

**Before the  
DEPARTMENT OF COMMERCE  
National Telecommunications and Information Administration  
And  
DEPARTMENT OF AGRICULTURE  
Rural Utilities Service**

In the Matter of	)	
	)	
American Recovery and Reinvestment Act	)	
of 2009 Broadband Initiatives	)	Docket No. 090309298-9299-01
Joint Request for Information	)	

**COMMENTS OF OPEN RANGE COMMUNICATIONS INC.**

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## EXECUTIVE SUMMARY

Open Range Communications Inc. submits comments and responses to questions primarily directed toward implementation by RUS of the Recovery Act provisions for grants, loans and loan guarantees to support the deployment of rural broadband services. NTIA and RUS are each charged with administering a portion of the funds provided under the Act. RUS administers an existing broadband loan and loan guarantee program while the NTIA and RUS broadband grant programs are new. Open Range first addresses how RUS must accommodate both the preexisting loan and loan guarantee requirements as well as the differing statutory provisions creating the NTIA and RUS Recovery Act programs. In general RUS must award grants, loans and loan guarantees in accordance with the provisions of the Recovery Act entitled “Distance Learning, Telemedicine and Broadband Program”. Where RUS awards loans or loan guarantees it must also comply with the broadband loan and loan guarantee provisions of its existing statute to the extent that they are not superseded by the Recovery Act, as some are.

For RUS grants, loans and loan guarantees the Recovery Act establishes two gating criteria and six priorities. The *75% rule* and *one loan/grant per market rule* are gating criteria which must be satisfied in order to receive funding. In applying the *75% rule* RUS should employ the definition of “rural area” found in the existing provisions of law related to broadband loans and loan guarantees. RUS must also evaluate proposals in light of six priorities listed in the Recovery Act. Open Range urges RUS to apply the priorities in a manner that maximizes the number of broadband users covered with the limited funding available and that ensures that the projects selected are those that are fully funded, sustainable and most likely to be completed in an expeditious manner.

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Open Range Communications Inc. ("Open Range") submits the following comments in response to the Joint Request for Information ("JRFI") issued by the Department of Commerce National Telecommunications and Information Administration ("NTIA") and the Department of Agriculture Rural Utilities Service ("RUS").<sup>1</sup> The JRFI seeks comments concerning the implementation of the broadband initiatives included in the American Recovery and Reinvestment Act of 2009 ("Recovery Act").<sup>2</sup>

The Recovery Act requires NTIA to establish the Broadband Technology Opportunities Program ("BTOP"). The Act further establishes authority for RUS to make grants, loans and loan guarantees for the deployment and construction of broadband infrastructure. The JRFI seeks comment on several questions concerning the purpose and priorities for the BTOP and seeks clarification on definitional issues surrounding award selection criteria for each program.

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<sup>1</sup> "American Recovery and Reinvestment Act of 2009 Broadband Initiatives; Joint Request for Information; Docket No. 090309298-9299-01," 74 Fed. Reg. 47 (Mar. 12, 2009), pp 10716-10721 ("JRFI").

<sup>2</sup> American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("Recovery Act").

Open Range hereby respectfully submits for consideration its comments and responses to certain RUS-related questions raised by the JRFI.

## **I. Background**

Open Range is a broadband wireless services provider whose primary focus is to help bridge the digital divide by delivering easily accessible, wireless broadband and voice services to hundreds of unserved and underserved rural communities across America.

Open Range has combined private equity investment with a loan from the United States Department of Agriculture's Rural Development Utilities Program ("RDUP") in a public/private partnership to deploy wireless broadband and voice services to more than six million people in over 500 communities across rural America within the next five years. The Open Range network will use a combination of technologies to connect communities, improve public safety services, spur economic growth, and improve the educational opportunities essential to ensuring the continued competitiveness of the United States in a global economy. The Open Range project will provide 750-1000 jobs in rural America during the construction phase as well. We look forward to the opportunity to continue our work with the RUS to help bridge the digital divide.

Open Range urges the RUS to adopt flexible policies and rules concerning the disbursement of Recovery Act funds to allow for the implementation of viable, scalable, sustainable projects that expedite broadband service to the greatest number of rural households.

