

**DEPARTMENT OF COMMERCE
National Telecommunications and Information Administration**

**DEPARTMENT OF AGRICULTURE
Rural Utilities Service**

**FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	Federal Communications Commission
)	GN Docket No. 09-40
The American Recovery and Reinvestment Act)	
of 2009 Broadband Initiatives)	Department of Commerce
)	Docket No. 090309298-9299-01
)	

**COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP, INC.
ON GRANT CRITERIA**

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Executive Summary

Broadband connectivity is destined to be the key differentiator between the “haves” and the “have-nots” in 21st Century America. Modern society is becoming increasingly dependent upon the instantaneous transmission of information to conduct business, perform necessary government functions, and provide quality public safety, education and health care to all citizens. The broadband components of the American Recovery and Reinvestment Act of 2009 represent a once-in-a-lifetime opportunity for the United States to simultaneously stimulate our moribund economy and deploy next-generation data networks for the welfare and prosperity of all Americans.

In an effort to help guide the National Telecommunications and Information Administration, the Rural Utilities Service and the Federal Communications Commission to craft sound public policy, the Rural Telecommunications Group, Inc. submits these comments to assist the agencies in structuring the two broadband programs in a manner that reaps the greatest benefit for the country while addressing the legislative intent of Congress. In response to the agencies’ joint request for information, the Rural Telecommunications Group, Inc. is supplying comments on the follow topics:

- **Speed to Market.** Time is of the essence and only genuine “shovel-ready” projects should be selected.
- **Eligibility.** Applications from existing telecommunications service operators should be accepted and deemed in the public interest.
- **Prioritization and Selection Criteria.** Private entities with a track record of timely and successful deployment of advanced technologies should be given prioritization.
- **Definitions of “Unserved,” “Underserved” and “Broadband.”** Any market without ubiquitous Internet access speeds above 768 Kbps should qualify as unserved. Broadband threshold rates should be defined aggressively, but not to the detriment of rural markets which are currently unserved and where options such as ubiquitous

wireless broadband are the quickest and most inexpensive and flexible solution available.

- **Non-Discrimination and Network Interconnection Obligations.** All grant and loan recipients in both programs should be contractually obligated to comply with the non-discrimination and network interconnection obligations contained in the FCC's Broadband Policy Statement.

With so much at stake for the country and its citizens, crafting prudent policy is of utmost importance. By acting upon the recommendations made above, the funding agencies will ensure that the United States remains competitive and connected for generations to come.

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The Rural Telecommunications Group, Inc. (“RTG”)¹, by its attorneys and pursuant to the joint Public Notice of the National Telecommunications and Information Administration, U.S. Department of Commerce (“NTIA”) and Rural Utilities Service, U.S. Department of Agriculture (“RUS”) released on March 12, 2009², the Public Notice of the Federal Communications Commission (“FCC” or “Commission”) released on March 24, 2009³ and 47

¹ RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies. RTG’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies.

² NTIA/RUS Public Notice, 74 Fed. Reg. 10716, 10721 (released March 12, 2009) (“NTIA/RUS Public Notice”).

C.F.R. § 1.415, hereby submits these comments in response to the joint request for information issued by the three agencies following the enactment of the American Recovery and Reinvestment Act of 2009 (“Recovery Act”).⁴

Introduction

Faced with a crippled economy, Congress and President Obama enacted the Recovery Act, a comprehensive piece of legislation with narrowly-defined purposes, among them, the desire to “preserve and create jobs and promote economic recovery...provide investments needed to increase economic efficiency by spurring technological advances in science...and other infrastructure that will provide long-term economic benefits.”⁵ RTG strongly believes that NTIA, RUS and the FCC should keep in mind these core principles, and those additional purposes and principles mentioned in the relevant sections of the Recovery Act, when deciding how to structure both NTIA’s Broadband Technology Opportunities Program (“BTOP”) and the existing RUS grant and loan program.

