

Before the
DEPARTMENT OF COMMERCE
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE
Washington, DC

In the Matter of)	
)	
American Recovery and Reinvestment Act)	Docket No. 090309298-9299-01
Broadband Initiatives)	

COMMENTS OF CV BROADBAND LLC

CV Broadband LLC
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President
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April 13, 2009

EXECUTIVE SUMMARY

CV Broadband LLC and its affiliates (“CV Broadband” or the “company”) provide wireless internet service to 500 customers in rural east Texas. The company started in 2002, with a \$250,000 Texas community network grant to help build and deploy its rural broadband network in hard-to-serve counties. The company provides dozens of free public access points, and free services to more than 25 community anchor institutions, including the county sheriff and city police departments, nursing homes, medical facilities, schools and libraries. The company has demonstrated that offering competitive service to commercial, residential and business customers while also serving vital community institutions as a public service is a sustainable and scalable business model. Providing free service to key community institutions stimulates greater demand for broadband services, creates a digital economy in areas previously cut off from the Internet and spurs job creation.

CV Broadband makes the following recommendations to National Telecommunications and Information Administration (“NTIA”) as it considers the purposes and selection criteria of the Broadband Technology and Opportunities Program (“BTOP”):

NTIA should not apportion a certain percentage of funds to each purpose under the American Recovery and Reinvestment Act (“Act”). CV Broadband has conclusively demonstrated that by providing superior broadband coverage on a commercial basis, network investment may be leveraged to serve multiple purposes and populations identified in the Recovery Act.

In considering the role of states, NTIA should not put states in the untenable position of recommending funding priorities while also competing for the same funding as an applicant. If a state applies for funding, it should not participate in determining funding priorities.

NTIA, in assessing eligibility for a BTOP grant, should find that it is presumptively in the public interest for all private, for-profit companies with a proven track record of providing free broadband service to the socially disadvantaged populations or key public service organizations to qualify for BTOP funding. CV Broadband recommends that eligibility be limited to those companies and their affiliates that previously received state or federal broadband funding.

NTIA should not entertain waivers of the 20 percent matching requirement for BTOP grants. A waiver process would result in a drain of NTIA’s limited stimulus funds, thereby taking potential funds away from other potential grant applicants. If NTIA were to consider waivers on an ad hoc basis, NTIA would have to establish a separate layer of need-based waiver criteria. This additional level of review would most certainly threaten NTIA’s ability to timely distribute the grants within the deadlines set by the Recovery Act.

CV Broadband encourages NTIA and RUS to adopt a simple, streamlined grant application and review process as well as high-level rules that result in a swift infusion of stimulus dollars into the local economy. The primary goal of the Recovery Act is to stimulate job creation and economic growth, which cannot occur if the grant process is burdensome and slow.

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American Recovery and Reinvestment Act) **Docket No. 090309298-9299-01**
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COMMENTS OF CV BROADBAND LLC

CV Broadband, LLC and its affiliates (“CV Broadband”), respectfully submits its comments on the Broadband Technologies Opportunities Program (“BTOP”) established under the American Recovery and Reinvestment Act of 2009 (“Recovery Act” or “Act”) in response to the National Telecommunications and Information Administration (“NTIA”) and Rural Utilities Service (“RUS”) Joint Request for Information and Notice of Public Meeting dated March 12, 2009.¹

I. Purposes of Grant Funds.

CV Broadband provides wireless Internet service to 500 customers in rural east Texas. In 2002, one of CV Broadband’s predecessor companies received a \$250,000 Texas community network grant to help build and deploy its rural broadband network in hard-to-serve counties. CV Broadband provides dozens of free public access points, and free services to more than 25 community anchor institutions, including the county sheriff and city police departments, nursing homes, medical facilities, schools and libraries. CV Broadband has demonstrated that offering competitive service to commercial residential and business customers while also serving vital community institutions as a public service is a sustainable and scalable business model. Providing free service to key community institutions stimulates greater demand for broadband services, creates a digital economy in areas previously cut off from the Internet and spurs job creation.

Accordingly, CV Broadband opposes apportioning a certain percentage of funds to each purpose under the American Recovery and Reinvestment Act (“Act”). CV Broadband has conclusively demonstrated that by providing superior broadband coverage on a commercial basis, network investment may be leveraged to serve multiple purposes and populations identified in the Recovery Act. CV Broadband provides free broadband access to schools, libraries, and emergency responders. By providing free public access points, CV Broadband facilitates broadband service to

¹ CV Broadband is in the process of combining, or “rolling up” several companies, which it expects to be completed in the near future. For purposes of these comments, these entities are all referred to as “CV Broadband.”

low-income, unemployed, aged and other vulnerable populations as well as public safety agencies. NTIA can best implement the goals of the Recovery Act by funding efficient commercial broadband projects that provide service to unserved areas and that improve service to underserved areas, so that all purposes enumerated in the Recovery Act will be met. Consequently, no special set asides of funding for particular categories are necessary.

II. Role of the States

CV Broadband agrees that States may be consulted under the Recovery Act. However, NTIA should not put states in the untenable position of recommending funding priorities while also competing for the same funding as an applicant. If a State applies for funding, it should not participate in determining funding priorities.

