

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

In the Matter of

Joint Request for Information

American Recovery and Reinvestment Act of  
2009 Broadband Initiatives

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**Docket No. 090309298-9299-01**

**JOINT COMMENTS OF THE**  
**NATIONAL RURAL TELECOMMUNICATIONS COOPERATIVE**  
**AND DIGITALBRIDGE COMMUNICATIONS CORP.**

B. Robert Phillips, III  
President & Chief Executive Officer  
National Rural Telecommunications Cooperative  
2121 Cooperative Way  
Herndon, VA 20171  
(703) 467-1421

William F. Wallace  
Chairman  
DigitalBridge Communications Corp  
44675 Cape Court, Suite 130  
Ashburn, VA 20147  
(703) 723-6272

Mark C. Ellison  
Senior Vice President & General Counsel  
National Rural Telecommunications Cooperative  
2121 Cooperative Way  
Herndon, VA 20171  
(703) 467-1421

Jennifer L. Richter  
Rebecca L. Murphy  
Patton Boggs, LLP  
2550 M Street, NW  
Washington, DC 20007  
(202) 457-5666

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**TABLE OF CONTENTS**

**EXECUTIVE SUMMARY.....iii**

**I. NRTC AND DBC ARE INDIVIDUALLY COMMITTED TO BRINGING VITAL COMMUNICATIONS SERVICES TO RURAL AREAS; NOW THEY PLAN TO JOIN FORCES TO EXPEDITE BROADBAND DELIVERY TO THE MOST NEEDY COMMUNITIES..... 2**

A. NRTC..... 2

B. DBC..... 4

**II. SIMPLE AND SENSIBLE DEFINITIONS OF UNSERVED AND UNDERSERVED MUST BE ADOPTED IN ORDER TO EXPEDITE CONSIDERATION OF COMMUNITIES DESERVING OF BROADBAND STIMULUS FUNDING. .... 6**

A. For NTIA Purposes, There Should Be A Presumption That A Rural County Is Unserved Or Underserved. .... 7

B. Definition of Unserved..... 8

C. Definition of Underserved..... 9

D. Definition of Broadband..... 9

**III. SEPARATE BROADBAND FUNDING SHOULD NOT BE DESIGNATED FOR EACH NTIA GRANT PURPOSE; INSTEAD, POTENTIAL GRANTEEES SHOULD BE ENCOURAGED TO BRING BROADBAND TO AS MANY CONSTITUENCIES IN A COMMUNITY AS NEED IT. .... 10**

**IV. NTIA AND RUS SHOULD ESTABLISH GRANT CRITERIA THAT CONSIDER SPEED TO DEPLOY, COST, BROADBAND QUALITY, JOB CREATION, BROADBAND SERVICE TO MULTIPLE CONSTITUENCIES, PLANS FOR SUSTAINABLE BROADBAND ADOPTION, EXPERIENCE, LOCAL TIES, LOCAL SUPPORT, AND STATE SUPPORT.....11**

**V. STATES MUST ELECT HOW THEY WILL PARTICIPATE IN THE NTIA BROADBAND STIMULUS PROGRAM IN ORDER TO ELIMINATE CONFLICTS OF INTEREST. .... 13**

**VI. IN ORDER TO ENSURE NO STRANDED OR DUPLICATIVE BROADBAND FUNDING, GRANTS FOR EXPANDING PUBLIC COMPUTER CENTER CAPACITY AND FOR ENCOURAGING SUSTAINABLE BROADBAND ADOPTION SHOULD BE ALLOCATED TO THE BROADBAND GRANTEE THAT IS CHOSEN TO SERVE THE COMMUNITY..... 14**

<b>VII.</b>	<b>THE GUIDELINES FOR THE BROADBAND STIMULUS PROGRAMS SHOULD REFLECT THE GOALS OF THE STIMULUS BILL TO EXPEDITIOUSLY FUND CRITICAL INFRASTRUCTURE.</b> .....	<b>15</b>
A.	Progress In Deploying Much-Needed Broadband Should Not Await National Mapping.....	15
B.	RUS Should Award <u>Grants</u> , Not Loans, For Rural Projects. ....	16
C.	Eligibility Standards Should Focus On Experience. ....	17
D.	The Agencies Must Make Grant Determinations Within 90 Days of Filing.....	17
E.	Blocking / Warehousing Of Communities Should Be Prohibited. ....	18
F.	Matching Funds Should be Required Of All Applicants.....	18
G.	Reporting, Compliance and Accountability Measures Should Have Teeth.....	19
<b>VIII.</b>	<b>CONCLUSION.</b> .....	<b>19</b>

## EXECUTIVE SUMMARY

In the American Recovery and Reinvestment Act (the “Stimulus Bill”), Congress makes a downpayment on President Obama’s vision, that we should be “the generation that reshapes our economy to compete in the digital age,” laying “down broadband lines through the heart of our inner cities and rural towns all across America.”<sup>1</sup> The broadband opportunities presented by the Stimulus Bill are of critical interest and importance to the National Rural Telecommunications Cooperative (“NRTC”), its rural cooperative members, their customers throughout rural America, and DigitalBridge Communications Corp. (“DBC”). Individually, NRTC and DBC have been committed, for years, to bringing vital communications services to rural America. Obtaining financing for rural broadband projects was very difficult before, but it has been nearly impossible since the breakdown of our economy last year. With the support of broadband stimulus funds, NRTC and DBC have a plan to bring robust, affordable, reliable, sustainable, scalable and upgradeable wireless broadband services to the neediest communities across our nation.

NRTC is a non-profit cooperative of 1,400 rural utilities that has provided advanced telecommunications services to rural America since 1986. NRTC’s mission is to lead and support its rural utility cooperative members by finding and delivering telecommunications solutions to its members to strengthen their businesses, promote economic development, and improve the quality of life in rural America. The essential goal of NRTC and its member cooperatives is to close the urban-rural gap, allowing Americans living in small towns, on farms and ranches, and in the most remote reaches of our nation to enjoy the same electric, phone, television and other essential technologies – now including broadband – as are enjoyed by those in urban settings.