## **II. The RUS Program**

Before responding to the specific questions posed in the JFRI, Open Range addresses here the statutory framework under which broadband grants, loans and loan guarantees are to be made by RUS under the Recovery Act. For several years RUS has administered the Rural

Broadband Access Loan and Loan Guarantee Program which is intended to provide loans and loan guarantees for the construction of broadband infrastructure in rural areas. This program began in 2002<sup>3</sup> and was subsequently changed through amendments included in the 2008 Farm Bill.<sup>4</sup> The Recovery Act changes the existing RUS program in two important respects. First, the Recovery Act includes a further amendment to the Broadband Loan program which broadens and simplifies certain eligibility rules for broadband loans. Second the Recovery Act establishes a new broadband grant program that is not related to any existing RUS program.

The initial phrase of the Recovery Act provision applicable to the RUS broadband program provides:

“For an additional amount for the cost of broadband loans and loan guarantees, as authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) and for grants (including for technical assistance), \$2,500,000,000.

The Recovery Act thus provides \$2.5 billion in funding for three programs – grants, loans and loan guarantees. The language of the Act recognizes, through its reference to the Rural Electrification Act, that two of these programs – loans and loan guarantees - already exist within the Department of Agriculture. The third program providing for grants does not.<sup>5</sup> Thus the language of the Recovery Act must be read to amend the existing laws applicable to loans and loan guarantees while establishing a new program for broadband grants. This is important because the terms under which Recovery Act broadband loans and loan guarantees are made available will be governed by existing laws and rules applicable to the Broadband Loan Program

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<sup>3</sup> See Farm Security and Reinvestment Act of 2002, Pub. L. 101-1171, codified at 7 U.S.C. § 950bb.

<sup>4</sup> Food Conservation and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651 (2008) (“2008 Farm Bill” or “Farm Bill”)

<sup>5</sup> The RUS Community Connect program is limited in scope and funding and thus is not comparable to the Recovery Act RUS grant program.

while the law applicable to broadband grants is found entirely within this RUS-specific provision of the Recovery Act.

The structure of the RUS Recovery Act broadband provision is important as well. The provision both amends existing law for loans and loan guarantees and creates a new broadband grant program - but it accomplishes both tasks with the *same language* as follows:

*...Provided further*, That notwithstanding title VI of the Rural Electrification Act of 1936, this amount is available for grants, loans and loan guarantees for broadband infrastructure in any area of the United States: *Provided further*, That at least 75 percent of the area to be served by a project receiving funds from such grants, loans or loan guarantees shall be in a rural area without sufficient access to high speed broadband service to facilitate rural economic development, as determined by the Secretary of Agriculture: *Provided further*, That priority for awarding such funds shall be given to project applications for broadband systems that will deliver end users a choice of more than one service provider: *Provided further*, That priority for awarding funds made available under this paragraph shall be given to projects that provide service to the highest proportion of rural residents that do not have access to broadband service: *Provided further*, That priority shall be given for project applications from borrowers or former borrowers under title II of the Rural Electrification Act of 1936 and for project applications that include such borrowers or former borrowers: *Provided further*, That priority for awarding such funds shall be given to project applications that demonstrate that, if the application is approved all project elements will be fully funded: *Provided further*, That priority for awarding such funds shall be given to project applications for activities that can be completed if the requested funds are provided: *Provided further*, That priority for awarding such funds shall be given to activities that can commence promptly following approval: *Provided further*, That no area of a project funded with amounts made available under this paragraph may receive funding to provide broadband service under the Broadband Technology Opportunities Program.

Except for the initial reference to the Rural Electrification Act this language applies in common to grants, loans and loan guarantees. Thus the same rules will amend the existing law

applicable to broadband loans and loan guarantees and establish new criteria for broadband grants.

### **III. RUS Recovery Act Broadband Grants**

The broadband grant program established by the Recovery Act is new and thus the rules to be applied by RUS in making grants are contained entirely within the four corners of the Recovery Act. The Recovery Act language establishes eight criteria. The first two criteria relate to *area of service* and taken together establish a kind of go/no-go gating criterion. According to these provisions grants may be made for broadband infrastructure to any area of the United States so long as at least 75% of the area to be served by a project receiving funds is a rural area “...without sufficient access to high speed broadband service to facilitate rural economic development, as determined by the Secretary of Agriculture.” Several important implications flow from this language. First, projects which do not meet this criterion do not appear to be eligible for funding.<sup>6</sup> Thus in contrast to the six “priorities” that follow there is no priority or weighting applied to the area of service rule.

