and hospitals to faster response times for first responders.
- The possibilities are practically wide open.

- The hope is that expanding broadband will increase competition, which in turn will lower costs, and spur innovation.
- We know that virtuous cycles like these can generate exponential benefits to all of society, including those who may have been left behind in the past by the internet revolution.
- My purpose here today, as always, is to ensure that my constituents, the hard-working people of Florida's 11th district, will also benefit from the two programs under review today.
- Even if program funds haven't gone directly to my district, I want to know what kind of impact broadband will have on them and their families and their hope that they won't be left behind any longer.
- So, my questions for the witnesses today will focus on my constituent's needs and how they are being met under these programs. The opportunity to bring people up to speed seems to be within our reach. Now it's time to make sure everyone is on board.
- Thank you all. I look forward to the testimony of our witnesses, and I yield the balance of my time.

UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

January 22, 2010

The Honorable Barbara Mikulski
Chairwoman, Subcommittee on Commerce, Justice, Science,
 and Related Agencies
Committee on Appropriations
United States Senate
Washington D.C. 20510

The Honorable Richard Shelby
Ranking Member, Subcommittee on Commerce, Justice, Science,
 and Related Agencies
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Madam Chairwoman and Ranking Member Shelby,

This letter responds to your inquiry regarding the status of the National Telecommunications and Information Administration's (NTIA) Broadband Technology Opportunities Program (BTOP). Since the initiation of this $4.7-billion program, created by the American Recovery and Reinvestment Act of 2009, our office has completed significant oversight of the program's start-up activities. This letter describes the challenges that we believe the program currently faces, along with an overview of our activities to date (see attachment).

BTOP, which aims to award approximately $4.5 billion in grants in less than 18 months, represents a level of grant activity that no Commerce operating unit has ever undertaken. With BTOP, NTIA has had to confront a number of challenges, including staffing a program office, developing grant program rules and regulations, coordinating development activities with other departments and agencies (including Agriculture and the Federal Communications Commission), awarding grants, and performing effective oversight of activities—while limiting expenditures to 3 percent of the program appropriation ($141 million).

On January 6, 2010, we met with the Assistant Secretary for Communications and Information to discuss the status of our evaluation. We communicated program challenges that—if not addressed—we believe may cause NTIA to face difficulties in meeting its statutory deadline of issuing broadband grants by September 30, 2010, and in monitoring the grants after they are awarded. We shared the following concerns:

- NTIA faces operational challenges with its current staffing levels, especially given the program's complexity and deadline. The establishment of the program office required recruiting and training of staff, drafting of operational procedures, development of systems, and monitoring of a significant contract and several Memorandums of Understanding with other Commerce bureaus and federal agencies, all while managing the policy, award, and monitoring operations. The staffing constraints are due in part to the time-intensive requirements involved with setting up new operations, as well as key dependencies on a few senior team personnel who handle multiple roles within BTOP and, in some instances, in other NTIA programs as well.

- Documentation is not consistently available for operational program procedures, program staff roles and responsibilities, and key management decisions. Such documentation is needed to ensure that government staff and contractors understand and effectively carry out their responsibilities. Adequate documentation is particularly important to ensure continuity in the event the program loses any of its limited number of key staff, while documentation of key decisions is needed to achieve transparency in decision making.

- NTIA encountered problems with the application-intake system during the first round of the applications process because the system was unable to handle the volume of applications submitted. This resulted in extending the deadline for receiving applications and implementing procedures for collecting select application materials on paper. While system modifications have been made to address these issues, only a short period of time remains in which to sufficiently test the system and ensure that adequate functionality is delivered for the second-round production cycle.

- NTIA also encountered challenges with the application review process. Volunteer peer reviewers failed to complete reviews or submit review scores in a timely manner, and thus were not meeting timeliness expectations. Supplemental reviewers obtained from Booz Allen Hamilton were subsequently used to complete many of the application reviews. The review of applications, originally expected to be complete by mid-September 2009, was delayed by 3 months, to mid-December 2009.

As NTIA enters its second round of issuing broadband grants, it must not only avoid the problems with application intake and the recruitment of sufficient application reviewers that hindered the first round of awards, it must also enhance internal program management operations for grants already awarded. We are concerned that the program is at risk of not being able to efficiently and effectively issue its second round of awards by the statutory deadline of September 30, 2010, while simultaneously providing post-award monitoring of first-round recipients. Continued focus on improving program operations in these areas is essential.

Attached to this letter is a listing of our activities related to BTOP since passage of the Recovery Act.

If we can provide any further information, please contact Ann C. Eilers, Project Lead, Recovery Act Oversight Task Force, at 202.482.4328, or myself, at 202.482.4661.

Sincerely,

Todd J. Zinser

Attachment

Attachment

OFFICE OF INSPECTOR GENERAL ACTIVITIES SINCE PASSAGE OF THE RECOVERY ACT RELATED TO THE BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM (BTOP)

- In March 2009, we issued of a brief report entitled *NTIA Should Apply Lessons Learned from Public Safety Interoperable Communications Program to Ensure Sound Management and Timely Execution of $4.7-billion Broadband Technology Opportunities Program* (ARR-19583). The report noted that NTIA needs to seek extended funding for the program office beyond 2010 to ensure proper oversight, evaluate and approve detailed project proposals and spending plans with joint peer reviews before making grant awards, and complete an environmental assessment of BTOP promptly.

- In May 2009, we issued a brief report entitled *Commerce Experience with Past Relief and Recovery Initiatives Provides Best Practices and Lessons Learned on How to Balance Expediency with Accountability* (ARR-19692). The report provided best practices and recommendations of approaches Commerce Agencies could adopt to achieve accountability and transparency while spending expeditiously.

- In July 2009, we made presentations on *Transparency and Accountability in Broadband Grants* to potential applicants at the ten NTIA and Rural Utility Service workshops conducted for the first Notice of Funding Availability.

- In September 2009, we initiated an evaluation of BTOP with the following objectives: (1) assess how effectively NTIA is implementing BTOP, including management controls, contractor oversight, and program office staffing; (2) evaluate the proposal pre-award review measures that NTIA is taking to ensure an effective and fair application and award process; and (3) evaluate the integrity and reliability of the online application system. Since that time, we have been tracking the pre-award process for the first round of BTOP awards, keeping BTOP personnel informed of our concerns. We have identified several issues that must be addressed as the second round of awards—in which NTIA plans to award more funds, $2.6 billion, as opposed to $1.6 billion in the first round—approaches. This letter highlights these concerns, and we will soon be issuing a full report with more detail on these issues.

- In October 2009, we issued a report entitled *Commerce Has Implemented Operations to Promote Accurate Recipient Reporting, but Improvements are Needed* (ARR-19847). In December 2009, we issued a report entitled *More Automated Processing by Commerce Bureaus Would Improve Recovery Act Reporting* (ARR-19779). In these two reports we made recommendations to improve overall Commerce Recovery Act reporting (including NTIA).

- Also in October 2009, our Office of Investigations provided *Recovery Act Oversight Program Fraud Prevention Training* and *Recovery Act Oversight Program Fraud Indicators Training* to BTOP personnel.

- In November 2009, we presented a *First Time Grantee Workshop* to BTOP personnel because many of the recipients of broadband grants were expected to be first-time awardees.

USTELECOM

THE BROADBAND ASSOCIATION

WALTER B. MCCORMICK, JR.
President and Chief Executive Officer

March 3, 2010

The Honorable Lawrence E. Strickling
Assistant Secretary for Communications
 and Information
National Telecommunications and
 Information Administration
U.S. Department of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230

Dear Assistant Secretary Strickling:

The United States Telecom Association and its member companies have been enthusiastic supporters of efforts by Congress and the Administration to stimulate economic growth and job creation through broadband deployment and adoption. As leaders in the effort to bring the full promise of broadband to consumers and businesses in every corner of the nation, our member companies are well aware of the difficult challenges posed by building and operating broadband facilities in rural and remote parts of the country. Indeed, our industry continued investing in broadband deployment at an extraordinary rate throughout the recession, and has now succeeded in extending wireline broadband connections to over 90% of rural business sites, far in excess of competing technologies.[1] For these reasons, we welcomed the stimulus funding Congress provided in the Recovery Act, believing that NTIA's Broadband Technology Opportunity Program (BTOP) could make a real difference in increasing broadband deployment and adoption by helping build broadband connections to the remaining unserved and underserved consumers and businesses where geography and demographics make it uneconomic for private companies to proceed on their own.