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<sup>1</sup> President Obama’s Presidential Announcement Speech in Springfield, Illinois (February 10, 2007).

Today, in keeping with its charter to find advanced communications innovations for its rural cooperatives, NRTC intends to collaborate with DBC, a young but successful WiMAX provider, to bring fixed and mobile wireless broadband technology to areas that are without broadband or competitive choice. NRTC, its members, and DBC plan to join together to add WiMAX technology to the considerable foundation already possessed by NRTC members in their rural communities, including local community relationships, awareness of local community needs, local mounting assets and backhaul networks, and any deployed fiber. Adding fixed and mobile WiMAX to this foundation with stimulus dollars will quickly and cost-efficiently bring robust wireless broadband services where it is needed.

Based on their own first-hand experience with the challenges inherent in bringing communications services to rural America, NRTC and DBC offer the Agencies, in these comments, sensible definitions for “unserved,” “underserved,” and “broadband.” They also propose detailed grant criteria, and make other suggestions for guidelines that will ensure that broadband stimulus funds are expeditiously extended to enable needed broadband to the greatest number of consumers, including:

- Creating presumptions that a “rural” county is “unserved” or “underserved,” and that broadband service will not be deployed in rural communities absent federal funding. There is no question that the gap in America between the “served” -- in urban and suburban markets -- and the “unserved” or “underserved” in rural markets is financial.
- Refraining from designating separate broadband funding for each NTIA grant purpose and, instead, encouraging potential grantees to bring broadband to as many constituencies in a community as need it.
- Establishing grant criteria that considers speed to deploy, cost, broadband quality, job creation, broadband service to multiple constituencies, plans for sustainable broadband adoption, experience, local ties, local support and State support.
- Requiring States to elect how they will participate in the NTIA Broadband Stimulus program in order to eliminate conflicts of interest.
- Granting funds for expanding public computer center capacity and for encouraging sustainable broadband adoption to the broadband grantee that is chosen for the community.

- Setting other guidelines for the broadband stimulus programs that reflect the goals of the stimulus bill to expeditiously fund critical infrastructure projects by ensuring that:
  - Progress in deploying much-needed broadband does not await national mapping.
  - RUS awards **grants**, not loans, for rural projects.
  - Eligibility standards focus on experience so that stimulus dollars are wisely granted.
  - The Agencies make grant determinations within 90 days of filing.
  - Blocking / Warehousing of communities is prohibited.
  - Matching funds are required of all grant applicants.
  - Reporting, compliance and accountability measures have teeth in order to ensure deployment of broadband infrastructure by applicants as promised.

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

In the Matter of )  
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2009 Broadband Initiatives )

To: DEPARTMENT OF COMMERCE, National Telecommunications and Information Administration and DEPARTMENT OF AGRICULTURE, Rural Utilities Service

**JOINT COMMENTS OF THE  
NATIONAL RURAL TELECOMMUNICATIONS COOPERATIVE  
AND DIGITALBRIDGE COMMUNICATIONS CORP.**

The National Rural Telecommunications Cooperative (“NRTC”) and DigitalBridge Communications Corp. (“DBC”) hereby respond to questions regarding implementation of the broadband initiatives contained in the American Recovery and Reinvestment Act of 2009 (the “Stimulus Bill”). The questions were posed in a Joint Request for Information released by the DEPARTMENT OF COMMERCE, National Telecommunications and Information Administration (“NTIA”) and the DEPARTMENT OF AGRICULTURE, Rural Utilities Service (“RUS”) (NTIA, RUS and the Federal Communications Commission (“FCC”) shall be referred to jointly herein as the “Agencies” whenever more than one is referenced).

This proceeding and the broadband opportunities presented by the Stimulus Bill are of critical interest and importance to NRTC, its rural cooperative members, their customers throughout rural America, and DBC. Individually, NRTC and DBC are committed to bringing vital communications services to rural America. With the support of broadband stimulus funds, NRTC and DBC have a plan to bring robust, affordable, reliable, sustainable, scalable and upgradeable

wireless broadband services to the neediest communities across our nation. In these comments, NRTC and DBC offer the Agencies sensible definitions, detailed grant criteria, and other guidelines to ensure that broadband stimulus funds are expeditiously extended to enable broadband service to the greatest number of consumers in need.

**I. NRTC AND DBC ARE INDIVIDUALLY COMMITTED TO BRINGING VITAL COMMUNICATIONS SERVICES TO RURAL AREAS; NOW THEY PLAN TO JOIN FORCES TO EXPEDITE BROADBAND DELIVERY TO THE MOST NEEDY COMMUNITIES.**

**A. NRTC.**

NRTC is a non-profit cooperative<sup>2</sup> that has provided advanced telecommunications services to rural America since 1986. NRTC's mission is to lead and support its rural utility cooperative members by delivering telecommunications solutions to strengthen member businesses, promote economic development, and improve the quality of life in rural America.<sup>3</sup> NRTC provides advanced telecommunications and information technology and services to more than 1,400 rural utilities and affiliates in 48 states.<sup>4</sup> NRTC member cooperatives have, in most cases, served their communities for over half a century, delivering critical utility services and infrastructure projects to more than forty million customers spread over more than 80 percent of the landmass of the United States. Often, NRTC members are their community's largest employer, with many of those jobs created by RUS-backed projects.

The essential goal of NRTC and its member cooperatives is to close the urban-rural gap, allowing Americans living in small towns, on farms and ranches, and in the most remote reaches of

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<sup>2</sup> NRTC and its member cooperatives are not-for-profit entities that are owned by the community of members they serve. As a Subchapter-T organization under the United States Tax Code, NRTC returns any net margin (i.e., profits) to its members in the form of cash and equity patronage. NRTC was created to serve its members and bring advanced telecom to rural America on this non-profit basis.

<sup>3</sup> NRTC was created by the National Rural Electric Cooperative Association (NRECA) and the National Rural Utility Cooperative Finance Corporation to find, commercialize and deliver advanced telecommunications and technological innovations to the family of rural cooperatives.