In addition, to apply the area of service rule RUS will have to identify a definition of the term “rural” that will apply in this context. Today in its Broadband Loan programs (including loans granted using Recovery Act funding) RUS must apply the definition of “rural” found in the 2008 Farm Bill. The 2008 Farm Bill defines rural area as:

(A) In general.—the term “rural area” means any area other than-

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<sup>6</sup> Applicants for grants, loans and loan guarantees should include a showing of compliance with this criterion in their applications. Because incumbent service providers do not presently make available detailed information regarding areas of broadband service any party contending that an applicant does not meet this 75% rule should bear the burden of providing clear and convincing evidence of non-compliance.

(i) an area described in clauses (i) or (ii) of section 343 (a)(13)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)); and

(ii) a city town or incorporated area that has a population of greater than 20,000 in habitants.

(B) Urban Area Growth – the Secretary may, by regulation only, consider an area described in section 343(a)(13)(F)(i)(I) of the Act to not be a rural area for purposes of this section.

Section 1991(a)(13)(A) in turn provides:

(A) In general. – except as otherwise provided in this paragraph, the term “rural” and “rural area” mean any area other than –

- (i) a city or town that has a population of greater than 50,000 inhabitants;  
and
- (ii) the urbanized area contiguous and adjacent to such a city or town.

Taken together, these sections provide that a “rural area” is one of fewer than 20,000 inhabitants outside the urbanized area contiguous and adjacent to a city or town having a population greater than 50,000 inhabitants provided that, in the latter case, the Secretary of Agriculture may waive the limitation. This definition of rural area was enacted for purposes of the Broadband Loan program approximately one year ago. It would apply today to any broadband loan or loan guarantee made under the Recovery Act and it should apply to grants made by RUS under the Recovery Act as well. Given the structure of the Recovery Act provision where the same rules and priorities apply to grants, loans and loan guarantees, there is no indication that Congress meant for RUS to use a different definition of “rural area” in the case of grants on the one hand and loans and loan guarantees on the other. Since Congress separately provided, approximately one year ago, a definition of “rural area” to apply to broadband loans and loan guarantees, that definition should be applied to amounts granted under the Recovery Act as well.

The first gating criterion also provides that the rural area in question must be one “without sufficient access to high-speed broadband service to facilitate rural economic development”. The Secretary of Agriculture is required to make this determination. This criterion is discussed below.

A second gating criterion provides that no area of a project funded under the RUS programs may also receive funding under the BTOP administered by NTIA. This rule is designed to prevent double-funding of broadband projects and provides that no area may be double-funded under the two programs. This straightforward *one loan/ grant per area* rule is already a feature of the RUS program<sup>7</sup> and, under the Recovery Act, would include grants made by NTIA as well. The same rule should apply in reverse. That is NTIA should decline to fund a project for an area covered by an RUS-funded project whether that funding was received under the Recovery Act or the existing RUS Broadband Loan program. This conclusion flows from Sec. 6001(a) of the Recovery Act which provides that “The Assistant Secretary [of NTIA] shall ensure that the program complements and enhances and does not conflict with other Federal broadband initiatives and programs.” Providing a second grant to an area already funded by RUS would violate this directive to NTIA.

#### **IV. RUS Recovery Act Broadband Loans and Loan Guarantees**

As noted previously, all of the Recovery Act rules applicable to broadband grants apply to broadband loans as well. However, RUS has administered these loan programs for a number of years and the law and rules governing those programs remain in effect except to the extent they are modified by the Recovery Act. The Recovery Act does modify the preexisting RUS rules in several important respects. First, the Recovery Act nullifies certain area restrictions

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<sup>7</sup> See 7 C.F.R. § 1738.19(h).

contained in last year's Farm Bill. Under the Farm Bill, an applicant could propose service only for a rural area as defined therein, but in addition to the rural area limitation, certain rules relating to the number of service providers and the percentage of households served apply as well.<sup>8</sup> The Recovery Act provides that:

“Notwithstanding Title VI of the Rural Electrification Act of 1936, this amount is available for grants, loans and loan guarantees for broadband infrastructure in any area of the United States.”

This provision nullifies the area restrictions contained in last year's Farm Bill with respect to Recovery Act funding and substitutes for those restrictions and new “75% rule” as follows:

“That at least 75% of the area to be served by a project receiving funds from such grants, loans, and loan guarantees shall be in a rural area without sufficient access to high-speed broadband service to facilitate rural economic development.”

