Before the
National Telecommunications and Information Administration
and the
Rural Utilities Service
Washington, D.C. 20230

Joint Request for Information Relating to	)	
Broadband Initiatives Program and	)	Docket No. **0907141137–91375–05**
Broadband Technology Opportunities	)	
Program	)	

Comments of the
IOWA TELECOMMUNICATIONS ASSOCIATION

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INTRODUCTION

On Monday November 16, 2009 RUS and NTIA announced the release of a joint Request for Information (RFI) seeking public comment on certain issues relating to the implementation of the Broadband Initiatives Program (BIP) and the Broadband Technology Opportunities Program (BTOP).

The Iowa Telecommunications Association[1] (ITA) files these comments. While there are a wide variety of issues that concern ITA members, these comments will focus on the Application process and the Public Notice Comment Process that "allowed" existing service providers to submit information to RUS and NTIA to rebut inaccurate claims by applicants regarding the extent of broadband service offerings throughout Iowa.

The burden placed on existing providers to respond to the applications was unreasonable. The cost was high. And the process was inefficient.

The members of the Iowa Telecommunications Association (ITA) provide a unique telecom landscape, as no other state has nearly as many small, locally owned and operated telecommunications providers.

It could be argued that no other state has benefitted from such widespread deployment of "first generation" broadband (defined as 256K upstream) in its rural areas. Indeed, a 2008 study by the Iowa Utilities Board (IUB) reported that 925 out of 963 rural Iowa communities (96.1%) had access to 256K internet services[2]. It should be noted that the IUB study has some limitations in that it does not measure how many consumers in each community actually have access to high-speed internet, and the study also cannot be used to determine the extent of deployment of 768K or above speeds.

Nearly all ITA members report that they offer 768K service to a large number of their customers, making large swaths of rural Iowa fall outside the definition of "unserved" used by the BTOP and BIP funding mechanisms. The ITA members also report, however, that they do not have ubiquitous deployment of "second generation" broadband networks capable of delivering speeds in excess of 10, 20 or 40 megabits per second, and many are struggling to cost-justify the network investment it will take to deploy such services.

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[1] ITA is the nation's largest state telecommunications association. Serving 141 Iowa incumbent local exchange carriers (ILECs), several competitive local exchange carriers (CLECs) and Iowa's statewide centralized equal access provider, Iowa Network Services, Inc. The median number of access lines served by Iowa ILECs is less than 900, and more than 100 of ITA's member companies serve fewer than 2,000 access lines.

[2] See "*Assessing High-Speed Internet Access in the State of Iowa: Sixth Assessment, A Report of the Iowa Utilities Board,*" January 2008 http://www.state.ia.us/government/com/util/docs/reports/InternetAccess_2008.pdf

THE APPLICATION AND REVIEW PROCESS PLACES UNFAIR BURDENS ON EXISTING "NON-APPLICANT" PROVIDERS

It is under this backdrop that we analyze the application process for BTOP and BIP funding. For a variety of reasons, ranging from the complexity and cost to small rural carriers to complete the application[3], to the concern regarding the conditions under which the funds will be awarded, only six of the nearly 150 ITA-member rural carriers submitted applications for funding in the first round. One significant reason that many of these companies did not file is because their service areas are not "unserved" or "underserved."

By contrast, a large majority of ITA members (ITA estimates over 100 Iowa LECs) were forced to file "responses" to rebut erroneous or misleading applications seeking funding in areas already served with broadband. In other words, the burden to refute inaccurate claims regarding the extent of broadband service in a proposed service area were placed directly and entirely on existing service providers, whether or not they applied for funding. Thus, the programs that were intended to assist rural carriers with deploying next generation broadband to their rural, unserved or underserved customers has had directly negative impacts on those carriers.

While ITA members applaud the NTIA and RUS for posting the Public Notice Filings of the proposed funded service area on the www.broadbandusa.gov site, ITA members point out the cost and burden of filing responses.

1. Burden on Responders. It is a demonstrable burden for a rural carrier to identify whether another entity has filed an application to receive funding in an existing provider's certificated exchange. Because of their small staff size, many ITA members needed to enlist outside assistance to prepare responses. Many existing providers needed to file responses to numerous applications. For example, one rural carrier in Northwest Iowa had to file 28 responses. Some ITA members report paying outside firms anywhere from $300 to $1500 **per response** to manually inspect every single one of the dozens of applications made in Iowa to determine which service territories were impacted and provide a response, generate the necessary reports, engage in internal meetings to obtain the information needed to respond to each application, organize the information pertinent to each response, applying for level one access on the Broadband USA website, inputting required information, uploading advertisements, and drawing maps of service territory. Common complaints include confusion about how to use the mapping tool, which was described as "cumbersome, and often frustrating." In addition to the direct cost paid to an outside firm, a typical ITA member reports spending from three to twelve hours of labor time per response. Another ITA member reports its staff devoted 80 hours to filing responses, and paid $5,733 for attorney/consulting work to prepare the responses. Another small carrier reports that it paid its consulting firm $3,958 to file responses, and spent 40 hours of labor internally to generate the necessary reports from its billing