<sup>4</sup> Of those members, 480 are local independent or cooperative telephone companies and 808 are electric cooperatives.

our nation to enjoy the same electric, phone, television and other essential technologies – now including broadband – as are enjoyed by those in urban settings. As described below, NRTC has brought subscription television services, wireless voice, satellite broadband, smart grid technologies, and a host of other leading-edge technologies to rural America:

- C-Band Satellite: NRTC was the first independent (i.e., non-programmer affiliated) packager of television services in the C-band direct-to-home television industry and, with the help of the Congress and the Commission, led the effort to gain access to programming for delivery technologies competing with cable. At that time, C-band was the only method of delivering a full line-up of cable programming to the most remote and unserved areas of the nation.
- DirecTV: As satellite television technology evolved, in 1994 NRTC provided the initial capital to Hughes Communications, a wholly-owned subsidiary of General Motors, helping to launch DIRECTV with capital raised from NRTC members. NRTC members then led the rollout and distribution of that service, eventually becoming the largest distributor of DIRECTV with nearly 2 million customers in rural and underserved markets.
- Internet Access: Early in the Internet boom of the 1990's NRTC became an Internet Service Provider ("ISP") for its members, providing e-mail and Internet access through dial-up, cable, DSL and Wireless ISPs. Today, NRTC provides ISP services to over 200,000 customers through some 300 NRTC cooperatives.
- IPTV: In 2007, the video business of NRTC again evolved as the cooperative began distributing over 300 channels of cable programming to rural markets in Internet protocol television ("IPTV") format with MPEG-4 compression. NRTC was among the first – if not *the* first – to offer this technology in the United States. Through IPTV / MPEG-4, NRTC's telephone cooperative members are able to deliver a full lineup of video, including high-definition, over copper phone lines.
- Smart Grid: NRTC also is a supplier of advanced smart grid equipment. NRTC supplies its members and their customers in rural America with a wide range of energy-efficient technologies, such as advanced metering infrastructure (AMI), SCADA, and demand-response equipment. NRTC provides wireless and satellite connectivity for voice and data communications for electric utilities. Through the addition of WiMAX, NRTC and its electric cooperative members envision enhanced communication services that can be tied to Smart Grid initiatives.
- Satellite Broadband: In recent years, NRTC has been a pioneer in the delivery of broadband via satellite to bring faster Internet service to rural Americans, many of whom had no access other than dial-up service. NRTC began with one-way satellite Internet service and then piloted two-way satellite systems with StarBand and HughesNet. In April 2003, NRTC joined with Liberty Satellite, LLC and Intelsat USA Sales Corporation investing in and launching WildBlue Communications, Inc. ("WildBlue"), a Ka-band DOCSIS-based satellite licensee offering two-way high-speed Internet access targeted to rural areas lacking

alternative access resources.<sup>5</sup> WildBlue launched service in 2005 and today it serves over 340,000 homes and businesses, of which about 82,000 are served by NRTC members.

Today, in keeping with its charter to find advanced communications innovations for its rural cooperatives, NRTC plans to partner with DBC, a young but successful WiMAX provider, to bring fixed and mobile wireless broadband technology to areas that are without broadband or competitive choice. NRTC, its members, and DBC intend to join together to add WiMAX technology to the considerable foundation already possessed by NRTC members in their rural communities, including local community relationships, awareness of local community needs, local mounting assets and backhaul networks, and any deployed fiber. Adding fixed and mobile WiMAX to this foundation with stimulus dollars will quickly and cost-efficiently bring robust wireless broadband services where it is needed. For customers who cannot feasibly be reached by WiMAX, the satellite broadband services of NRTC partner WildBlue will be available to ensure virtually universal coverage of all rural America.<sup>6</sup>

## **B. DBC.**

Like NRTC, DBC knows first-hand the challenges and opportunities of bringing meaningful broadband to rural communities and the difference it makes in the lives of rural consumers. DBC's primary mission is to bring affordable broadband to rural, remote, unserved and underserved communities. Today, under the name BridgeMAXX, DBC provides wireless broadband service to 15 underserved and rural communities, covering 600,000 people, using fixed and mobile WiMAX

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<sup>5</sup> WildBlue currently offers its Ka-band satellite broadband service from two satellites: Anik-F2 satellite located at 111.1° W.L. and WildBlue 1 at 109.2° W.L.

<sup>6</sup> NRTC also will join in Comments submitted by WildBlue Communications. NRTC believes that satellite broadband is a critical component of ubiquitous national broadband service.

technology.<sup>7</sup> DBC is able to rapidly and affordably bring next-generation broadband services to these markets, typically within 6-9 months of funding, due to a number of DBC advantages, including: (1) readily-deployable WiMAX technology; (2) experienced deployment teams and capabilities; (3) a state-of-the-art, national Network Operations Center located in Ashburn, VA; (4) scalable billing and customer care systems capable of serving over 1 million customers; (5) an open, all-IP network costing a fraction of traditional networks; (6) a deep licensed spectrum position which allows fast, reliable, sustainable, secure and interference-free operations; and (6) a solid operating record and a seasoned management team that has worked together for 12 years.

DBC is the largest private WiMAX operator in the United States, targeting third-tier and smaller markets, with populations as small as 2,000 people. In June 2007, DBC launched the first, standards-based commercial WiMAX system in the United States in Rexburg, Idaho.<sup>8</sup> In June 2008 it deployed the first, commercial mobile WiMAX system in the country. Four months later, DBC launched Voice over Internet Protocol service (“VoIP”) over its WiMAX systems. Today, using DBC’s demonstrated, repeatable and scalable community model, DBC provides fixed and mobile wireless broadband services, and wireless VoIP services, to over 22,000 subscribers. DBC is proud that its networks bring next-generation broadband capabilities to rural America first, “leapfrogging” technology that is not yet available to most urban consumers. DBC is proud to already partner with two of NRTC’s members, bringing vital communications service to rural areas: Sioux Valley Energy, a Touchstone Energy Cooperative in Coleman, South Dakota, and Silverstar Telephone Co., Inc. in Boulder, Wyoming.