The Recovery Act gives NTIA and RUS the necessary tools to fund an unprecedented level of broadband deployment across this country. Those agencies, along with the FCC, have asked the American public to help formulate the best manner in which to distribute the limited resources allotted for their respective programs and also the rules and procedures that will govern those programs. Specifically, the NTIA/RUS Public Notice seeks comment on twenty topics and

³ FCC Public Notice, DA 09-668, *Comment Procedures Established Regarding the Commission’s Consultative Role in the Broadband Provisions of the Recovery Act* (released March 24, 2009) (“FCC Public Notice”).

⁴ The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (2009) (“Recovery Act”).

⁵ See Recovery Act at Sec. 3.

the FCC Public Notice requests comment on five specific terms and concepts. RTG's comments below will address several of the most pressing topics that need further clarification.

I. Purpose of the Recovery Act

Throughout this process, the agencies should not lose sight of the legislative intent and stated purposes of the Recovery Act itself. Essentially, the purpose of RUS funding is to deploy "broadband infrastructure" where "75 percent of the area to be served by a project...shall be in a rural area without sufficient access to high speed broadband service." Similarly, Section 6001(a) of the BTOP explicitly states that the purpose of that program is, among other things, to "provide access to broadband service to consumers residing in unserved areas...provide improved access to broadband service to consumers residing in underserved areas...and stimulate the demand for broadband, economic growth, and job creation." The common denominator of all projects chosen going forward should be that they meet most if not all of the stated purposes of the Recovery Act in general, and in particular, the specific purposes of the two broadband programs. Stated even more simply, the overarching goal of NTIA and RUS in implementing these programs is the fast deployment of broadband infrastructure in either unserved or underserved areas of the country, the preservation and/or creation of sustainable jobs, and the fostering of long-term economic benefits in those newly connected communities.

II. Speed to Market

Time is of the essence when it comes to reaping the benefits of the programs. Furthermore, Section 6001(d) of the BTOP requires that NTIA "establish and implement the grant program as expeditiously as possible" and "substantially complete projects within two years." A limited number of companies are even in a position to promise the successful delivery of commercially-ready broadband service in less than two years. RTG believes that now is not the time to experiment with overly complex project plans, unproven technologies, and public or

private entities without a track record of deploying successful, commercial-grade telecommunications infrastructure. Furthermore, even fewer entities have *market-specific* experience in precisely those unserved and underserved markets targeted by the Recovery Act.

Local telephone companies and wireless operators have the distinct advantage of being operationally capable “on day one.” They already have existing vendor relationships, established human resources, finance, accounting, engineering and other back-office operations, and perhaps most importantly, they have inherent knowledge of those precise markets where the broadband services are needed most. Additionally, wireless operators in particular, even those who today currently do not offer wireless data, have the unparalleled ability to cover large portions of the country in a very short period of time, and once doing so, provide both existing and potential customers (whether they be residential, business or government users) not just broadband service, but *mobile* broadband service. A common phrase uttered at each of the six public meetings hosted by NTIA and RUS in late March, and now repeated even more frequently in the archive of public comments is that of “shovel-ready.” Economic stimulus and broadband deployment need to occur as quickly as possible; the country’s citizens demand it and the Recovery Act requires it. Given the fact that time truly is of the essence, both RUS and NTIA should only consider those local and regional companies that are truly capable of “shovel-ready” broadband projects.

III. Eligibility

NTIA and RUS have asked whether the classification list outlining who is eligible to apply for grant money should be expanded. RTG strongly believes that both agencies should give preference to existing telecommunications service operators, since they can create localized, private-sector jobs with long-term viability. Finding that applications from existing providers would be in the public interest would strongly support the goals of the legislation. Numerous

entities are being created right now with the sole purpose of applying for NTIA and RUS broadband funding, and many of these entities have zero operational experience. The applicant pool will be expansive enough and NTIA and RUS should not waste time and resources with inexperienced and speculative candidates.

