



April 8, 2009

Ms. Anna Gomez  
Acting Administrator  
National Telecommunications Information Administration  
**SUBMITTED ELECTRONICALLY: BTOP@ntia.doc.gov**

Dear Ms. Gomez,

I am writing on behalf of FPL FiberNet, LLC in response to the NTIA's invitation to provide input on the administration of grants under the Broadband Technology Opportunities Program (BTOP). Herewith, we are respectfully submitting our responses to the questions posed by the NTIA in the March 12, 2009 issue of the Federal Register. In particular, we have provided our input on a subset of the questions, those for which we can provide meaningful input and those that are most important to our company.

**FPL FiberNet background**

FPL FiberNet delivers wholesale and enterprise broadband services in most major metropolitan areas in Florida through our extensive long-haul and metropolitan fiber-optic networks. We serve almost all of the major telecommunications companies operating in the state including competitive local exchange company (CLEC), incumbent local exchange company (ILEC), Internet service provider, and wireless provider customers.

FPL FiberNet intends to apply for BTOP funding for the purpose of constructing public networks to serve schools, libraries, hospitals, other public facilities, and underserved areas. For that purpose, we are partnering with local non-profit and for-profit organizations which have formed a non-profit coalition to develop these networks. In addition, consistent with our mission as a wholesale telecommunications provider, we will provide capacity on the fiber-optic network on an open-access basis.

FPL FiberNet is a subsidiary of FPL Group, Inc., a leading clean energy company. With 15,000 employees, and annual revenues of more than \$16 billion, FPL Group is recognized as one of the country's premier power companies. Major subsidiaries of FPL Group include NextEra Energy Resources, LLC, the nation's No. 1 producer of wind energy and No. 1 operator of solar power generation, and Florida Power & Light Company, the largest electric utility in Florida, serving more than 8.7 million people and ranking first among US electric utilities in energy-efficiency programs.

**Responses to question posed by the NTIA**

Question 2b: What is the appropriate role for States in selecting projects for funding?

FPL FiberNet response: We believe that, consistent with the objectives of Section 6001(h)(2), the input of the States is important in selecting projects which reflect local priorities and provide the maximum benefits to the greatest population of users.

Question 3: What standard should NTIA apply to determine whether it is in the public interest that entities other than those described in Section 6001(e)(1)(A) and (B) should be eligible for grant awards?

FPL FiberNet response: The five purposes of the BTOP, as described in Section 6001(b), will best be served if grants are available to those entities that can effectively provide the networks and services necessary to accomplish the objectives of the program. Qualifying entities should include for-profit entities, and in particular should include qualified, experienced, financially viable, wholesale infrastructure providers, such as FPL FiberNet.

Telecommunications wholesalers have served effectively as Trojan horses, enabling competition which has generated greater broadband penetration. For example, DSL was not introduced by the ILECs until they were forced to do so defensively after the CLECs began marketing DSL aggressively. The business of telecommunications wholesalers is to develop open-access networks, which are free from the dominance of any given carrier, consistent with the non-discrimination and network interconnection objectives of Section 6001(j).

Furthermore, to achieve the objectives of the BTOP, the NTIA should have the discretion to select joint proposals by combinations of government, non-profit, and for-profit organizations. We believe that these collaborative projects which are supported by a wide range of stakeholders should be given priority. Collaborative project having a broad base of support have generally achieved that support by providing benefits to the diverse segments of the targeted communities.

Question 4c: How should the BTOP prioritize proposals that serve underserved or unserved areas?

FPL FiberNet response: ILECs and cable companies have put forth a self-serving proposal that argues that grants should be limited to unserved areas, those areas where there is no broadband access other than through satellite and dial-up services. In other words, under this ILEC and cable company proposal, grants would not create infrastructure to enable meaningful competition in areas where these companies represent the only alternatives and provide limited bandwidth at uneconomical prices.

On the contrary, Sections 6001(b)(1) and 6001(b)(2) require the BTOP to bring broadband service to unserved *and* underserved areas, respectively. In targeting underserved areas, the law clearly contemplates the development of infrastructure in areas where some broadband service is available, but where broadband service of 21<sup>st</sup> century speeds is not affordable.

If the BTOP is confined to unserved areas, rural areas will have adequate broadband access as will the denser, wealthier areas, but suburban and middle class areas will have limited broadband access. Furthermore, if the BTOP is confined to unserved areas, then underserved, less affluent urban areas will not participate in the BTOP, despite the clear

legislative intent expressed in Section 6001(b)(3)(C) to provide broadband to Economic Development Districts and Empowerment Zones.

We believe that arbitrarily limiting the BTOP will compromise the objectives of the program. Rather, the NTIA should have maximum flexibility in selecting competing programs based on the benefits, costs, and likelihoods of successful execution.

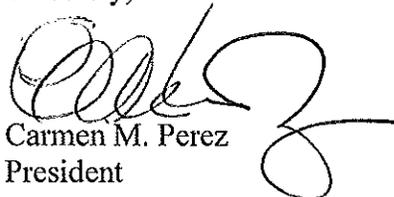
Question 13b(1): Should the BTOP establish threshold transmission speeds for purposes of analyzing whether an area is “unserved” or “underserved” and prioritizing grant awards? Should thresholds be rigid or flexible?

FPL FiberNet response: Again, we argue for flexibility. Rather than setting rigid thresholds and requirements, we believe that the NTIA should have the discretion to select those competing projects which provide the maximum benefits to the greatest population of users. For example, the NTIA should have the discretion to accept a lower-speed solution which is more affordable for the target population. A \$40 per month solution that might create significant benefits in a wealthy area such as Key Biscayne might find minimal acceptance in one of the less affluent areas of Miami.

**Conclusion**

We hope our comments have been useful to you. If you have any questions or would like any additional input we would be delighted to assist the NTIA in whatever way that we can.

Sincerely,

  
Carmen M. Perez  
President