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<sup>7</sup> BridgeMAXX service is available in Idaho Falls, ID, Pocatello, ID, Rexburg, ID, Sun Valley, ID, Twin Falls, ID, Connersville/Liberty, IN, Washington, IN, Vincennes, IN, Richmond, IN, Jackson, WY, Butte, MT, Great Falls, MT, Missoula, MT, Sioux Falls, SD, and Appomattox, VA.

<sup>8</sup> *DigitalBridge Communications Launches Portable High-speed Internet Service in Rexburg, Idaho using Alvarion’s 802.16e WiMAX Platform* (June 11, 2007) <http://www.digitalbridgecommunications.com/tabid/88/Default.aspx>.

DBC's broadband efforts bring local jobs to areas they serve in the form of network engineers, technicians, and sales people. DBC's partnership with Arise also ties local communities to the broader economy through "home-sourced" customer care agents, enabled with DBC service, that are able to work from their homes, performing customer service functions for companies around the country.<sup>9</sup> As The Benton Foundation noted in its Rural Broadband Strategy comments to the FCC, when rural communities have access to robust and affordable broadband, "high-paying 'knowledge work' jobs that might otherwise be exported abroad" stay home.<sup>10</sup> "This 'farmshoring' of knowledge work to lower wage and lower-cost-of-living areas" is well illustrated by The Benton Foundation in its comments and in DBC's own experience in the 15 communities it serves.<sup>11</sup>

## **II. SIMPLE AND SENSIBLE DEFINITIONS OF UNSERVED AND UNDERSERVED MUST BE ADOPTED IN ORDER TO EXPEDITE CONSIDERATION OF COMMUNITIES DESERVING OF BROADBAND STIMULUS FUNDING.**

Broadly, stimulus funds to be administered by RUS are intended to bring broadband to rural areas; NTIA's broadband initiative is intended to reach a number of important constituencies, including unserved and underserved markets. Unserved and underserved areas could, of course, be located in rural communities. Because the definitions of "unserved" and "underserved" are so important to the two programs, NRTC and DBC urge the Agencies to adopt simple and sensible definitions that have the support of organizations with direct experience serving these often-overlooked communities.

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<sup>9</sup> Arise, <http://www.arise.com/Content/default.asp> (last visited Apr. 13, 2009).

<sup>10</sup> Comments of The Benton Foundation, GN Docket 09-29 at 12 (March 25, 2009).

<sup>11</sup> *Id.*

**A. For NTIA Purposes, There Should Be A Presumption That A Rural County Is Unserved Or Underserved.**

According to the Pew Internet & American Life Project<sup>12</sup> (the “Pew Study”) rural Americans continue to lag behind urban and suburban consumers in broadband adoption. The Pew Study reflects that while urban and suburban users have broadband access at rates of 57 percent and 60 percent, respectively, only 38 percent of rural users have access to broadband.<sup>13</sup> Given this, there should be a presumption that all counties designated as “rural” are inherently either “unserved” or “underserved” without further demonstration. AT&T agreed in its Rural Broadband Strategy comments to the FCC that the vast majority of areas unserved by broadband are located in rural America.<sup>14</sup> NRECA’s comments also supported this proposition.<sup>15</sup> The RUS definition of “rural” is sufficient for this purpose: no more than 20,000 inhabitants in the county.<sup>16</sup>

Moreover, for rural America there should be a presumption that federal funding is needed and that broadband service is unlikely to be deployed absent such funding. Obtaining financing for rural broadband projects was very difficult before, but it has been nearly impossible since the breakdown of our economy last year. There is no question that the gap in America between the “served” -- in urban and suburban markets -- and the “unserved” or “underserved” in rural markets is financial. Rural America is handicapped due to the simple fact that widely dispersed populations cost a great deal to serve with broadband and the return on investment has not been sufficient to

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<sup>12</sup> See “Home Broadband Adoption 2008” (July 2008) available at <http://www.pewinternet.org/Reports/2008/Home-Broadband-2008.aspx> (“Pew Study”).

<sup>13</sup> Pew Study at p. 3.

<sup>14</sup> Comments of AT&T Inc., GN Docket 09-29 at 1 (March 25, 2009) (“Population density in such areas is generally lower than in urban and suburban areas, which explains, in part, why the vast majority of areas unserved by broadband are located in rural America.”).

<sup>15</sup> Comments, NRECA, GN Docket 09-29 at 2 (March 25, 2009) (“For the purposes of broadband funding, there should be a presumption that all counties designated as ‘rural’ are ‘unserved’ or ‘underserved’ and thereby eligible for funding under the ARRA.”).

<sup>16</sup> The RUS regulations define a rural area as “any area, as verified by the latest decennial census of the Bureau of the Census or the latest edition of the Rand McNally Atlas, which is not located within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 20,000 inhabitants.” 7 C.F.R. § 1739.3.

entice private investment. Stimulus funding, if properly awarded, will help to close the gap. DBC and NRTC urge the Agencies to fund rural projects to the maximum extent permitted by the Stimulus Bill, 80 percent grants. Priority should be given to proposals that will bring service to the unserved and underserved in rural America and close the broadband gap.

To the extent a broadband applicant seeks to serve an unserved or underserved community that is not rural, as defined by RUS, the applicant should be charged with proving that the community they wish to serve is either “unserved” or “underserved.” DBC and NRTC offer the following definitions of these terms based upon their own experience serving unserved and underserved communities.

**B. Definition of Unserved.**

An unserved area should be defined as any geographic area proposed to be served where 60 percent or more of the households lack access to more than one terrestrial provider<sup>17</sup> offering broadband service (as broadband will be defined by the FCC). DBC and NRTC support the above definition of unserved because in many of the communities they serve, DSL or cable might be available to parts of the community, but sections of the community remain unserved with adequate and affordable service. At the recent oversight hearing, Chairman Boucher discussed the definition of unserved and cautioned that it would not be prudent to “exclude areas where there is a smattering of broadband service but where the service is generally absent throughout the community.”<sup>18</sup> Chairman Boucher’s concept of unserved communities is in line with the views of DBC and NRTC.