While the 75% rule incorporates the concept of rural area as it appears in existing law, it establishes a new 75% rule which substitutes for the provisions of existing law relating to number of service providers and percentage of households served.

In addition, in considering loan and loan guarantee applications under the Recovery Act, RUS must apply the six priorities set forth in that Act and it must avoid double-funding of BTOP programs funded by NTIA. There is no indication in the Recovery Act that the six priorities

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<sup>8</sup> The language regarding “eligible projects found in section 601(d)(2)(A) of the Rural Electrification Act (7 U.S.C. 950bb) as amended by the 2008 Farm Bill would appear to be nullified by the Recovery Act with regard to projects funded pursuant to the Recovery Act. That language provides that:

“(2) Eligible projects—

(A) In general.—Except as provided in subparagraphs (B) and (C), the proceeds of a loan made or guaranteed under this section may be used to carry out a project in a proposed service territory only if, as of the date on which the application for the loan or loan guarantee is submitted—

(i) not less than 25 percent of the households in the proposed service territory is offered broadband service by not more than 1 incumbent service provider; and

(ii) broadband service is not provided in any part of the proposed service territory by 3 or more incumbent service providers.”

In addition, the exceptions to this provision provided in Section 601(d)(2)(B) & (C) would appear to be unnecessary.

would be applied differently to loans and loan guarantees on the one hand and grants on the other and, thus, it would appear that any weightings would be applied in a similar fashion.

## V. RUS Questions

### 1. **What are the most effective ways RUS could offer broadband funds to ensure that rural residents that lack access to broadband will receive it?**

Open Range believes that RUS can best achieve its broadband mission through a combination of grants and loans. Because RUS can leverage its loan capital, Open Range urges the RUS to devote the bulk of its funding to broadband grants – achieving the maximum overall impact from the funding available. Thus, Open Range believes that RUS should allocate 75% of the total \$2.5 billion available to broadband grants, with the remaining 25% devoted to broadband loans. RUS may consider proposals that bundle both loan and grant funding in the same project. The same Recovery Act rules and priorities would be applied to both loan and grant proposals with the proviso that loan proposals would also have to meet pre-existing RUS Broadband Loan rules that are not altered by the RUS provisions of the Recovery Act.

RUS also seeks input regarding the means by which it might target Recovery Act funding to unserved areas. Service to unserved areas is one of the six priorities established in the Recovery Act, thus it should be weighed along with the other criteria in considering a grant or loan proposal.<sup>9</sup> In this connection RUS should consider how to achieve maximum benefit, in terms of broadband users covered, from the funding that is available for the RUS program. As noted above, this can be accomplished in part through designating a smaller portion of the funds available for broadband loans rather than grants. This will allow RUS to rely on the leverage effect accompanying its use of loan funds to maximize the amount of capital available for

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<sup>9</sup> Open Range discusses below how it believes the priorities should be applied.

broadband deployment overall. In addition RUS should consider the capital efficiency of each proposal by taking into account the cost in each case of covering an additional prospective broadband subscriber. Thus, for example, if the capital cost per additional prospective subscriber covered in one proposal is \$300 while the capital cost per additional prospective subscriber covered in another is \$900 the first proposal would be three times as efficient in delivering broadband services to the maximum number of subscribers per dollar of RUS funding. Accounting for capital efficiency in this way will enable RUS to maximize the impact of available funding and ensure that broadband services are available to the greatest number of rural subscribers.

**2. In what ways can RUS and NTIA best align their Recovery Act broadband activities to make the most efficient and effective use of Recovery Act broadband funds?**

RUS seeks input regarding the ways in which RUS and NTIA can best align their Recovery Act broadband activities. As a threshold matter, it is important to note that the statutory language establishing the respective RUS and NTIA programs is quite different. For example, the uses to which Recovery Act funding may be put are different under the two programs. The minimum funding contribution by the applicant under the two programs is different as well. In addition, the targeted recipients of funding are also different. And finally, the areas to be served are different. Given these and other differences, it may be difficult if not impossible for the two agencies to align their activities in a timely manner and remain consistent with the substantially differing statutory language governing the two programs.