We are deeply concerned, however, that some funding under the BTOP is flowing to support the construction of redundant broadband connections rather than being prioritized to get broadband out to those who don't have it. And, for that reason, we make the proposal described below.

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[1] Prepared Remarks of Chairman Julius Genachowski, FCC, NAURC Conference, Washington, D.C. (February 16, 2010).

The Honorable Lawrence E. Strickling
March 3, 2010
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Background

In the Comprehensive Community Infrastructure (CCI) program that NTIA has
proposed for its second round of BTOP funding, NTIA has explicitly "removed any
requirement that projects connecting community anchor institutions, including
community colleges, must be located in unserved or underserved areas."[2] This appears to
represent a formal departure from the program purposes to fund infrastructure projects
that extend broadband directly to unserved communities and households and to
underserved communities and households, which were two of Congress's key priorities
for the Recovery Act's broadband program. Indeed, as currently constructed, NTIA
could implement the CCI program without funding *any* projects that satisfy either of
these goals. For example, a last mile project that would bring broadband service to an
area that completely lacks broadband today would receive the lowest level of
prioritization under NTIA's criteria. Likewise, a middle mile project could be highly
prioritized by NTIA even though the applicant proposes to serve a geographic area that
has multiple middle mile providers today. Although supporting the construction of
second, third, and fourth networks may produce short-term construction jobs, it does little
to create the ongoing job opportunities and economic stimulus that extending broadband
to new communities, new institutions, and new households promises to bring. And,
given the fragile economics of extending broadband to increasingly rural areas of the
country, this approach may endanger the jobs of workers currently employed in building
and operating private broadband networks. It also seems to conflict with both the core
purposes underlying the BTOP and the economic priorities articulated by the President,
who has said that "government spending should catalyze, rather than supplant, private
sector investment and innovations."[3]

Proposal

Therefore, in order to maximize the economic impact of broadband stimulus
dollars, and to promote broadband deployment and adoption, we propose that NTIA use a
screening process for grant applications, as discussed in more detail in the attached
proposal, based on the presence of existing locations where connections to the Internet
can be readily obtained. In essence, NTIA should rely on the presence of an "Internet
Gateway," which should be defined as a location in existing middle mile networks that
provides an interconnection point for third-party Internet traffic and that serves as an
aggregation point for delivering Internet-bound traffic over very high capacity facilities
to and from the Internet. Transport from an Internet Gateway to the Internet is based on
the capacity of the connection purchased, and is independent of the distance from the
Internet Gateway to the final point of connection with the Internet. Middle mile project
funding would then be focused on supporting the construction of new facilities extending
broadband connectivity from Internet Gateways to community institutions and unserved
or underserved households or businesses from an Internet Gateway, but not redundant

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[2] 75 Fed. Reg. 3792, 3819 (Jan.22, 2010).
[3] Recovery Act Investment In Broadband: Leveraging Federal Dollars To Create Jobs And Connect
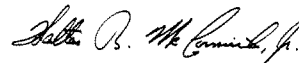America, Executive Office of the President, December 2009, at 3.

The Honorable Lawrence E. Strickling
March 3, 2010
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facilities duplicating the already-existing very high capacity connection from an Internet Gateway to the final point of connection with the Internet. Our industry would be delighted to assist you in identifying such projects by expeditiously assembling the information necessary to identify Internet Gateways, and to make sure it is available to both NTIA and potential applicants in a useful way. By aggregating industry information about the location of hundreds of Internet Gateways nationwide, NTIA will be in a much better position to evaluate middle mile infrastructure applications and effectively target broadband stimulus support.

We believe that such a screening process will make the application and evaluation process more efficient and that it will spread the benefits of scarce broadband dollars as widely as possible, catalyzing greater private investment and creating new jobs and new economic opportunities in a manner consistent with congressional purposes and Administration policy.

We look forward to working with you to maximize the economic stimulus and job creation made possible with BTOP funding, as well as opening up new broadband opportunities for consumers and businesses across the country.

Sincerely,

Walter B. McCormick, Jr.

ATTACHMENTS: Internet Gateway Screen Recommendation
                  Diagram

Internet Gateway Screen

Recommendation:

- *Brightline Funding Standard.* NTIA should utilize a brightline standard that funding for broadband stimulus middle mile infrastructure projects will be targeted to infrastructure that extends outside of an existing Internet Gateway Service Area.
  - ➢ An applicant for middle mile broadband infrastructure should only receive broadband stimulus funding for the portion of middle mile infrastructure that extends outside of an existing Internet Gateway Service Area.
  - ➢ Where possible, an applicant should demonstrate that a proposed middle mile project will connect to existing Internet Gateways.

- *Definition of Internet Gateway.* An "Internet Gateway" is an intermediate point in a middle mile broadband network that provides an *interconnection* point for third-party broadband networks and serves as an *aggregation* point for delivering traffic to and from the Internet over high-capacity facilities. The following four objective criteria should be used to define an Internet Gateway location:
  1. Internet Gateway serves as an interconnection point for third-party broadband networks where an Internet service provider or other business may obtain access to the Internet;
  2. Connection from the Internet Gateway location to an Internet POP (*i.e.,* Internet backbone edge) is included in the capacity-based charge for Internet access and no distance-sensitive transport charges apply;
  3. Internet Gateway is supported by a high-capacity (*e.g.,* 100 Mbps or more) connection to an Internet POP; and
  4. Connection between the Internet Gateway and an Internet POP generally offers redundancy.

- *Definition of Internet Gateway Service Area.* The "Internet Gateway Service Area" is an area that is already being served by existing middle mile broadband infrastructure for purposes of allocating broadband stimulus funding.
  - ➢ The Internet Gateway Service Area is defined as a 25-mile radius around an Internet Gateway, which is a conservative representation of the area that can be readily accessed with standard last-mile connections from an end-user location to the Internet Gateway.
  - ➢ Within the Internet Gateway Service Area, broadband stimulus funding should be targeted for eligible last-mile broadband infrastructure projects that connect end-user locations to the Internet Gateway.

- *Reporting and Mapping.* NTIA can aggregate and map data about the location of existing Internet Gateways to facilitate the application process.
  - ➢ Applicants would be able to reference the aggregate data as a way of ensuring that their proposed project does not duplicate existing middle mile broadband infrastructure and that any stimulus funding will be targeted to infrastructure that extends beyond existing Internet Gateways.

- *Other Considerations.* NTIA should continue to consider other information in assessing proposed middle mile infrastructure projects, such as last mile broadband availability and the presence of existing fiber networks.

- NTIA should modify the application response process for broadband infrastructure projects to provide for using aggregate industry information about Internet Gateway locations and last mile broadband service availability to evaluate whether applications are appropriately targeted. This would allow NTIA to more effectively analyze applications and compare them to footprints of existing broadband service providers.

Middle Mile Definition

Last Mile Aggregation Point (e.g. Central Office)

Internet POP (Backbone Edge)

NOFA BTOP Definition of Middle Mile: *Middle Mile means those components* of a CCI project that provide broadband service from one or more centralized facilities, (*i.e., the central office, the* cable headend, the wireless switching station, or other equivalent centralized facility) to an Internet point of presence. The Middle Mile includes, among other things, the centralized facilities and all of the equipment in those facilities, except for any equipment that would qualify as part of a Last Mile component as defined in this NOFA.

