

**Before the
UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
Washington, D.C. 20230**

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

COMMENTS OF CELLULAR SOUTH

Cellular South, Inc. (“Cellular South”)¹ hereby provides these Comments on the Joint Request for Information (“Joint Request”) issued by the National Telecommunications and Information Administration (“NTIA”) and the Rural Utilities Service (“RUS”)² regarding the Broadband Technology Opportunities Program (“Broadband Program” or “BTOP”).

I. DISCUSSION

NTIA and RUS pose numerous questions in the Joint Request which Cellular South will address as succinctly as possible. For ease of reference, Cellular South references the numbering scheme employed in the Joint Request to the extent possible.

A. THE PURPOSES OF THE GRANT PROGRAM

The Joint Request poses a number of questions regarding the statutory purposes of the grant program.³ In response to the questions of whether a percentage of grant funds should be apportioned to the several statutorily-enumerated categories (NTIA 1.a.) and the question of

¹ Cellular South is one of the largest privately-held wireless companies in the United States. Headquartered in Jackson, Mississippi, Cellular South serves the State of Mississippi, as well as portions of Alabama, Arkansas, Florida, Tennessee, and is licensed to provide wireless services in portions of Georgia and Kentucky.

² NTIA & RUS, Joint Request for Information, American Recovery and Reinvestment Act of 2009 Broadband Initiatives, 74 Fed. Reg. 10716 (Mar. 12, 2009).

³ Joint Request at 10717, *et seq.*

whether applicants should be encouraged to address more than one purpose (NTIA 1.b.), Cellular South supports a mechanism that would encourage applicants to address multiple purposes. Cellular South believes that the best way to allocate funding and encourage multiple purposes is to adopt a mechanism by which applications receive greater weight for addressing multiple purposes. This will allow applicants to explain why certain purposes should receive greater or lesser funding in a particular area, and encourage applicants to address multiple purposes.⁴

B. THE ROLE OF THE STATES

With respect to the questions regarding the role of the States, Cellular South believes that the States' role in selecting projects for funding (NTIA 2.b.) could either be consultative or as a partner to BTOP applicants. The grant program should consider State priorities (NTIA 2.a.) in the same way that Cellular South suggests that the program address the purposes of the grant application as discussed above. That is, to the extent that the priorities expressed by a State are satisfied by an application, that application should receive greater weight. This also addresses the question of how best to resolve differences among groups or constituencies within a State (NTIA 2.c.). For applications submitted individually by a State, NTIA and RUS should consider that State's ability to efficiently provide the services (based on past performance, etc.) as well as the extent to which the State is the entity that is best-positioned to deliver the services proposed.

Ideally, Cellular South envisions that entities that are capable of providing broadband services would partner with States on grant applications, thus ensuring that State priorities are addressed and that entities with the necessary expertise are involved in the efficient delivery of

⁴ If NTIA and RUS determine that it is appropriate to apportion funds among the listed purposes, Cellular South believes that it should apportion the majority of funds between unserved and underserved areas. It is Cellular South's belief that successful grant applicants will inevitably address other listed purposes as they provide services in unserved and underserved areas.

those services. This would ensure that projects are well-executed and produce worthwhile and measureable results (NTIA 2.d.).

C. ELIGIBLE GRANT RECIPIENTS

The Joint Request asks what standard should apply for determining whether it is in the public interest for entities other than those listed in Section 6001(e)(1)(A) and (B) to be eligible for grant awards (NTIA 3.). Given that broadband service providers – the very entities with the greatest experience in designing and deploying broadband networks – were not included in Section 6001(e)(1)(A) or (B), Cellular South fully believes that it is in the public interest for non-listed entities to be eligible for BTOP grant awards.

Broadband service providers are best-positioned to immediately design and deploy broadband infrastructure. In many cases, broadband service providers – in particular, regional and other small providers – have already identified areas in which broadband deployment is needed, but the providers are simply unable to move forward due to financial constraints. This is the very definition of a “shovel-ready” project. Funding these projects will accomplish the joint goals of deploying broadband services while creating and/or preserving jobs.

Cellular South further believes that BTOP grants can promote job creation and preservation in the most vulnerable areas if those grants are targeted to regional and other small broadband providers. These entities are located in the corners of our country where the loss – or the creation – of just a handful of jobs has an immense impact.

Finally, in determining whether a non-listed entity should be awarded a grant, NTIA and RUS should put significant emphasis on the entity’s history of performance in delivering broadband services. The BTOP grants must achieve maximum results with the greatest possible

efficiency. The best way to promote these goals is to award grants to entities that can demonstrate a history of delivering broadband services.

D. DEFINITIONS

i. “UNSERVED” AND “UNDERSERVED”

The Joint Request asks for comment on defining the terms “unserved area” and “underserved area” (NTIA 13.a.). Cellular South contends that an area is “unserved” if it does not offer either wireless or landline “broadband service” per the definition to be established in this proceeding. With regard to the definition of “underserved,” Cellular South believes that an area is “underserved” if “broadband service” is available, but is only available through a single technology – be it wireless or landline.

Cellular South would further suggest that applicants be allowed to demonstrate why a particular area may be “unserved” or “underserved” even though the area does not meet the established definitions. There may be situations in which an area has a legitimate need that is being unmet, or in which the public interest would be served by allowing narrow exceptions to the definitions that are established in this program.

ii. “BROADBAND SERVICE”

The Joint Request asks how the BTOP should define “broadband service” (NTIA 13.b.), whether there should be threshold speeds that are either rigid or flexible (NTIA 13.b.1.), whether those speeds should be different according to technology platform (NTIA 13.b.2.), how those speeds should be measured (NTIA 13.b.3.), and whether the speeds should be symmetrical or asymmetrical (NTIA 13.b.4.).

“Broadband service” should be defined in the context of commercially-available technology and real-world transmission capacity, and should allow for variations in speeds based

on technology platforms. In the wireless world, technology standards bodies recognize that there are differences between laboratory and real-world speeds for the different 3G technologies. “Broadband service” should be defined in such a way that wireless applicants can qualify by delivering existing technologies at proven, real-world speeds. This will ensure that populations which have been overlooked will have an opportunity to receive broadband service immediately.

iii. NONDISCRIMINATION AND NETWORK INTERCONNECTION

The Joint Request further asks a series of questions regarding how the BTOP should define nondiscrimination and network interconnection obligations (NTIA 13.c.). Cellular South strongly urges NTIA and RUS to require BTOP participants to provide broadband roaming at just and reasonable rates to requesting entities that have deployed compatible technologies, whether or not the requesting entity is a BTOP participant. This requirement must extend to the entire network of the grant recipient, and not just that portion funded through the BTOP grants.

II. CONCLUSION

Cellular South appreciates the opportunity to present its concerns, welcomes any opportunity to further discuss these items, and encourages NTIA and RUS to adopt these recommendations in the implementation of the Broadband Technology Opportunities Program.

Respectfully Submitted,

CELLULAR SOUTH, INC.

 /s/ Eric Graham

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