An example of this arises regarding service to “unserved” and “underserved” areas. The Broadband Technologies Opportunity Program administered by NTIA explicitly incorporates the concepts of “unserved” and “underserved” areas. No such language appears in the RUS portion

of the Recovery Act. Instead, the RUS provisions afford priority to areas that do not have access to broadband service (apparently representing unserved areas) and provide funding only for projects serving 75% of a rural area without sufficient access to broadband to facilitate economic development (arguably constituting “underserved” areas for RUS purposes). While both agencies could view an area not having service as an unserved area, it appears that the only way they might align their activities with regard to underserved areas is for NTIA to apply the same 75% rural area rule that appears in the RUS portion of the law. This would have the effect of largely limiting the NTIA program to rural areas which does not appear to be consistent with the terms of the Recovery Act.

RUS also seeks comment regarding how the two agencies might deal with applicants seeking funding from both RUS and NTIA. Since an applicant may also seek funding through state block grants there are effectively three potential sources of funding that might be used solely or in combination. As a threshold matter, an applicant seeking funding from more than one source should notify both federal agencies (RUS and NTIA) as well as any state agency administering a block grant program applicable to the area applied for and provide all agencies a copy of all proposals so that each agency may determine whether any overlap exists. In addition, each agency should notify the others as soon as it acts upon any such application to avoid violating the stricture that duplicate funding not be provided to the same area under the RUS and NTIA programs.

**3. How should RUS evaluate whether a particular level of broadband access and service is needed to facilitate economic development?**

Open Range believes that few areas defined as “rural” under the existing law applicable to RUS loans and loan guarantees have sufficient broadband services available to fully facilitate

rural economic development. The digital divide is real. Although broadband is available in many small towns in rural America, the coverage area of those services is often limited to the immediate vicinity of a small town. Moreover, state-of-the-art services such as mobile wireless broadband are generally unavailable. Open Range believes that the Secretary should apply the “economic development” criterion in an inclusive way so that it does not limit the broadband options available in rural areas.

RUS also seeks comment regarding the broadband speeds needed to facilitate economic development. Open Range does not believe that there is any particular speed that serves as a threshold for rural economic development. Obviously the availability of broadband is far superior to the availability of dial-up Internet service or no Internet service at all. Moreover, speed can be difficult to measure with precision because in some wireline broadband systems (using cable modems), speed will vary with the number of users present on the system at a particular time and in other wireline systems (telco DSL) speeds will vary with the distance from a central office. In wireless systems, speed will also vary depending upon the distance from a base station and system loading. Thus, there is no hard and fast speed that characterizes a particular broadband system. RUS should insure that any broadband proposal provides reasonable transmission speeds. What is reasonable will vary depending upon the technology and other features of the broadband network. For example, mobile broadband will provide opportunities for economic development that cannot be provided by fixed broadband service. Thus, for a given broadband speed, mobile service would have higher utility than fixed service in promoting economic development.

Different technologies provide different service characteristics and different efficiencies in meeting the challenges of bridging the digital divide. It is essential that program rules

consider the importance of each technology platform to the overall national broadband strategy. More urbanized areas might present opportunities for traditional terrestrial wireline and cable solutions. Open Range submits that topography and the vastness of rural areas are often better served by the deployment of mobile wireless broadband infrastructure. RUS must therefore consider the totality of the merits attendant to any proposal and ensure that rules do not preclude the implementation of technological solutions that will provide broadband access to the greatest number of rural households.

**4. What values should be assigned to existing RUS award selection criteria when considering applications for Recovery Act broadband funds? Should additional factors be considered?**

In addition to the “go/no go” criterion relating to rural service areas (the “75%” rule) and stricture on double-funding of projects by RUS and NTIA, there are six priorities included in the RUS Recovery Act broadband provision. Together these eight criteria represent all of the considerations that will apply to RUS broadband grants. As noted above for RUS broadband loans and loan guarantees, existing rules, to the extent they are not modified by the terms of the Recovery Act, will apply as well. These six Recovery Act priorities are as follows:

1. Projects that provide a choice of service providers;
2. Projects for areas where no broadband is available;
3. Project applications from borrowers or former borrowers;
4. Fully funded projects;
5. Projects that can be completed if funding is provided;
6. Projects that can commence promptly.