Middle Mile Stimulus Funding Proposal

Internet Gateway Service Area - 25 Miles from an Internet Gateway

Last Mile Aggregation Point (e.g. Central Office)

Internet Gateway*

Internet POP (Backbone Edge)

Area Eligible for Middle Mile Stimulus Funding

Area Only Eligible for Last Mile Stimulus Funding
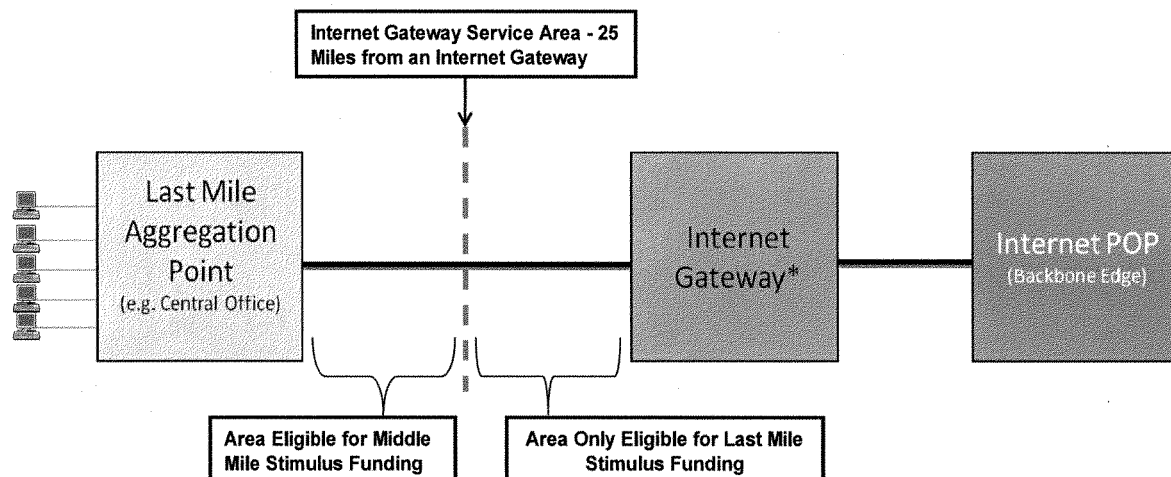
76

* Note: In some cases, the Internet Gateway and the Internet POP are at the same location.

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cable

Kyle McSlarrow
President and CEO

(202) 222-2500
(202) 222-2514 Fax

March 3, 2010

The Honorable Tom Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250-0700

The Honorable Jonathan Adelstein
Administrator
Rural Utilities Service
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Vilsack and Administrator Adelstein:

As you know, NCTA strongly supports the primary goals of the Broadband Initiatives Program
("BIP") and efforts to extend funding for broadband deployment in areas that lack service today.
We appreciate, moreover, that BIP is a complex plan to administer with competing priorities and
fully acknowledge your efforts to implement the program fairly and consistent with
Congressional intent.

However, I am writing to urge to you to redouble the Department's efforts to ensure that BIP
awards are consistent with the goals of the program in light of recent indications that awards are
not being made with full awareness of marketplace realities.

Specifically, as one example, I am attaching a letter from Gary Shorman, President and CEO of
an NCTA member company, Eagle Communications. Eagle is a small employee-owned
company based in Hays, Kansas and a longstanding provider of broadband service in western
Kansas. Mr. Shorman's letter expresses his serious concerns about the $101 million Broadband
Initiatives Program award announced on January 25. As Mr. Shorman states in his letter, "while
the January 25 announcement of the award indicates that funding from this award would
'provide service in an area 99.5 percent unserved/underserved,' it appears that much of this
funding will be directed at broadband deployment in [Hays] *one of the best-served communities
in western Kansas*" and will result in an overbuild of Eagle's facilities in that non-rural area.

It simply cannot be the intent of this program for funding to be used in a way that devotes scarce
federal resources to communities which already have access to broadband when there are other
communities in the United States with no access. Moreover, at a time of economic hardship,

public policy should not threaten the livelihood of a small, local business that has invested millions of its own private capital to deploy a host of advanced broadband services.

For these reasons, I respectfully request you review this grant and the implementation of BIP in order to ensure that the program is focused on the right priorities.

Sincerely,

Kyle McSlarrow

EAGLE COMMUNICATIONS

March 2, 2010

The Honorable Tom Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250-0700

The Honorable Jonathan Adelstein
Administrator
Rural Utilities Service
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

Dear Secretary Vilsack and Administrator Adelstein:

I am writing on behalf of my company, Eagle Communications, to express concern about the
USDA Rural Utilities Service's $101 million award to Rural Telephone Service Company (RTS)
that was announced on January 25, as part of the Broadband Initiatives Program (BIP)
established by the American Recovery and Reinvestment Act of 2009. Eagle is a western
Kansas-based company with 277 employees, 212 of which are employee-owners.

I support the primary goals of the BIP, which are to extend funding to projects that lack
"sufficient access to high speed broadband service to facilitate rural economic development" and
to give "priority for awarding funds to projects that provide service to the highest proportion of
residents that do not have access to broadband service." However, I am extremely concerned
about aspects of this particular $101 million award which do not appear to satisfy either of the
above goals of the Broadband Initiatives Program. In particular, while the January 25
announcement of the award indicates that funding from this award would "provide service in an
area 99.5 percent unserved/underserved," it appears that much of this funding will be directed at
broadband deployment *in one of the best-served communities in western Kansas*.

Specifically, as has been reported, RTS plans to use funds to bring fiber-to-the-home to at least 10,000 homes and businesses[1] in Hays, Kansas, a non-rural area that accounts for almost half of the 23,000 homes and businesses that are reportedly within the RTS project area.[2] Hays, however, is already served not only by the award recipient's affiliate, Nex-Tech, but also by Eagle and other carriers. In fact, Connect Kansas just reported that of 11,193 households in the Hays area, 11,002 already have access to broadband.[3] In other words, much of the funding will go to a non-rural area that has fewer than 200 households without access to broadband.

The use of this award money to overbuild Eagle, which has invested over $20 million in private capital in Hays and surrounding areas,[4] jeopardizes the company's survival and the jobs of its 277 employees. Eagle currently offers Hays residents and businesses broadband service of up to 100 mbps, as well as cable television and digital phone service. It also offers local businesses web hosting, e-business, and wireless solutions.

Until we saw recent press articles, Eagle believed that most of Hays was excluded from the application based on the map that was published on the broadbandusa.gov website. In an exercise of caution, however, we submitted data to the RUS to show that we provide extensive broadband service in Hays, and an RUS field representative made an on-site visit to verify this information. We also urged RUS to seek out information about the broadband service being offered in Hays by other carriers.

Eagle cannot now determine, because of the lack of transparent information available to the public, whether the RUS obtained this data and what the factual predicate is for its determination that the non-rural area of Hays, KS is underserved. Nor is there a regulatory process in the BIP guidelines to seek reconsideration of or to appeal whatever determination was made in order to make sure the award money is appropriately spent.

Allowing our facilities in Hays to be overbuilt using government subsidized funding turns the core purpose of the Recovery Act on its head. It threatens the jobs of the 277 Eagle employees who live in the very communities the award was intended to benefit, offsetting new jobs created by the project; and it would undermine one broadband provider in the area, offsetting the new

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[1] Nex-Tech has already hired a contractor to begin canvassing the community "asking for permission to make the fiber optic connection to each residence and business in Hays -- nearly 10,000 of them." Hays Daily News, February 14, 2010 http://www.hdnews.net/Story/rural021410.

[2] Hays Daily News, Jan. 26, 2010 http://www.hdnews.net/Story/rural012610.

[3] See http://www.connectkansas.org/mapping/Census_Block-Level_Data.php (Ellis County census block data; also includes a tab that directs the user to the Ellis County map).