IV. Prioritization and Selection Criteria

NTIA and RUS should aggressively strive to give priority to all those applicants who meet most if not all of the criteria listed in both Title II and Title VI of the Recovery Act. For the purposes of RUS, two specific criteria should be applied by the agency to pick the most worthy project, namely, those projects that provide broadband service to a high proportion of rural residents currently without service, and those applicants that are current or former borrowers under title II of the Rural Electrification Act of 1936. Given the vast area of rural America without any broadband service today, the relatively limited number of RUS grants and loans to be made available should be disbursed to established telecommunications companies already serving rural communities but with limited capital resources. With respect to the stipulation that the federal share of a project's cost not exceed eighty percent, NTIA should permit waiver applications only where a market is unserved and no other applicants are proposing to offer comparable broadband service. Lastly, both agencies should recognize the fact that entities will require the trust and respect of the unserved and underserved communities slated to receive broadband services if they wish to be successful. It is the established commercial operators with ongoing operations, pre-existing ties to community anchor institutions, and local customers that are the ideal candidates for grants and loans. RTG strongly believes that private companies possessing a verifiable track record of successful and timely deployments of advanced technology networks should be given priority during the application selection processes by both NTIA and RUS.

V. Definitions of Unserved, Underserved and Broadband

First and foremost, NTIA, RUS and the FCC should respect the fact that different broadband technologies have different performance characteristics, cost structures and readiness levels for commercial deployment. Not all broadband technologies are equally suited for every market in need of broadband services. Wireless broadband should be given special consideration given its ability to reach rural and sparsely populated communities quickly and efficiently while still allowing for mobile access. Given this context, the definition of “unserved” should be any community currently without access to Internet speeds of at least 768Kbps in any portion of the market today. The definition of “underserved” is more difficult to express, but it should not hinge exclusively on the number of competitors in a given marketplace. While RTG believes the definition of “broadband” itself should be aggressive and forward-looking, the agencies when making grant and loan decisions should recognize that wireless operators, especially those in rural markets, are the only available options for providing access that is easily considered “broadband-caliber” given current, widely-accepted, definitions. Wireless broadband is often the quickest, most flexible, and most cost-effective means of delivering Internet access in rural America. When defining terms such as broadband, underserved and unserved, the agencies should first recognize the fundamental performance attributes of the differing broadband technologies and then set realistic standards.

VI. Non-Discrimination and Interconnection Obligations

Given the limited amount of funds available for nationwide broadband deployment, both NTIA and RUS should adopt a strict adherence to the principles addressed in Section 6001(j) of the BTOP, and by extension, the FCC Broadband Policy Statement of 2005.⁶ Each and every

⁶ FCC Broadband Policy Statement, FCC 05-151 (September 23, 2005).

American has the right to access the public Internet, and there are more than enough private-sector entities willing to support, at the bare minimum, these broadband policies which cultivate a healthy, educated, and prosperous society. RTG fully supports having all program recipients contractually obligated to adhere to the non-discrimination policies expressed in the Recovery Act. Additionally, any wireless or wireline carrier receiving RUS or NTIA funds should allow for roaming, interconnection and/or “middle-mile” transport to any other requesting party and do so by offering non-discriminatory prices, terms and conditions.

VII. Conclusion

The fundamental goals of the broadband portions of the Recovery Act are job growth, economic growth and broadband deployment in rural, unserved and underserved in as short a period as possible. In order for NTIA and RUS to deliver upon that objective, the agencies must first implement the application processes and their associated rules efficiently and without haste. RTG’s recommendations will help NTIA, RUS and the FCC achieve a sound framework to achieve those goals.

Respectfully submitted,

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/s/ Caressa D. Bennet

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**Federal Communications Commission**

The FCC Acknowledges Receipt of Comments From ...
Rural Telecommunications Group, Inc.
...and Thank You for Your Comments

Your Confirmation Number is: **'2009413837739'**

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