III. Eligible Grant Recipients

NTIA should find that it is presumptively in the public interest for all private, for-profit companies with a proven track record of providing free broadband service to the socially disadvantaged populations or key public service organizations to qualify for BTOP funding. CV Broadband recommends that eligibility be limited to those companies that previously received state or federal broadband funding and their affiliates. Those companies can demonstrate that they know how to spend money wisely and in accordance with government funding restrictions. Should NTIA elect not to limit eligibility to previously funded grantees, it should adopt a preference for companies that have previously demonstrated timely, responsible use of such funding in its grant selection process.

IV. Establishing Selection Criteria For Grant Awards

In establishing selection criteria for BTOP grant recipients, NTIA also should give priority to proposals that serve several purposes and that reach multiple vulnerable populations.

The biggest single factor that will encourage sustainable adoption of broadband services is identifying an ongoing stream of revenue that will support the services after Recovery Act grant money is spent. Companies whose business plans provide for significant commercial and residential service are those with the greatest likelihood of continuing to provide service when stimulus funding is no longer available. Companies may use commercial revenue to subsidize other priorities identified in the Act. However, without such a revenue stream, the network will not be sustainable after the grant money is spent. Many municipal Wi-Fi programs aimed at poor or otherwise underserved populations have ceased providing service because they were unsustainable without ongoing subsidies. In an era when all government budgets are under significant strain, it is unlikely that such funding can be sustained from government sources. Therefore, NTIA must prioritize funding so that private companies with existing networks and the best business plans can expand their networks and continue to serve the public after stimulus funding has been spent.

NTIA should not adopt preferences for any particular technology, nor should it adopt speed requirements. The Recovery Act is clear that grants should be awarded on a technology-neutral basis. Moreover, the levels of service available in different parts of the country can be improved in a variety of ways. While a particular speed may seem slow to a metropolitan resident, it may still be a vast improvement in a rural area. In light of the time constraints of funding and constructing broadband projects under the Act, adopting artificially high speed requirements could deprive many

communities of any improvement in service. In addition, speed requirements could unintentionally violate the technological neutrality requirement of the Recovery Act by eliminating some technologies from consideration.

V. Grant Mechanics

In its Request for Information, NTIA asks what mechanisms for distributing stimulus funds should be used by NTIA and USDA in addition to traditional grant and loan programs. NTIA cannot distribute Recovery Act funds through means other than the BTOP grants. Congress expressly directed NTIA in Section 6001 of the Recovery Act to award grants through BTOP. Although Congress accorded NTIA discretion in establishing criteria to select grant recipients, federal lawmakers did not permit NTIA to choose the method of distributing BTOP funds. Had Congress intended to do so, it would have stated in the Recovery Act that NTIA had the option of distributing funds through grants, loans or loan guarantees as it directed RUS in administering its share of broadband stimulus funds. As a result, NTIA must award all the stimulus funds it administers through BTOP grants.

In distributing BTOP grants, NTIA also should ensure that stimulus funds are disbursed in an efficient and timely manner. In constructing broadband networks, most of the costs are required to be paid upfront, then recouped over time as more customers sign up for service. Timely distribution of funds is critical to the goals of the Act to create jobs by stimulating purchasing and construction. Timely funding is also required for the further economic development that will result from expanded and improved broadband service to unserved and underserved areas.

VI. Financial Contributions by Grant Applicants

NTIA should not entertain waivers of the 20 percent matching requirement for BTOP grants. A waiver process would result in a drain of NTIA's limited stimulus funds, thereby taking funds away from other potential grant applicants. If NTIA were to consider waivers on an ad hoc basis, NTIA would have to establish a separate layer of need-based waiver criteria. This additional level of review would most certainly threaten NTIA's ability to timely distribute the grants within the deadlines set by the Recovery Act. In light of the significant level of interest in, and the limited amount of broadband funding available under the Recovery Act, NTIA should only consider waivers if it has no proposal within a state that can meet the 20percent matching requirement.

NTIA should adopt a 20 percent cash match requirement. All existing broadband providers have made significant capital investment in infrastructure. If NTIA were to allow such investment to count toward the 20 percent match, it would not support the goal of additional investment in broadband by the private sector. Requiring a 20 percent cash match also serves to identify those companies that have sufficient cash reserves to sustain their service and business after grant funds are spent.

VII. Timely Completion of Proposals

NTIA should adopt a preference for projects proposed by ongoing business concerns that can leverage existing assets such as network infrastructure in determining which projects can be substantially completed within two years.

VIII. Coordination with USDA Broadband Grant Program.

CV Broadband encourages NTIA and RUS to adopt as simple and as streamlined a grant application process as allowed by law. A simple, streamlined application will facilitate faster funding decisions and get stimulus funds flowing into the economy. The economy will not benefit from job creation and additional purchasing by stimulus funds until government grants are awarded. Service to the public cannot be improved until BTOP grants are awarded. Time is of the essence and all forms and coordination should be minimized to ensure the goals of the Recovery Act are met. If executed well, BTOP grants will have a direct impact on the economy through an infusion of capital, but only if NTIA and RUS ensure that private companies are not discouraged from seeking stimulus funds due to an application and review process that is burdensome and slow.

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