[4] Eagle offers cable television, broadband Internet, and digital telephone service in the following communities: Abilene, Bird City, Chapman, Clay Center, Cuba, Ellis, Ellsworth, Florence, Goodland, Hays, Hillsboro, Hope, Hoxie, Kanopolis, Lincoln, Lincolnville, Marion, McDonald, Milford, Minneapolis, Oberlin, Riley, Russell, Solomon, St. Francis, WaKeeney, Wakefield, White City, and Woodbine, Kansas, as well as Wray, Colorado. The company also offers web-hosting, e-business, and wireless solutions.

support for another. The government should not penalize a small company that has invested private capital in its communities while supporting another company that has repeatedly benefitted from government subsidies not only from RUS (with which it has partnered on at least 32 other projects, according to the January 25 release), but also from federal USF funding (over $58 million in 2007 and 2008 alone), and state USF funding ($13 million during those same two years).[5]

In light of this, and RTS' plans to immediately use "eight people to canvass the city, working evenings and weekends to contact everyone" to get permission to make the fiber optic connection to "each residence and business in Hays -- nearly 10,000 of them,"[6] we request that the RUS immediately reconsider this award and that it:

- ◆ defer the use of funding in Hays until the RUS can (1) determine the impact of the overbuild on Eagle and other carriers in Hays, and (2) verify the extent of existing broadband service in Hays based upon available data, including data from Eagle and other carriers already offering broadband in Hays (including RTS' affiliate Nex-Tech and AT&T).

- ◆ disclose the areas that the RUS determines to be rural and non-rural and unserved or underserved, or otherwise lacking sufficient access to high speed broadband service, along with the data underlying that determination.

Thank you for your consideration of my concerns.

Sincerely,

Gary Shorman
President. Eagle Communications

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[5] FCC's Response dated May 4, 2009 to US House of Representatives Committee on Energy and Commerce Universal Service Fund Data Request of April 1, 2009, pp. 139, 177, 215 http://republicans.energycommerce.house.gov/Media/file/News/050409_FCC_Response_on_USF.pdf.

[6] Hays Daily News, February 14, 2010 http://www.hdnews.net/Story/rural021410.

Questions for the Record for NTIA Assistant Secretary Lawrence E. Strickling
March 4, 2010 Hearing before the House Communications, Technology
and the Internet Subcommittee

<u>**The Honorable Cliff Stearns**</u>

1. **The project you awarded a grant to in North Georgia works out to $310,000 per mile, twice the cost of any other award. Why are we spending so much money on one grant?**

The cost-per-mile figure that gives rise to the question is inaccurate. The North Georgia project received a grant of $33.5 million and will feature a 260-mile fiber-optic ring, which translates into a per-mile figure of about $125,000, not the $310,000 figure cited in the question. In fact, even if the applicant's matching contribution of $8.8 million were included in this rough calculation, the cost per mile would approximate $160,000. Simply dividing the grant amount (or the project cost) by the number of fiber miles, however, produces a figure of limited usefulness. There are many costs associated with a broadband network that do not closely correspond with the number of fiber miles installed. The industry practice is to calculate a per-mile figure based not on the total project cost, but instead on the capital costs of building or installing the network (*i.e.*, outside plant). Using this industry standard, the North Georgia project comes in at about $40,000 per mile for the middle mile components.

Whatever the cost, it needs to be balanced against the benefits of a broadband network which, like costs, are only partially dependent upon the number of fiber miles installed. Benefits can be measured against a number of different metrics. In this case, the North Georgia project will deliver gigabit broadband speeds, reliability, affordability, and abundant interconnection points for last mile service to stimulate economic growth and job creation in eight counties in the North Georgia foothills. The North Georgia Network is intended to deliver these high-speed broadband capabilities to an estimated 245 community anchor institutions and last mile service to approximately 24,000 households in previously inaccessible and unaffordable areas. The project will improve broadband speeds and enable community colleges, hospitals, libraries, public safety, and government agencies to fulfill their missions more efficiently and effectively. The open network architecture will permit other broadband service providers to interconnect at affordable rates to deliver enhanced broadband services to homes, businesses, and anchor institutions in the region. The investment in the North Georgia Network is an excellent use of taxpayer dollars and exactly the type of project that Congress, in the Recovery Act, instructed NTIA to support.

2. **Was the report produced by the Georgia Tech Enterprise Innovation Institute entitled "The Economic Development Potential of Information Infrastructure Investments in the North Georgia Network (NGN)," the source used by NGN to demonstrate the grant area was below 40 percent subscribership? If not, please provide the survey supplied to NTIA by NGN.**

NTIA did not rely on the report you referenced or the underlying data used in the report. In general, the contents of BTOP applications are treated as proprietary and confidential to the extent permitted under law, and unless otherwise specified in the Program's rules.

3. **We understand that a significant portion of the north Georgia project area was not on the map made available to the public during the project comment period. According to the local broadband provider, the missing area is 98 percent broadband capable. Why was a significant portion of the project area not made available for public disclosure?**

NTIA is not aware, nor do we have any reason to believe, that any portion of the North Georgia Network map was not made publicly available during the public notice comment period. The map of the proposed funded service area reflects the geographic area in which an applicant intends to offer service. Parts of the physical network may pass through areas that are not included in the proposed funded service area, because the applicant does not intend to offer service in those areas. For example, in the case of the North Georgia Network, spans of the network will run from the proposed funded service area to the Atlanta Internet Exchange for the purpose of providing connectivity to the Internet throughout the network. These spans were excluded from the map of the proposed funded service area because the network will not offer service along these spans. NTIA and RUS afforded existing service providers the opportunity to comment on the proposed funded service areas of BTOP infrastructure applications. In the case of the North Georgia Network, the comments of the existing service providers did not overcome the applicant's showing that the proposed funded service area is underserved.

4. **Was North Georgia College and State University the institution in the grant area that Assistant Secretary Strickling indicated will have to wait 18 months to receive broadband at a cost four times that of the Atlanta region? If not, please provide the name of the institution.**

Yes.

5. **Free Press submitted a filing at the FCC expressing concern that according to FCC data, there are already between four and six providers of broadband in the north Georgia area that received an award, and seven or more providers in the South Dakota area that received an award. Why are you issuing awards in places that already have so much access to broadband?**

The question assumes that Free Press agreed with the FCC data and that Free Press was "expressing concern" about the wisdom of the NTIA grants, when, in fact, just the opposite is true. In its filing, Free Press challenged "the accuracy of the [FCC's]

information and analysis" and specifically questioned the assertions about Georgia and South Dakota that form the basis of your question. It is my understanding that there are one or more service providers in some parts of the North Georgia Network or South Dakota service areas, but that does not prove that the area is served, nor does it preclude NTIA from considering projects that will meet unfulfilled needs in the area. The Recovery Act directed NTIA to address the broadband needs of both unserved and underserved areas of the Nation. among other objectives. NTIA and RUS defined underserved to include areas where broadband service may exist, but which exhibit low levels of adoption, speed, or availability. Thus, the mere presence of an existing service provider in an area does not mean that there is adequate broadband service available.

NTIA undertakes an extensive review of information presented by the applicant, community anchor institutions, States and Tribal entities, existing service providers, and other sources to ensure that its projects will have a substantial impact on improving broadband access and adoption. This includes considering whether existing broadband service is sufficient to meet the area's economic development, education, and job creation needs. NTIA takes into consideration, among other factors, whether community anchor institutions in a proposed funded service area have access to broadband services at the speeds, prices, and quality they need to fulfill their missions for the community, or whether such institutions have been unsuccessful in obtaining the broadband services they need within a reasonable timeframe. It is also important to reiterate that the Middle Mile projects supported by NTIA will operate on an open and nondiscriminatory basis that allows all third-party broadband service providers to benefit, including last mile providers that can use our projects to build-out their own broadband services to homes and businesses.

6. **How many more jobs and how many more broadband subscribers should we be getting for the $7.2 billion in taxpayer money these programs are costing? Should it cost us $1,000 dollars for each job and subscriber created? $10,000? $100,000? Do you have performance measures in place to evaluate how many jobs and subscribers per dollar we would get from each proposed project, and whether the approved applications end up fulfilling those goals? Are you conducting a rigorous cost-benefit analysis as you consider applications? If so, how do you perform that analysis? The stimulus bill was supposed to be about "jobs, jobs, jobs." As you examined specific applications for funding, what analysis did you conduct regarding how many jobs they would produce?**

Job creation is a critically important goal for NTIA and RUS. As you know, job creation is an explicit objective outlined in the BTOP provisions of the Recovery Act, and it is one of the factors NTIA considers when awarding grants. The Recovery Act also instructed NTIA, in awarding grants, to consider whether an application will increase broadband affordability and subscribership, improve broadband speeds, and enhance service for health care delivery, education or children, among other factors, but BTOP applicants include job projections in their applications. NTIA considers not just job creation in

determining whether BTOP projects will benefit communities in the most comprehensive manner possible.