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<sup>17</sup> Terrestrial service is emphasized because of the ubiquity of satellite service.

<sup>18</sup> *Oversight of the American Recovery and Reinvestment Act of 2009: Broadband*, 111<sup>th</sup> Cong. 2 (2009) (testimony of Chairman Rick Boucher).

### **C. Definition of Underserved.**

An underserved area should be defined as any geographic area proposed to be served where 30 percent or more of the households lack access to more than one terrestrial provider offering broadband service (as broadband will be defined by the FCC). With respect to “underserved” populations, Chairman Boucher’s view is that it would be “appropriate to provide [stimulus] support where there is currently only one broadband provider, so a community gets the benefit of market competition. . . .”<sup>19</sup> However, Chairman Boucher also indicated that a market may be underserved even if it has several service providers, if each is offering slow or dial-up connections.<sup>20</sup> DBC and NRTC agree, the concept of being “served” must mean access to more than one affordable and adequate broadband choice.

### **D. Definition of Broadband.**

DBC and NRTC are of the view that the Agencies should carefully consider a new definition of broadband and avoid setting mandatory speeds that would mandate a gold standard of service. If the goal is to get broadband to the greatest number of people, then “great” could be the enemy of “good.” Instead, the Agencies should require that broadband systems offer reliable and sustainable service, at initial speeds of at least 1 MB, that are scalable and upgradeable and can easily adapt and increase broadband capacity as technology improves. Of course faster speeds are possible using WiMAX and other technologies, but the focus of the Agencies at this time should not be on the highest potential speeds. Rather, focus should be on the minimum speeds that will bring meaningful broadband to consumers that need it, and speeds that are realistic given the need to balance customer demands on the network, peak usage patterns, and licensed spectrum capacity. For most rural, unserved and underserved communities, there needs to be a realistic evaluation of what speed

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<sup>19</sup> *Id.* at 2.

<sup>20</sup> *Id.*

is fast enough, assuring that the greatest number of people are served with meaningful broadband at the lowest cost. Support for appropriate broadband solutions for rural communities was a topic of comment in the Rural Broadband Strategy comments filed with the FCC by the California Emerging Technology Fund, Consumer Federation of America, Consumer's Union, DBC and NRTC.<sup>21</sup>

**III. SEPARATE BROADBAND FUNDING SHOULD NOT BE DESIGNATED FOR EACH NTIA GRANT PURPOSE; INSTEAD, POTENTIAL GRANTEEES SHOULD BE ENCOURAGED TO BRING BROADBAND TO AS MANY CONSTITUENCIES IN A COMMUNITY AS NEED IT.**

DBC and NRTC urge NTIA to refrain from designating separate grant funds for each of the five purposes set forth in the Stimulus Bill for the NTIA broadband program. Trying to apportion funds now to each purpose would be premature and could detrimentally impact the effectiveness of the program – potentially pre-judging and elevating the broadband demands of one group over another. Instead, NTIA should make it a priority to grant stimulus dollars to value-laden projects that will stretch grant dollars as far as possible in a community, satisfying as many of the five purposes of the NTIA grant program as possible, including:

- providing broadband service to unserved or underserved communities,
- creating mechanisms for broadband education, access and computer equipment that will stimulate demand for broadband,
- making broadband available to as many of the following constituencies as possible: public safety agencies, schools, libraries, medical and healthcare providers, community

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<sup>21</sup> Comments of California Emerging Technology Fund, GN Docket 09-29 at 2 (March 25, 2009) (“Policies must allow each rural community to find broadband solutions that work. This requires: Technology solutions for their terrain and population distribution; Products and services appropriate for the residents and commercial establishments; and Local knowledge of existing infrastructure.”); Comments of the Consumer Federation of American and Consumer Union, GN Docket 09-29 at 3 (March 25, 2009) (“With over 40 percent of households lacking broadband connectivity and as much as ten percent having no broadband service available, maximum coverage should be the goal, rather than chase a gold-plated [sic] network that will restrict the number of households that can be reached in the near future.”); Comments of DBC, GN Docket 09-29 at 1 (March 25, 2009) (“[The Agencies should] avoid setting mandatory “speeds” for broadband. Require, instead, that broadband systems deployed in rural areas are “future-proofed” and can easily adapt as technology improves. For rural areas there needs to be a realistic evaluation of what speed is fast enough, assuring that the greatest number of people are served with meaningful broadband at the lowest cost.”); Comments of the NRTC, GN Docket 09-29 (March 25, 2009) (“Agencies should avoid any hard-line data speed standards and any “gold standard” level of service. Without question, the faster a service is the better. But in this case, great is the enemy of good. With millions of Americans lacking broadband, the goal should be to ensure access to [the] best reasonable level of service, given all circumstances.”)

colleges, and other institutions of higher education, community support organizations, and organizations that provide support services for vulnerable populations, and

- stimulating economic growth and job creation in the community – particularly in economic zones, Economic Development Districts, Renewal Communities, Empowerment Zones and Enterprise Communities.

Applicants should be encouraged, but not mandated, to address as many of the foregoing purposes as possible. Grant selection criteria should be crafted in a manner that scores most highly projects that bring comprehensive broadband solutions to unserved and underserved communities, particularly rural ones, and build smart communities for these areas just as smart-cities are built in urban areas.