[3] Many small rural carriers in Iowa determined they did not possess the expertise and resources to adequately complete the application, and so many turned to outside consultants and grant-writers for assistance in determining whether to apply and in completing the application process. It is believed that a common charge for such services ranged from $20,000 to $30,000 per application, causing many rural companies to forgo the opportunity to apply for funds.

system. A large network provider in Iowa filed 80 responses, and estimated it took three hours per response. Another small local exchange carrier reports it used in-house resources to review each of the applications, and it spent 208 hours of employee time to file thirteen responses at a total internal cost of $9,620. With each of these examples, ITA asks the question – why is such a burden placed on non-applicants?

2. Inadequate Information Made Public. Not all applications had detailed summaries available, making it difficult to determine how the proposed service was to be provided, and whether a response is warranted. Many times, the maps and the "communities served" did not align, increasing the difficulty in identifying proposed service areas of applicants. One member complained about two separate applications that appeared to be for the same area, but each contained different household and business numbers.

3. Lack of Accountability for Applicant Claims of "Unserved" or "Underserved." Under the first round NOFA application process, it does not appear that applicants were held accountable for their assertions that a proposed service area is unserved or underserved. Many of the applications for funding in Iowa were made for broad geographic swaths encompassing hundreds of census blocks, and it is evident that the applicants made little attempt to determine the veracity of their assertions on whether individual communities within those areas did or did not have broadband currently deployed. An applicant simply had to complete a table stating the current offerings of existing service providers, and to state how they determined whether a proposed service area was unserved or underserved. Given the fact that approximately 11,000 responses were filed to only 2,200 applications, it is clear that allowing bald assertions without any accountability or verification is an inefficient process. Indeed, nearly 80% of last mile and middle mile applications received a response.[4]

4. Inefficient Response Process. By contrast, a respondent needed to submit detailed and specific information about its existing service offerings, including the number of households and businesses that have access to broadband service in the proposed funded service area and the price, speed, and number of subscribers for the broadband services offered. It appears that the existing service provider had to conduct more "due diligence" in filing a response against the applicant than the applicant did in the first place. The inefficiency of shifting the burden away from applicants and to existing providers is underscored by the fact that in addition to the cost and burden placed on existing service providers to rebut inaccurate applicant claims, the resource strain placed on RUS field reps and others to investigate the responses must be overwhelming and could have been avoided if applicants merely had to substantiate their claims that proposed service areas were unserved or underserved.

[4] For example, a cursory review of the responses to applications submitted by the Iowa Communications Network for middle mile projects show a 49 page executive summary containing over 115 responses.

CONCLUSION AND ITA RECOMMENDATIONS

ITA commends the agencies for seeking to gather information that will help them improve the broadband programs by enhancing the applicant experience and making targeted revisions to the anticipated second NOFA. ITA makes the following suggestions for improving the second round of applications:

1. An applicant must offer specific substantiation that a proposed service area is underserved or unserved, along with an affidavit certifying that the information is true and correct to the best of the applicant's knowledge. The certification would identify service areas for each current broadband provider, and that information should be made available on the mapping tool. ITA also suggests that the applicant submit data based on FCC Form 477 information combined with US Census Bureau information that a particular area is in fact underserved or unserved. Therefore, the applications and responses would both be based on the same Form 477 census tract information.

2. Improve the amount of applicant information that is available for the public comment and response period. For example, ITA suggests that the online mapping tool contain additional geographic specificity so that applicant filings are compared to this mapping tool. Then, existing providers can more readily determine if a proposed service area overlaps existing service boundaries. Other specifics could include detail of how the service is proposed to be provided (i.e., wireless, underground copper or fiber, leased facilities) complete with route maps.

3. After a proposed service area is certified as unserved or underserved, an applicant should serve written notice to existing telecom and cable service providers that an application is being sought in their service exchange. Each applicant should be required to state in their application which local telecom and cable providers were contacted and when in order to assert that a service was not available and when.

4. ITA suggests that NTIA and RUS consider ways to ensure that accurate and consistent data is used for both the applicant and the "responder." For example, ITA suggests using the information gathered from the first NOFA application and response process to publish a list of areas that have been demonstrated not to be "unserved" or "underserved" so that existing carriers need not be burdened with making identical responses in round two as those made in round one. In addition, to the extent that existing service providers need to file responses to round two NOFA applications, ITA suggests that the coverage map could be carried over from one applicant to another applicant, so the provider need not duplicate efforts already expended and not need to draw the same coverage map for each applicant.

Respectfully submitted,

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