I expect that BTOP grants will result in significant job creation. Direct jobs will result from the billions in investments in broadband facilities and related equipment, training, and services. In the short-term, BTOP investments will help create thousands of jobs for building infrastructure, installing computer workstations, and developing and implementing outreach to broadband consumers. The types of jobs range from manufacturing fiber-optic cable and other high-tech components, to stringing fiber from pole to pole, to trenching, and to the installation of broadband networking hubs. Computer centers need to be built, and new computers and related hardware and software will be installed and networked into public computing centers. Outreach strategies need to be planned and executed, and staff will need to be trained how to best provide communities with needed broadband information and workforce skills.

In the longer term, BTOP grants will improve education, job-training, tele-working opportunities, and access to markets which will lay a foundation for economic development, competitiveness, and job creation for years to come. With respect to how many jobs will ultimately be created, estimates vary. One widely-cited projection estimated that $5 billion in broadband stimulus spending could generate almost 100,000 jobs directly and as many as 2.5 million jobs in the long run. Of course, a number of variables and subjective judgments go into projections such as this one and differing variables and judgments would obviously change the forecasted numbers.

BTOP grant recipients will be required to report the number of jobs supported by Recovery Act funds as a condition of their grant, among other reporting elements. Recipient reports will be made available on a public website, as required by the Recovery Act. I am confident that as this program advances, we will be able to demonstrate how BTOP investments have resulted in significant job creation for the American people.

Like job creation, the extent of subscribership measures will vary with the project. We consider the subscribership projections of BTOP applicants and require awardees to report subscribership and adoption results, for both infrastructure and non-infrastructure projects. The ability to measure results is a critical factor in considering the merit of individual applications, an approach recently endorsed by the FCC in the National Broadband Plan. We will have a much firmer factual basis upon which to make predictions and judgments of the type you suggest as we measure the results of our grants over the next few years.

7. **When carriers allege that an application is seeking funding for an area they already serve, what independent due diligence are you doing to investigate the claim? How do you ensure that the proposal meets the unserved and underserved requirements other than just relying on information from the applicant?**

In the first funding round, NTIA and the Department of Agriculture's Rural Utilities Service (RUS) published maps depicting the proposed funded service areas of infrastructure applicants and afforded existing broadband service providers the opportunity to provide information on their services in the area(s). Existing providers could provide data on broadband availability, subscription, and speed in each area. NTIA reviewed information supplied by the applicants, existing service providers, maps of existing services as available, the comments of State and Tribal entities, and other information to evaluate the unserved or underserved status of the proposed funded service areas. As necessary, NTIA requested additional information from applicants to help inform its decision-making process. NTIA has not funded infrastructure projects in areas where the information available demonstrated that the proposed service area is fully and adequately served. Our review process makes use of as much information as possible and helps ensure that BTOP supports broadband investment in areas with demonstrated need.

The Honorable Marsha Blackburn

1. **Leaving the agency some time to evaluate applications this spring, and time in August and September to finalize contracts with grant recipients, NTIA is essentially in a position where it must announce awards at a rate of about one billion dollars a month. Is that feasible? You already missed your targeted funding level in the first round. Do you have sufficient time and staff to responsibly obligate these funds? Are you contemplating asking Congress for an extension on the September 30th obligation deadline?**

NTIA is on schedule to award all BTOP grants by its statutory deadline of September 30, 2010. The agency has been working diligently to ensure that it has sufficient resources, human and otherwise, to meet this goal. We have taken steps to enhance the review process, including streamlining the application, reducing the number of forms, and moving from three volunteer expert reviewers per application to two paid expert reviewers per application. We continue to increase staffing levels and better utilize our contractor, Booz Allen Hamilton, to ensure that applications are reviewed in the most thorough and efficient manner possible. I am confident that we will achieve the goals established by Congress in the Recovery Act.

2. **In your February 24 remarks before the Media Institute you said that the government needs to stop its policy of leaving the Internet alone and instead start managing the "conversations" that go on there. This smacks of the Fairness Doctrine. You don't really mean to suggest that the government, rather than the marketplace of ideas and services, should be making sure everyone gets a turn to speak on the Internet, do you?**

Your question does not accurately reflect my comments at the Media Institute. Neither in that speech nor anywhere else have I suggested the imposition of the Fairness Doctrine on Internet speech.

3. **It would seem as though an extra 15 days to ensure taxpayer dollars are not being wasted on overbuilding existing broadband would be a good idea. If anything, NTIA should become more generous and increase the window to challenge an application. Why has NTIA shortened the challenging window from 30 days in the first NOFA to 15 in the second?**

The provider comment process has been greatly simplified and streamlined for Round Two. In the First Round, incumbents had to await the online posting of maps showing the proposed service areas of each BTOP applicant and then, if it so chose, respond individually to each proposed project.

The Second Notice of Funds Availability (NOFA) explained that, in the interests of promoting transparency and strengthening the selection process, NTIA will post on its

website www.broadbandusa.gov an announcement identifying the Census block groups or tracts that each Comprehensive Community Infrastructure (CCI) applicant has proposed to serve. This announcement will allow existing broadband service providers to voluntarily submit information about the broadband services they currently offer in their respective service territories only once for each Census block group or tract rather than multiple times in response to each application. Notwithstanding this streamlined and simplified process, we have decided to extend the comment period from our original 15 days to 25 days.

4. **During the first NOFA interested parties could use an electronic mapping tool to identify service areas to reduce duplicative networks. The second NOFA NTIA eliminated the mapping tool. Why?**

Many existing service providers expressed frustration over using the mapping tool, which required them to comment on each individual service area for each infrastructure applicant. Prior to issuing a Second NOFA, NTIA and RUS solicited public comment through a Request for Information. Several commenters, including a number of incumbent broadband providers, suggested that NTIA amend its service area comment process consistent with the process outlined above, which is intended to streamline the process for applicants, existing service providers, and the agency. This process will provide a more uniform, transparent, and automated method of collecting service area information and analyzing it to determine the extent to which an area is unserved or underserved.

5. **What have you done to make sure grants go toward unserved areas before underserved areas?**

In the Recovery Act, Congress identified five purposes of BTOP, including the provision of new broadband access to unserved areas and the provision of improved broadband access to underserved areas. Congress did not prioritize one over the other, nor has NTIA. Underserved areas contain many unserved consumers and, in general, the projects we have funded include both unserved and underserved areas.

6. **What is NTIA doing to minimize and prevent overlapping of funds? Have you done market analyses to make sure you are being as efficient as possible?**

NTIA and RUS agree that in the interest of efficiency and using taxpayer dollars as wisely as possible, NTIA and the Department of Agriculture's Rural Utilities Service (RUS) should not fund Recovery Act broadband projects that substantially overlap or duplicate service in the same area. The agencies regularly coordinate to identify potential service area overlaps and work to resolve such conflicts in the manner that best satisfies

the statutory objectives of both programs. We will continue to collaborate to avoid duplicative projects or substantial overlap in the Second Round.

7. **Leaving the agency some time to evaluate applications this spring, and time in August and September to finalize contracts with grant recipients, NTIA is essentially in a position where it must announce awards at a rate of about one billion dollars a month. Is that feasible? You already missed your targeted funding level in the first round. Do you have sufficient time and staff to responsibly obligate these funds? Are you contemplating asking Congress for an extension on the September 30th obligation deadline?**

Please see the answer to your Question 1 above.