**IV. NTIA AND RUS SHOULD ESTABLISH GRANT CRITERIA THAT CONSIDER SPEED TO DEPLOY, COST, BROADBAND QUALITY, JOB CREATION, BROADBAND SERVICE TO MULTIPLE CONSTITUENCIES, PLANS FOR SUSTAINABLE BROADBAND ADOPTION, EXPERIENCE, LOCAL TIES, LOCAL SUPPORT, AND STATE SUPPORT.**

DBC and NRTC devised a proposed set of criteria that the Agencies can use to evaluate and compare broadband grant applications. The criteria assumes that the Agency already has satisfied itself that there is an unmet need for broadband in a community, either because the community is rural and presumed to be unserved or underserved, or the community is non-rural but the applicant has otherwise proved that the community is unserved or underserved. DBC and NRTC suggest that criteria featured at the top of the chart (below) should be accorded more points in a scoring system than criteria appearing at the bottom of the chart:

<b>Grant Criteria / Evaluation</b>
<b>SPEED TO DEPLOY:</b> <ul style="list-style-type: none"><li>• Is the broadband grant proposal shovel-ready?</li><li>• How quickly can the broadband infrastructure be built? Among competing proposals, which proposal can be implemented the most quickly?</li><li>• Does the grantee have proven access to all facilities needed to provision the service?</li><li>• Does the grantee have readily deployable technology?</li></ul>

## Grant Criteria / Evaluation

### COST:

- Is the broadband proposal cost effective? How much does it cost per home passed?
- Compared to competing proposals, which proposal will bring broadband to the maximum number of homes and constituencies in a community at the lowest possible cost?
- Cost should be one of the most important factors in evaluating grant and loan applications, similar to mandates found in the Universal Service Fund E-rate program. Focusing on cost will ensure that the greatest number of communities can be served with stimulus funds. Wireless broadband projects that can quickly extend meaningful broadband to the largest number of users at the lowest cost should be given a priority. Twenty-one Rural Broadband Strategy comments were filed with the FCC last month emphasizing the effectiveness of wireless broadband for rural deployments.<sup>22</sup>

### BROADBAND QUALITY:

- Does the broadband project have the scale and quality needed to make an impact for the community? There needs to be a realistic evaluation of what speed is fast enough, assuring that the greatest number of people are served with meaningful broadband at the lowest cost.
- Adequate speed (>1.0MBs)
- Affordable broadband – pricing that can be sustained
- Differentiated broadband (e.g., broadband mobility)<sup>23</sup>
- Is the proposed broadband system scalable and upgradeable? Can it be expanded and improved over time without stranded investment and environmental upheaval?<sup>24</sup>
- If wireless broadband is proposed, is licensed spectrum used to ensure speed, reliability, sustainability, and security?

<sup>22</sup> Comments advocating the benefits of wireless broadband for rural deployments were filed by The American Petroleum Institute, The Benton Foundation, Consumer Federation of American and Consumer Union, CTIA – The Wireless Association, DBC, General Communications, Inc., Halo Wireless, HeirComm, Inc., M2Z Networks, Main Street Broadband, NRECA, New America Foundation, NRTC, Open Range Communications, PCIA – The Wireless Infrastructure Association, Qualcomm Incorporated, Stephouse Networks, Universal Service for American Coalition, Nick Slater, Verizon/Verizon Wireless, and Wireless Internet Service Provider Association.

<sup>23</sup> See J. Exp. Stat. at 149; Food, Conservation and Energy Act of 2008, Pub. L. 110-246, 122 Stat. 1651 (2008) (*emphasis added*); see also Food, Conservation, and Energy Act of 2008, Conf. Rep. No. 110-627, at 834 (2008). Conferees stated that the Secretary of Agriculture is expected to consider the unique way of life in rural America and to be mindful that *mobile broadband technologies* are applicable to farmers, ranchers, and small rural business owners. *Fixed broadband service will continue to be important in rural homes and offices, but mobile technologies also may have a role to play in expanding broadband access to rural residents.* The Managers expect the Secretary to weigh all appropriate technologies, including the unique characteristics of mobile broadband service and technologies, during consideration of applications.

<sup>24</sup> Wireless broadband solutions are scalable and can be easily upgraded to include mobility or additional system capacity, enhancing performance of the system without the need to dig up streets and upset the environment. In fact, DBC has already upgraded some of its wireless systems to the newest generation WiMAX platform, doubling its operating capacity without having to change customer-premise or tower-mounted hardware. The standards-setting community anticipates that the WiMAX infrastructure deployed today, with modest network improvements, will be capable of reaching speeds exceeding 12 Mbps and system capacity will be increased fourfold without any stranded capital investment.

## Grant Criteria / Evaluation

### **JOB CREATION:**

- Will the broadband proposal lead to job creation and economic development in the community?

### **BROADBAND SERVICE TO MULTIPLE CONSTITUENCIES:**

- Does the broadband proposal serve multiple constituencies in the community that need broadband and leverage other stimulus priorities?

### **EXPERIENCE, LOCAL TIES, LOCAL SUPPORT:**

- Does the grantee have market experience and a proven track record of providing sustainable rural communications services?
- Precious stimulus dollars should not be granted to entities that have a concept of broadband, but no actual or limited experience in deploying and operating these networks. The Agencies should not gamble with stimulus dollars. Standards should be developed in a manner that ensures the least chance for stranded investment with these public dollars and the greatest chance for sustainable operations over many years.<sup>25</sup>
- Does the applicant have local ties to the community, experience serving the local community and local support from important constituencies?

### **SUSTAINABLE BROADBAND ADOPTION PLAN:**

- Does the broadband proposal contain a plan for promoting broadband adoption and bringing affordable computer equipment to the community, stimulating sustainable demand for broadband?

### **STATE SUPPORT:**

- Is the applicant's broadband proposal supported by the State?
- State recommendations should only be considered if a State is not competing for stimulus funds.

## **V. STATES MUST ELECT HOW THEY WILL PARTICIPATE IN THE NTIA BROADBAND STIMULUS PROGRAM IN ORDER TO ELIMINATE CONFLICTS OF INTEREST.**

The Stimulus Bill contemplates a number of roles for the States, including having the States consult with NTIA about: (1) preferred allocation of grant funds in their State; and (2) identification of broadband needs in their State. The Stimulus Bill also allows States to directly apply for the funds. These roles, obviously, conflict. States must choose how they will participate in the process. NTIA and RUS need a mechanism and a deadline for requiring States to elect whether they will

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<sup>25</sup> The importance of actual experience in deploying broadband to unserved, underserved and rural markets was emphasized in four Rural Broadband Strategy comments filed with the FCC by: the American Cable Association, DBC, iClick2media, and NRTC.

apply directly for broadband stimulus grants (e.g., by May 15, 2009). If a State does not elect to directly pursue NTIA broadband grants, then, and only then, can the State consult with NTIA about how funds should be allocated for their State and what broadband functionality the State needs.