The Recovery Act does not provide guidance as to the relative weighting to be accorded these six priorities. The first two priorities are inconsistent. The first priority is afforded to projects that will deliver end users “a choice of more than one service provider”. The second priority is for projects having the highest proportion of rural residents that do not have access to

broadband service. Obviously, where residents lack access to broadband service a project would not offer them a choice of broadband providers. The remaining priorities are not inconsistent among themselves or with the first two. Conceivably, RUS could afford all the priorities equal weight except for priorities one and two where a choice would have to be made.

Because the principal objective of the legislation is rapid broadband deployment, Open Range recommends that RUS afford particular weight to priority number four – projects that are fully funded. Open Range believes that only projects that are fully funded will actually be deployed within a reasonable time, if at all. Thus only fully funded projects will bring broadband to the rural areas where it is needed and only those projects will stimulate additional employment and economic growth. Priorities five and six are largely subsumed within priority four because fully funded projects are likely to be completed and are likely to be commenced promptly, again promoting the twin objectives of broadband deployment and economic growth.

RUS should afford substantial priority both to projects where no broadband service is available and to projects offering a choice of service providers. Obviously, there should be a strong priority for projects providing broadband service to areas which are not served at the present time. There should also be priority for projects which provide a choice of service providers, particularly if the additional service offers a new technology that is not presently available. An example of this would be the deployment of mobile wireless broadband services in an area currently receiving only fixed broadband services.

Open Range also urges RUS to afford lesser priority to projects proposed by borrowers and former borrowers under Title II of the Rural Electrification Act of 1936. These are entities that have received RUS loans in the past for the construction of telephone facilities. When the

Broadband Loan Program rules were adopted in January 2003<sup>10</sup>, RUS provided an exclusivity period lasting until October 1, 2004 for RUS borrower telephone companies that wished to apply for a broadband loan.<sup>11</sup> Some companies took advantage of the exclusivity period and many did not. Since that time telephone company borrowers have been able to apply for broadband loans at will. Because RUS funding has never been exhausted it appears that all RUS telephone company borrowers which desired broadband funding from RUS have been able to apply for it. Thus little purpose would be served by affording substantial priority to such applicants now.

RUS is likely to receive multiple proposals for the same area. Since most applicants will probably seek funding for more than one area it is also likely that RUS will be confronted with multiple partially overlapping proposals each including some markets for which no one else has applied as well as some markets for which one or more other applicants have applied. RUS will have to develop some means of considering these applications in an expeditious manner. One approach would be to consider how market clusters are accounted for in the applications. Some of the costs of deploying broadband services are shared by more than one market area. For example once backhaul facilities are built to a particular rural market those facilities may often be extended to adjacent markets at relatively low incremental cost. Thus a proposal to extend service to a market that is adjacent to one already served can often be done at lower cost than one to extend service into an area that is not near other served markets. This cost savings translates into more subscribers served per RUS dollar and ultimately aids RUS in achieving the objectives of the broadband program within the limited means available. For this reason where multiple applications are received for the same area RUS should consider whether any of the applications represent a cluster-based service area extension and, if so, accord such an application preference

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<sup>10</sup> See 68 Fed. Reg. 4684 (January 30, 2003).

<sup>11</sup> See 7 C.F.R 1738.19(g).

over others that do not represent such an extension. As a threshold matter RUS should accord such a preference to an application to serve an area located within sixty miles of an applicant's existing broadband service territory. This consideration is akin to the one regarding capital efficiency discussed above and would enable RUS to maximize the impact of its limited loan and grant funding.

**5. What benchmarks should RUS use to determine the success of the Recovery Act broadband activities?**

RUS seeks comment as to how it can best determine the success of Recovery Act broadband activities. As an initial matter, RUS' efforts in this regard will be dependent upon the quality and availability of the broadband mapping efforts which are separately provided for under the Recovery Act. Until it is clear where broadband is being provided, how many providers are available, and the types of services available from those providers, it will be difficult to assess the success of any broadband deployment program. Once that is done, RUS may then track information related to the provision of service to specific end user communities (e.g. education, healthcare, public safety) as well as economic factors such as employment levels and growth. Firm conclusions may be difficult to draw because of the external factors bearing on any measures of economic performance. Success of the RUS program should ultimately be measured by the affect the award has on the deployment of service to rural households and the speed with which service is made available.

**VI. Conclusion**

Open Range believes that the Recovery Act provides RUS with important tools needed to achieve its broadband deployment mission. Open Range urges RUS to implement the RUS

Recovery Act provisions expeditiously and bring needed support for the deployment of rural broadband service.

Respectfully submitted,

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