The Honorable Lee Terry

1. **When will the agencies complete announcing grants for round 1? And what process should round 2 applicants follow to propose projects that otherwise would be prohibited by a round 1 grant in case the round 1 grant is not completed?**

NTIA plans to award all Round One awards by the end of April. To date, the agency has awarded more than $1 billion for more than 70 grants to expand broadband infrastructure, enhance public computer center capacity, and promote sustainable broadband adoption. NTIA plans to announce a small number of remaining grants before the end of April. To assist applicants preparing a Round Two application to determine where projects have been and/or may be awarded, NTIA posted a list of awarded and pending Round 1 BTOP Sustainable Broadband Adoption, Public Computer Center, Middle Mile Infrastructure, and Last Mile Infrastructure applications. It is not correct that a Round Two application could be prohibited by a Round One grant, except in a very rare case where the second application exactly duplicated the first round project.

2. **I understand that FairPoint Communication fiber network currently handles national and regional wireless traffic, national and regional ISP traffic, public entity traffic, regional MS traffic, and local WISP traffic. What is NTIA's definition of a "closed" network?**

The Recovery Act instructs NTIA to publish the nondiscrimination and network interconnection obligations that shall be contractual conditions of BTOP grants, including, at a minimum, adherence to the principles contained in the Federal Communications Commission's (FCC) *Internet Policy Statement* of 2005. In its January 22, 2010 Second *Notice of Funds Availability (NOFA)*, NTIA explained that, in addition, infrastructure applicants must:

- not favor any lawful Internet applications and content over others;
- display any network management policies in a prominent location on the service provider's web page and provide notice to customers of changes to these policies (awardees must describe any business practices or technical mechanisms they employ, other than standard best efforts Internet delivery, to allocate capacity; differentiate among applications, providers, or sources; limit usage; and manage illegal or harmful content);
- connect to the public Internet directly or indirectly, such that the project is not an entirely private closed network; and
- offer interconnection, where technically feasible without exceeding current or reasonably anticipated capacity limitations, at reasonable rates and terms to be negotiated with requesting parties. This includes both the ability to connect to the public Internet and physical interconnection for the exchange of traffic.

All these requirements are subject to the needs of law enforcement and reasonable network management. Thus, awardees may employ generally accepted technical measures to provide acceptable service levels to all customers, such as caching (including

content delivery networks) and application-neutral bandwidth allocation, as well as measures to address spam, denial of service attacks, illegal content, and other harmful activities. In evaluating the reasonableness of network management techniques, NTIA will be guided by any applicable rules or findings established by the FCC, whether by rulemaking or adjudication. In addition to providing the required connection to the Internet, awardees may offer managed services, such as telemedicine, public safety communications, distance learning, and virtual private networks, that use private network connections for enhanced quality of service rather than traversing the public Internet.

The open and nondiscriminatory projects funded by BTOP will enable all other service providers to utilize the network to serve the community and lay the foundation for the ultimate provision of affordable end-user broadband services in unserved and underserved communities.

3. **In round 2 NTIA is not allowing challengers to use the mapping tool to identify applications that may compete with existing networks. Why was the decision made not to use the mapping tool for round 2?**

Many existing service providers expressed frustration over using the Round One mapping tool, which required them to comment on each individual service area for each infrastructure applicant. In an effort to streamline the process for applicants, existing service providers, and the agency, NTIA determined that it will post on its website www.broadbandusa.gov an announcement identifying the Census block groups or tracts that each Comprehensive Community Infrastructure (CCI) applicant has proposed to serve. This announcement will allow existing broadband service providers to voluntarily submit information about the broadband services they currently offer in their respective service territories by Census block group or tract. Because the NOFA listed the type of information NTIA will request and the method by which it will be collected, providers could begin preparing this information well in advance of comment period established in the Second NOFA. In addition, unlike Round One, providers will only need to provide this information once for a given Census block group or tract, as opposed to repeatedly submitting the same information for multiple applications.

4. **With respect to the Maine Three Ring Binder project can you identify how many challenges were filed in response to the project? Does NTIA contact identities that file challenges? Does NTIA have a field team similar to RUS that investigates challenges and verifies applications?**

The Three Ring Binder project identified four unique service areas in its application. Each service area received public comment by at least one existing service provider, often the same service provider. In total, 9 existing service providers submitted comments on one or more of the service areas that comprise the Biddeford proposed funded service area, for a total of 19 comments. NTIA does not typically contact entities that file comments on the proposed funded service areas of BTOP applications. NTIA also does not have field representatives. NTIA reviewed information supplied by the applicants, existing service providers, maps of existing broadband services as available,

the comments of State and Tribal entities, and other information to evaluate the unserved or underserved status of the proposed funded service areas. As necessary, NTIA requested additional information from applicants to help inform its decision-making process. NTIA has not funded infrastructure projects in areas where the information available demonstrated that a proposed service area is fully or adequately served. Our review process makes use of as much information as possible to ensure that BTOP supports broadband investment in areas with demonstrated need.

5. With respect to the Maine Three Ring Binder I understand from the application filed that the Maine project did not at the time of filing their application have the authority and permits to operate in the state of Maine. How can a project that does not have the proper permits be "shovel ready" and how does the NTIA determine if a project can move beyond the due diligence phase if at the time of awarding the grant the applicant still has not received the proper permits to operate in the state of Maine?

NTIA seeks to fund projects that can commence as quickly as possible consistent with relevant laws in order to maximize the stimulative effect on the economy and job creation. BTOP infrastructure projects are often fairly complex and must frequently meet a number of requirements before construction can start. These may include complying with environmental and historic preservation requirements, soliciting bids for contracts from vendors, and obtaining licenses and permits, such as construction permits, wireless service licenses, fire and safety permits, and more. NTIA does not require applicants to have every license or permit in place before making an award. Indeed, in some cases, the applicant may be legally or practically precluded from seeking a particular license until after the BTOP grant is awarded. Further, this approach avoids deterring potential applicants with worthy projects from applying because of the high cost of acquiring licenses and permits prior to filing.

NTIA does require each BTOP applicant to identify in its application all licenses, regulatory approvals, and agreements that will be required to provide the proposed services. In reviewing the proposed project, we consider the extent to which licensing requirements will delay or present risk to the project. We will not fund projects where it appears unlikely that the applicant will acquire the necessary permits and licenses on a timely basis. Further, the acquisition of such permits and licenses becomes a condition of the grant; following the grant award, NTIA will monitor its grant recipients' progress in satisfying such conditions and achieving all of their project milestones to ensure that the American public may enjoy the benefits of BTOP investments as quickly as possible.

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- Enclosure: Remarks of Assistant Secretary for Communications and Information Lawrence E. Strickling at the Media Institute, Washington, DC

The Internet: Evolving Responsibility for Preserving a First Amendment Miracle

Remarks of Lawrence E. Strickling,
Assistant Secretary of Commerce for Communications and Information

-As Prepared for Delivery-

The Media Institute
February 24, 2010

It is a pleasure to be here with you at the Media Institute. As most of you know, at NTIA we have been almost totally consumed with reviewing and awarding broadband grants under the Recovery Act. As of today, we've announced over $620 million in awards and we'll be continuing to make awards as quickly as we can as we close out the first funding round. We're already accepting applications for round two, and for those of you working on applications, we have a firm deadline of March 15th for all applications to be submitted and we will not extend that date given our statutory obligation to complete all awards by the end of September.

But that's not what I came here to talk about today. Instead, I'd like to focus on the Internet and some key policy questions that NTIA will be working on this year.

The United States, and indeed all nations that depend on the Internet, face an increasingly urgent set of questions regarding the roles of the commercial sector, civil society, governments, and multi-stakeholder institutions in the very dynamic evolution of the Internet. I can think of no more appropriate place to discuss these issues than the Media Institute, given the vital role the Internet plays in advancing our Nation's First Amendment values, and the Institute's long tradition as a forum for exploring the nexus between the First Amendment and communications policy.

From the very first encounter between our Constitution and the Internet, courts have recognized the Internet as an unprecedented gift to the First Amendment. When the Supreme Court first considered the relationship between the Internet and freedom of speech, the Court recognized the Internet as a "never ending world-wide conversation." (*ACLU v. Reno, 521 U.S. 844 (1997).*) Since then, the conversation has only grown, but as we become more economically, socially, politically—and even emotionally – dependent on the Internet, we must continue to examine how best to assure that this conversation can continue, can engage more and more people, and can be a platform for innovation in both public and private sectors of societies around the world.