Provided a State is not applying for grant funding directly, DBC and NRTC encourage and support an active role for States and local governments to ensure that state and local broadband priorities are satisfied. However, secondary jurisdictions, State and local, should not be permitted to impose a secondary application process after a grant application is approved at the federal level. With the goal of getting stimulus dollars into the market as quickly as possible, creating jobs and stimulating economic growth, the involvement of State and local governments, which are typically subject to public bidding laws, should be introduced in a manner that does not impose another strata of decision-making authority that could slow or impede the funding and deployment of broadband networks. State and local endorsements of broadband projects during the application process would be helpful and should be favored.

**VI. IN ORDER TO ENSURE NO STRANDED OR DUPLICATIVE BROADBAND FUNDING, GRANTS FOR EXPANDING PUBLIC COMPUTER CENTER CAPACITY AND FOR ENCOURAGING SUSTAINABLE BROADBAND ADOPTION SHOULD BE ALLOCATED TO THE BROADBAND GRANTEE THAT IS CHOSEN TO SERVE THE COMMUNITY.**

In order to ensure that the \$450 million in funds that are dedicated to enhancing public computer centers and encouraging sustainable broadband are not wasted or duplicative of efforts a broadband grantee might already undertake for a community, broadband stimulus dollars that are dedicated to expanding public computer center capacity (\$200 million), and dollars dedicated to programs that will encourage sustainable broadband adoption in a community (\$250 million), should be granted, using a population-based metric, to broadband grant recipients that are chosen by NTIA to serve a community. Grantees, as part of their commitment to bring broadband to a community, should be charged with expanding public computer center capacity and taking action to encourage

adoption and sustainable use of broadband. These dollars could be used by grantees to hire community broadband coordinators and purchase laptops that can be made available at community centers or to children in schools. These dollars also can be used for training and outreach programs. A coordinated approach to using these dollars, by the grantee that is building broadband infrastructure to serve the community, is sensible and will ensure that \$450 million in stimulus dollars is used wisely as part of a coordinated effort to bring meaningful broadband to an entire community.

**VII. THE GUIDELINES FOR THE BROADBAND STIMULUS PROGRAMS SHOULD REFLECT THE GOALS OF THE STIMULUS BILL TO EXPEDITIOUSLY FUND CRITICAL INFRASTRUCTURE.**

**A. Progress In Deploying Much-Needed Broadband Should Not Await National Mapping.**

The Agencies should refrain from waiting for national broadband mapping, or comprehensive broadband strategies, before making loans and grants for needed rural broadband service. Under the Stimulus Bill, the Agencies must commit all broadband stimulus by September of 2010. Forty of our 50 states have undertaken limited or no statewide broadband mapping to date and, of the states that have undertaken mapping, their methodology was not consistent.<sup>26</sup> It is not reasonable to believe that consistent mapping for 40-50 states could be done and meaningfully analyzed, as a precursor to opening filing windows for broadband grant applications, and that applications can be entertained and processed, and funds granted, all within less than a year and a half.

Entities readying themselves to apply for broadband stimulus funding, including DBC and NRTC, must make it their business to know where broadband is needed and to propose a plan to

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<sup>26</sup> *Oversight of the American Recovery and Reinvestment Act of 2009: Broadband*, 111<sup>th</sup> Cong. 6 (2009) (testimony of Mark Seifert, Senior Policy Advisor, NTLA) (Of the 10 states that have already mapped broadband access and adoption in their states, Mark Seifert said the data points among states often are not comparable and that data must be collected from the states as part of the nationwide mapping effort).

provide it. Applicants should be required as part of their applications to provide broadband maps for the areas they wish to serve, justifying the need for broadband in the community. Such maps should be created by involving local community participants who know the market and can provide accurate information about their needs. In order to assist in this effort, the FCC should make available all Form 477 broadband data, which the FCC has been collecting for nine years.<sup>27</sup> Six Rural Broadband Strategy comments advocated for using the FCC's Form 477 data as part of the analysis of community need.<sup>28</sup>

**B. RUS Should Award Grants, Not Loans, For Rural Projects.**

Rural broadband projects should not be singled out for loans that must be repaid while broadband projects for unserved and underserved areas receive grants. Instead, both existing and future NTIA and RUS broadband programs should exclusively make grants available to fund rural broadband service. This recommendation also should apply to the \$1.3 billion contained in the President's FY2010 budget for rural service.<sup>29</sup> Rural areas, more than unserved and underserved areas that are not rural, require cost-efficient business models to be successful and to pass along the lowest-cost service to rural consumers. This can more easily occur if rural broadband projects are funded with grants and not loans.

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<sup>27</sup> *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 9691, ¶ 5 (2008) ("The FCC began collecting data from broadband Internet service providers using Form 477 in May 2000 as a means to help the Commission and the public understand the extent of broadband deployment nationwide.").

<sup>28</sup> Comments filed by Federal State Joint Board on Universal Service, New York Public Service Commission / New York State Chief Information Officer, Rural Telecomm Group, Telecommunications Industry Association, Verizon/Verizon Wireless, and Wireless Internet Service Providers Association.

<sup>29</sup> The President proposed \$1.3 billion in loans and grants to "increase broadband capacity and improve telecommunications and education and health opportunities in rural America." President Obama's FY2010 Agriculture Department Budget, available at <http://www.obpa.usda.gov/doc/USDAFY10.pdf>.