The wide reach and central role that the Internet plays in our society has prompted many to refer to the Internet as an 'ecosystem.' I'd like to spend a little time examining just whether the ecosystem metaphor is a useful guide for policy makers. What lessons can we draw from this metaphor and which lessons should we avoid?

In the physical world, I associate the dynamics of a natural ecosystem with two important concepts: first, the presence of some set of biological laws such as natural selection, that second, leads to a balance or equilibrium state so that even when there is a disturbance these natural operations and laws bring the ecosystem back to a equilibrium state (maybe different than before, but an equilibrium).

Applying this concept to the online ecosystem could lead us to accept the idea that the Internet is self-regulating and there is some natural order that will always emerge no matter how the system may be disturbed. From this concept some argue that policymakers should just leave the Internet alone.

In fact, "leaving the Internet alone" has been the nation's Internet policy since the Internet was first commercialized in the mid-1990s. The primary government imperative then was just to get out of the way to encourage its growth. And the policy set forth in the Telecommunications Act of 1996 was: "to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation."

This was the right policy for the United States in the early stages of the Internet, and the right message to send to the rest of the world. But that was then and this is now.

As we at NTIA approach a wide range of Internet policy issues, we take the view that we are now in the third generation of Internet policy making. Here's how history looks to us.

1.   *Internet Policy 1.0: transition to commercialization (1990-2000)*: In the 1990s, let's call this period, Internet Policy 1.0, when the first commercial Internet service providers began providing commercial service and the World Wide Web was created, opportunities for innovation and investment "at the edges" of the network and in the last mile were drivers of growth. Innovation "at the edges" meant the development of exciting and novel applications that were often, literally, conceived in a garage. The guiding philosophy was: the more the better. The government imperative was to seek unrestrained growth of the Internet. It not only worked, but some of those very innovations continue to facilitate the Internet's vitality and growth.

2.   *Internet Policy 2.0: from the garage to Main Street (2001-2009)*: After the turn of the century and for the last decade, the Internet experienced tremendous economic growth and social innovation. We call this period, Internet Policy 2.0. By one estimate, half the number of U.S. homes had Internet access within ten years after commercialization, and NTIA estimates that today, about 70 percent of U.S. households have Internet access. Despite this growth, policy issues emerged during this era which have not been effectively addressed:

- Privacy: During this past decade, more and more personal data was being collected leading to a growing unease with the 'notice & choice' model. How many of us really read those privacy policies or just click away at the "Yes, I agree..." in order to get on with what you want to buy, read or post?

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- Security: Individual users and large enterprises found that they were required to devote more time and money to addressing security threats.
- Copyright infringement: Over the last ten years, we've seen great innovation in the development of new business models, such as iTunes, but at the same time, we've also seen a surge in the piracy of intellectual property, and the negative impacts this disregard for copyright law has had on traditional content industries.

3.   *Internet Policy 3.0*: It's now time to respond to all the social changes being driven by the growth of the Internet. We need Internet Policy 3.0. We enter this new decade recognizing that we rely on the Internet for essential social purposes: health, energy efficiency, and education. It's also a general engine for economic and social innovation. We must take rules more seriously if we want full participation, but we must keep the need for flexibility in mind.

We have much higher expectations of the Internet today than we've had in the intervening years. The Internet, and particularly broadband Internet, are the central nervous system of our information economy and society, and can provide unprecedented opportunities to address our current challenges in health care, energy efficiency, education, and government openness.

It is important not only to preserve, but to enhance access to this open and dynamic medium that fosters unprecedented innovation and public participation. Going back to the 'ecosystem' metaphor, the Internet is not a natural park or wilderness area that should be left to nature. In fact, I don't think any of you in this room really believe that we should "leave the Internet alone."

It's more accurate to describe the Internet is an agglomeration of human actors—it's a large and growing social organization. There are no natural laws to guide it—and there is most certainly no self-regulating equilibrium point because this cacophony of human actors participating in this organization demands that there be rules or laws created to protect our interests. That's human nature. For example:

- If you're a user, you want to know that you can make a transaction online without your credit card information falling into the wrong hands.
- If you're a content owner, you want to be allowed take action against users that infringe your copyright.
- If you are a small backbone provider, you want rules to govern peering relationships with large providers.
- If you're a large enterprise, you want your investment to protect against hacking and intrusion to be sound.
- If you are a network owner, you may be against Net Neutrality rules, but that does not mean there are not any rules, it just means the network owners get to create their own rules about whether and when to discriminate.

Despite the tremendous economic growth and social innovation that has occurred online over the past decade, policy tensions such as these have arisen and have not been

effectively addressed. Given all the human actors involved in the Internet with all their competing interests, we have to ask, do governments have to be involved to sort out these interests so that the Internet will continue to thrive?

I say yes but just as emphatically, I say that the government's role need not be one of a heavy-handed regulator. There's little question that our existing regulatory structures are poorly equipped to deal with these issues. They are too slow, they are too backward looking, and they are too political to be effective.

But it concerns me that in the absence of some level of government involvement, we will lose the one thing that the Internet must have—not just to thrive, but to survive—the trust of all actors on the Internet.

- If users do not trust that their credit card numbers and private information are safe on the Internet, they won't use it.
- If content providers do not trust that their content will be protected, they will threaten to stop putting it online.
- If large enterprises don't have confidence that their network will not be breached over the Internet, they will disconnect their network and limit access to business partners and customers.
- If foreign governments do not trust the Internet governance systems, they will threaten to balkanize the Domain Name System which will jeopardize the worldwide reach of the Internet.

Those are just some examples but I think this issue of trust applies to every actor on the Internet.

A good place for policymakers to start as we define our role and what our actions should be is to preserve and maintain trust in the Internet. (Interestingly it's easier for government agencies to organize to prevent bad actions rather than nurture good ones. So we have the DOJ Antitrust Division but we do not have an agency that is **for** trust).

At NTIA, we're not a regulatory agency, but as the principal advisor to the President on telecommunications and information policy, I think we have role to play in preserving and building trust on the Internet.

Our agenda this year is to refocus on the "I" in NTIA – Internet and information policy – and play the role of preserving and building trust and to balance out the policy tensions I mentioned earlier.

Let me list for you our initiatives for the year:

- Privacy policy. Here's the question: How can we enable the development of innovative new services and applications that will make intensive use of personal information but at same time protect users against harm and unwanted intrusion into their privacy? We are launching a series of listening sessions this spring with

industry, advocates and academics in the field, and will follow up with a notice of inquiry and public outreach events.

- Child protection and Freedom of Expression: As more children go online, how do we ensure proper targeting of law enforcement resources against serious crime while remembering that most important line of defense against harmful content is the well- informed and engaged parent or teacher? Later this year, the Online Safety Technology Working Group, created by Congress and convened by NTIA, will issue a report on the state of the art in child protection strategies online.
- Cybersecurity: How do we meet the security challenge posed by the global Internet which will require increased law enforcement and private sector technology innovation yet respect citizen privacy and protect civil liberties. We're participating in a Commerce Department cybersecurity initiative that will address these issues, particularly as they relate to improving the preparedness of industry for cyber attacks.
- Copyright protection: How do we protect against illegal piracy of copyrighted works and intellectual property on the Internet while preserving the rights of users to access lawful content? NTIA and our sister agency at the Department of Commerce, the US Patent and Trademark Office, are beginning a comprehensive consultation process that will help the Administration develop a forward-looking set of policies to address online copyright infringement in a balanced. Internet-savvy manner.
- Internet Governance: In our role administering the Federal government's relationship with the Internet Corporation for Assigned Names and Numbers (ICANN), how do we ensure that ICANN serves the public interest and conducts its activities with the openness and transparency that the global Internet community demands? Last fall, NTIA and ICANN set forth a framework for technical coordination of the naming and numbering system and I am looking forward to soon participating in the first of the administrative reviews to ensure that these commitments are carried out in full.

All of these efforts must involve collaboration – among government agencies, foreign governments when appropriate, and key Internet constituencies—commercial, academia, civil society.

Our approach to answering these questions will be to engage the key constituencies and serve as a convener. NTIA is looking for solutions to these issues through consultations to advance the ball forward.

We will be flexible in terms of outcomes – the solutions that emerge through our consultations may be recommendations for legislation or regulation, but if they result in individual actors accepting new processes. so much the better.

At the end of the day, all of these initiatives have as their goal to preserve and protect the trustworthiness of this extraordinary medium.

If we are successful, maybe we will change our name to the National Trust the Internet Administration.

Thank you.

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

JOE BARTON, TEXAS
RANKING MEMBER

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

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March 25, 2010

The Honorable Jonathan S. Adelstein
Administrator
Rural Utilities Service
U.S. Department of Agriculture
Room 5135
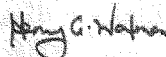1400 Independence Ave, SW
Washington, DC 20250

Dear Mr. Adelstein:

Thank you for appearing before the Subcommittee on Communications, Technology, and the Internet on March 4, 2010, at the hearing entitled "Oversight of the American Recovery and Reinvestment Act: Broadband, Part 3."

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions.

Please provide your responses by April 12, 2010, to Earley Green, Chief Clerk, via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,

Henry A. Waxman
Chairman

Attachment

Oversight of the American Recovery and Reinvestment Act: Broadband, Part 3
Subcommittee on Communications, Technology, and the Internet
March 4, 2010
Questions for the Record

The Honorable Cliff Stearns

1. How many more jobs and how many more broadband subscribers should we be getting for the $7.2 billion in taxpayer money these programs are costing? Should it cost us $1,000 dollars for each job and subscriber created? $10,000? $100,000? Do you have performance measures in place to evaluate how many jobs and subscribers per dollar we would get from each proposed project, and whether the approved applications end up fulfilling those goals? Are you conducting a rigorous cost-benefit analysis as you consider applications? If so, how do you perform that analysis? The stimulus bill was supposed to be about "jobs, jobs, jobs." As you examined specific applications for funding, what analysis did you conduct regarding how many jobs they would produce?

Response: Job creation is a key objective for the Broadband Initiatives Program (BIP). There are many factors that will be used to evaluate its success. These measurements will include both short-term job creation in building these networks, as well as the long-term effect on jobs through the economic development made possible by the network improvements. Rural Utilities Service (RUS) is planning to utilize and track the number of jobs that the applicant proposed to create which were validated for reasonableness during our evaluation process.. Our websites, www.broadbandusa.gov, and www.recovery.gov lay out the performance measures for BIP and will track the success of these projects. RUS is in the process of finalizing the BIP performance measures and targets with OMB. In the second NOFA, RUS limits Federal assistance for broadband deployment to a target of not more than $10,000 per premise passed. Recognizing the rural areas are often more costly to serve, the NOFA contains a waiver process if the cost per premises must exceed the target. . The NOFA includes the specific circumstances and reasons under which the Administrator may consider granting a waiver of this requirement.

In order to maximize short-term and long-term job creation, RUS performs extensive financial and technical reviews to ensure all projects it funds are sustainable so they will continue to serve their rural communities for years to come. In order to target resources where they are needed most, the second NOFA permits higher grant levels to areas with high unemployment and low median household income.

2. When carriers allege that an application is seeking funding for an area they already serve, what independent due diligence are you doing to investigate the claim? How do you ensure that the proposal meets the unserved and underserved requirements other than just relying on information from the applicant?

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Answer: Under BIP, RUS has established an objective scoring process which gives priority to incent applicants to bring the most robust service to the most rural and unserved areas. RUS evaluates the information submitted by the applicant to demonstrate the need for broadband service. To validate this information, RUS posts all proposed service territory maps on www.broadbandusa.gov and allows incumbent providers to comment on whether these areas are unserved or underserved through Public Notice Responses (PNRs) received during a 30-day comment period. RUS weighs these comments, along with state broadband maps and any other data available. In the final analysis, we depend heavily on Field Staff we assign from both RUS and other Rural Development staff to be our "boots on the ground" to validate the information when necessary.

3. We've heard that a Kansas company that received the largest RUS award yet will use that money to compete with Eagle Communications in Hays rather than serve any surrounding unserved areas. Eagle is a small employee-owned company that already provides up to 100 megabit per second broadband service there. The Connect Kansas broadband map shows the presence not just of Eagle but of other providers, and that the vast majority of Hays is already served. Is this sound use of the taxpayer dollars you have been entrusted with? What is the recourse of Eagle, which has invested millions of dollars in private capital, to appeal?

Response: All BIP awards, including the one you referred to for Rural Telephone Service Co., Inc., were made to entities that met the eligibility requirements of the NOFA and the standards set by Congress in the Recovery Act. Eagle Communications chose not to apply for the BIP program to serve unserved customers outside the city limits of Hays, Kansas. Rural Telephone submitted an all-encompassing application that will close the digital divide between Hays and the outlying rural areas that currently lack service, and for that reason won the award.

All applicants needed to supply information on how they determined that their proposed service territory met the requirements of the NOFA. RUS also provided incumbent service providers such as Eagle the opportunity to provide comments on whether an applicant's proposed service territory is unserved or underserved through submission of documentation. In cases like this where the documentation was inconsistent, RUS deployed RUS and other Rural Development field staff to provide "boots on the ground" in these areas to make a final determination. The Agency evaluated the information submitted by the applicant and documentation provided by incumbent service providers, including meeting directly with Eagle, and made a final determination of whether the applicant met the requirements of the NOFA. There is no appeal process included in the NOFA. In the case at hand, all pertinent information was carefully and properly evaluated and the award was made accordingly, consistent with the NOFA.

In this case, the BIP awardee will provide broadband service to thousands of unserved and underserved premises outside the Hays, Kansas area. The applicant chose to include the city of Hays in its proposed service territory so that the entire service area was offered service rather than to arbitrarily exclude a single community. Hays accounts for a tiny fraction of the 4,600 square mile service area the applicant proposed to serve. Hays, Kansas, constitutes less than 1 percent of the BIP awardee's service territory, and the vast majority of BIP award funds will be used to provide service in the expansive rural areas outside of Hays.

The Honorable Lee Terry

When will the agencies complete announcing grants for round 1? And what process should round 2 applicants follow to propose projects that otherwise would be prohibited by a round 1 grant in case the round 1 grant is not completed?

Response: As of March 31, 2010, the RUS had completed all funding awards under NOFA 1 and notified all non-awardees why their application could not be funded under the NOFA. RUS awarded $1.067 billion for 68 broadband projects under NOFA 1 reaching more than 529,000 households and 96,000 rural business and anchor institutions across 31 states, one territory and include 17 Tribal Land areas in rural unserved and underserved communities.

As indicated in our NOFA, the proposed service territories of last mile projects areas awarded under NOFA 1 may not receive another award under NOFA 2. These service territories maps were posted on www.broadbandusa.gov more than a month before the NOFA 2 application window closed to ensure that all applicants were clearly aware of these areas. The Agency may also reject any application under NOFA 2 that proposes to serve an area funded under NOFA 1.

The Honorable Marsha Blackburn

What is RUS doing to minimize and prevent overlapping of funds? Have you done market analyses to make sure you are being as efficient as possible?
Response: Under BIP, RUS has established an objective scoring process which incents applicants to bring the most robust service to the most rural and unserved areas. In fact, RUS gives priority to unserved and highly rural areas. All applicants must supply maps of their proposed service territories. Shortly after the closing of NOFA 2, RUS will post all proposed service territory maps on www.broadbandusa.gov. RUS will then allow incumbent service providers the opportunity to comment on whether these areas meet the requirements of the NOFA through Public Notice Responses received during a 30-day comment period. RUS will rely upon these comments, state broadband maps (where available), and both RUS and Rural Development Field Staff to validate the information when necessary. The Agency will evaluate the information submitted by the applicant and documentation provided by the public and incumbent service providers and make a final determination of whether the applicant met the requirements of the NOFA.

○