**C. Eligibility Standards Should Focus On Experience.**

The eligibility standard adopted for broadband stimulus dollars should take into consideration broadband experience and expertise. Broadband stimulus monies should only be granted to entities that have deployed reliable and sustainable communications services to rural, unserved and underserved areas before. These precious dollars should not be granted to entities that have a concept of broadband, but no actual or limited experience in deploying and operating these networks. Standards should be developed in a manner that ensures the least chance for stranded investment with these public dollars. Broadband grants also should not be awarded in response to any application that does not already have an experienced broadband service provider committed from the start.

The ideal applicant may be a combination of an experienced and qualified for-profit entity, authorized under Section 6001(e)(1)(C), acting in concert with one or more non-profit entities that are local to the community, falling under Section 6001(e)(1)(B). Moreover, projects that are building broadband infrastructure to rural areas, especially when non-profit organizations are involved, should be afforded a presumption in favor of receiving the maximum support under the Stimulus Bill, 80 percent grants. Broadband service is unlikely to be deployed in rural areas absent such funding. Rural America is handicapped because the cost of deploying broadband service to widely dispersed populations has not yielded a sufficient return on investment to entice private investment.

**D. The Agencies Must Make Grant Determinations Within 90 Days of Filing.**

In order to ensure that broadband stimulus dollars create jobs and help to stimulate the economy in the near term, NTIA and RUS must be required to efficiently evaluate grant applications and make positive or negative determinations within certain time frames. NRTC and DBC urge the Agencies to make “thumbs up” or “thumbs down” decisions on broadband grant and loan applications no later than 90 days after such applications are filed. A requirement such as this would

expedite funds into the market, and also would make clear to all stakeholders, and the Agencies, what funds are still available for worthy projects in the next funding window.

NTIA and RUS also should avoid rigid constructs of how much funding is made available at any one time (i.e., 1/3 in each window). Instead, the Agencies should focus on how many worthy projects deserve funding regardless of when filed.

**E. Blocking / Warehousing Of Communities Should Be Prohibited.**

RUS should revise its broadband rules so as not to block off communities where a loan has been made or committed. One service provider is never enough. Being “served” means having more than one provider of affordable and competitive broadband service. Moreover, for many communities in which federal broadband funds already are granted there has been little or no activity to implement service. Communities should not be automatically blocked off. Instead, the Agencies should open the entire country for loans and grants regardless of prior loans or loan commitments. At this month’s House Energy and Commerce hearing, Jonathan Large, a Dan River District Supervisor in Ararat, Virginia, cautioned agency officials not to subject applications to “overly restrictive” definitions.<sup>30</sup> His region applied for an RUS grant but was deemed ineligible because the program would not award grants if high-speed broadband service already existed in the area because it would no longer be considered an “unserved” area. “We confirmed high-speed Internet access to one household in our area,”<sup>31</sup> Large said.

**F. Matching Funds Should be Required Of All Applicants.**

DBC and NRTC are of the view that no projects should be funded if the applicant cannot produce the 20 percent matching funds. Having the ability to partially fund the broadband project is an important factor the Agencies should consider when evaluating grant applications because it

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<sup>30</sup> *Oversight of the American Recovery and Reinvestment Act of 2009: Broadband*, 111<sup>th</sup> Cong. (2009) (oral statement of Witness Jonathan Large, Dan River District Supervisor).

<sup>31</sup> *Id.*

reveals, in part, whether or not the broadband project is likely to be sustained beyond the initial infrastructure build. Preference should be given to applicants that can not only provide the 20 percent matching funds for capital expenditures, but also can demonstrate that they have the financial staying power to fund the continuing operating expenditures that will be needed for a sustainable broadband system in the community.

**G. Reporting, Compliance and Accountability Measures Should Have Teeth.**

The Agencies can ensure that projects are well-executed and produce measurable results by requiring regular, semi-annual reports from any grantee. NRTC and DBC support incorporation of a “build-it-or-lose-it” element into the grant programs. In addition, it might be appropriate to impose penalties and forfeitures if there is a failure to bring broadband to a community as promised in a grant application. Projects proposed by States should be subject to the same evaluation criteria as projects propose by commercial enterprises, and should be subject to the same reporting, compliance and auditing requirements.

**VIII. CONCLUSION.**

As set forth in these comments, NRTC and DBC have a plan to bring robust, affordable, reliable, sustainable, scalable and upgradeable wireless broadband services to the neediest communities across our nation. NRTC, its members, and DBC, acting in concert, can add WiMAX technology to the considerable foundation already possessed by NRTC members in their rural communities, including local community relationships, awareness of local community needs, local mounting assets and backhaul networks, and any deployed fiber. Adding fixed and mobile WiMAX to this foundation with stimulus dollars will quickly and cost-efficiently bring robust wireless broadband services where it is needed. For customers who cannot feasibly be reached by WiMAX, the satellite broadband services of NRTC partner WildBlue will be available to ensure virtually universal coverage of all rural America.

NRTC and DBC thank the Agencies for their consideration, and urge the Agencies to adopt sensible definitions, grant criteria and other guidelines that will ensure that broadband stimulus funds are expeditiously granted to enable broadband to the greatest number of consumers in need.

Respectfully Submitted,

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B. Robert Phillips, III  
President & Chief Executive Officer  
National Rural Telecommunications Cooperative  
2121 Cooperative Way  
Herndon, VA 20171  
(703) 467-1421

\_\_\_\_\_/s/\_\_\_\_\_

William F. Wallace  
Chairman  
DigitalBridge Communications Corp  
44675 Cape Court, Suite 130  
Ashburn, VA 20147  
(703) 723-6272

\_\_\_\_\_/s/\_\_\_\_\_

Mark C. Ellison  
Senior Vice President & General Counsel  
National Rural Telecommunications Cooperative  
2121 Cooperative Way  
Herndon, VA 20171  
(703) 467-1421

\_\_\_\_\_/s/\_\_\_\_\_

Jennifer L. Richter  
Rebecca L. Murphy  
Patton Boggs, LLP  
2550 M Street, NW  
Washington, DC 20007  
(202) 457-5666

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