

Broadband USA Applications Database

Applicant Name: Allied Fiber, LLC

Public Notice Submissions

-----**Service Area:** FL Region

Submitter: Level EON, LLC

Comment: Level 3 EON, LLC is filing this challenge based on the network services provided by Level 3 Communications, LLC. ("Level 3")

The overlapping service areas are drawn via the mapping tool. Level 3's fiber optic network infrastructure can support low speeds to support today's lower bandwidth needs and can scale to 40G and 100G to meet future bandwidth demands.

In addition, for this particular applicant, Allied Fiber, the project does not meet the "but for" test. On Page 54 of the September 9th issue of Capacity Magazine, under the "Company Profile" it states: "[Allied Fiber] is building a new nationwide fibre-optic network throughout the US with wireless towers and co-location facilities. The network will run from New York to Chicago, Ashburn, Atlanta, Miami and Seattle, down the west coast and across the south west." On its web site, Allied Fiber lists additional projects under Phase II that match the areas where Allied Fiber has applied for funding for this project under the broadband stimulus programs of the Recovery Act.

References:

<http://www.alliedfiber.com/network.php>

Northern Florida: <http://www.alliedfiber.com/documents/AlliedFiber-PhaseII-NorthernFlorida.pdf>

Southern Florida:

<http://www.alliedfiber.com/documents/AlliedFiber-PhaseII-SouthernFlorida.pdf>

A fundamental premise of the stimulus package has been that stimulus dollars would only go to those projects which would not be possible "but for" the federal investment. The proposed project brings nothing to the affected markets that had not already been promised or financed without federal funding. Therefore, the project fails the "but for" test for stimulus eligibility.

Absent some demonstrable cost or technology advantages, government funds should not be used to build along the same routes, and to the same communities, as existing and operating fiber optic networks. In the course of evaluating these projects, the Agencies should determine what other known network assets are already in place and operating, and should require applicants to take advantage of such networks. Level 3 has identified where its network is capable of delivering all or some significant portion of the connectivity that the applicant proposes to deliver for a fraction of the cost proposed by the applicant.

Applicants should be required to demonstrate that they have exhausted commercial options involving use of existing infrastructure or services. In this regard, Level 3 notes that the Agencies' rules make it clear that a capitalized capacity lease is eligible for funding under BTOP and BIP. The capital costs of deploying fiber is only a fraction of the total network cost. Deploying, operating and maintaining electronic gear makes up the bulk of cost associated with operating a new fiber optic network. Capitalized capacity leases allow multiple last-mile and middle mile providers to share these significant expenses on a flexible, scalable basis.

Using a capitalized capacity lease, a last mile provider could procure precisely the capacity it needs when needed to serve its community. This option is scalable and allows service providers to secure smaller amounts of capacity as an initial matter, adding to the capacity only when demands require. It also adds to project sustainability by reducing both operating and maintenance costs.

In addition, as long as Level 3's network is in proximity, affordable hybrid fiber-microwave technologies can be used to establish interconnects back to the capitalized capacity leases. Multiple BTOP and BIP applicants can use identified capacity on a specific system, but capture the lower costs associated with the sharing of transport expenses.

Submitter: Bright House Networks, LLC

Comment: In support of NTIA and RUS' efforts to optimize the distribution of the scarce resources available under the ARRA Broadband NOFA, Bright House Networks is providing additional data related to this Applicant's planned service areas. This application includes service areas which are not unserved nor underserved.

Submitter: Windstream

Comment: Windstream's data strongly suggest that the proposed funded service area likely does not qualify as an underserved area. Windstream offers facilities-based, terrestrial broadband service (meeting the definition set forth in the Notice of Funds Availability) to some of the households in the proposed funded service area, and such households can readily subscribe to Windstream's broadband service upon request. Windstream also has reason to believe that competitive broadband offerings are available in exchanges overlapping the proposed funded service area. Given this information, agency officials should further investigate existing broadband offerings within the proposed funded service area, so that officials can be sure that the area, in fact, qualifies as underserved.

Windstream is a communications and entertainment company with more than 1 million broadband customers in 16 states. Investing more than \$200 million in broadband deployment over the last several years, Windstream now offers approximately 89% of its 3 million voice customers access to quality and affordable broadband service.

The agencies define an "underserved area" as follows: "Underserved area means a proposed funded service area, composed of one or more contiguous census blocks meeting certain criteria that measure the availability of broadband service and the level of advertised broadband speeds. These criteria conform to the two distinct components of the Broadband Infrastructure category of eligible projects- Last Mile and Middle Mile. Specifically, a proposed funded service area may qualify as underserved for last mile projects if at least one of the following factors is met, though the presumption will be that more than one factor is present: 1. No more than 50 percent of the households in the proposed funded service area have access to facilities-based, terrestrial broadband service at greater than the minimum broadband transmission speed (set forth in the definition of broadband above); 2. No fixed or mobile broadband service provider advertises broadband transmission speeds of at least three megabits per second ("mbps") downstream in the proposed funded service area; or 3. The rate of broadband subscribership for the proposed funded service area is 40 percent of households or less. A proposed

funded service area may qualify as underserved for Middle Mile projects if one interconnection point terminates in a proposed funded service area that qualifies as unserved or underserved for Last Mile projects.”

Submitter: Nefcom

Comment: Northeast Florida Telephone Company (NEFCOM) demonstrates that it provides broadband service to 98.9% of its service area, which is encompassed in the proposed funded Service Area in the Allied Fiber, LLC application; that no interconnection point identified in the proposed project and no part of the proposed project that terminates in NEFCOM’s service area qualifies as unserved or underserved for Last Mile projects; and Last Mile areas to be served identified in the application that overlap NEFCOM’s service area are served with broadband service by NEFCOM. Further, NEFCOM demonstrates that in addition to providing its own last mile broadband services, NEFCOM has middle mile broadband facilities providing sufficient capacity to support the provision of broadband service to end users.

As demonstrated, 98.9% of households in NEFCOM’s service area are able to readily subscribe upon request to facilities-based, terrestrial broadband services at a minimum transmission speed of greater than 768 kbps downstream and 200 kbps upstream from NEFCOM; 98.9% of the households in the proposed funded Service Area that overlaps NEFCOM’s service area have access to facilities-based, terrestrial broadband service at greater than the minimum broadband transmission speed as set forth in the definition of broadband; NEFCOM advertises broadband service at broadband transmission speeds of at least 3 megabits per second downstream throughout its service area.

Submitter: Comcast Cable

Comment: Attached is a summary of the Comcast Cable homes passed, subscriber and advertising information related to the service areas encompassed by this application.

-----**Service Area:** GA Region

Submitter: Windstream

Comment: Windstream’s data strongly suggest that the proposed funded service area likely does not qualify as an underserved area. Windstream offers facilities-based, terrestrial broadband service (meeting the definition set forth in the Notice of Funds Availability) to some of the households in the proposed funded service area, and such households can readily subscribe to Windstream’s broadband service upon request. Windstream also has reason to believe that competitive broadband offerings are available in exchanges overlapping the proposed funded service area. Given this information, agency officials should further investigate existing broadband offerings within the proposed funded service area, so that officials can be sure that the area, in fact, qualifies as underserved.

Windstream is a communications and entertainment company with more than 1 million broadband customers in 16 states. Investing more than \$200 million in broadband deployment over the last several years, Windstream now offers approximately 89% of its 3 million voice customers access to quality and affordable broadband service.

The agencies define an “underserved area” as follows: “Underserved area means a proposed funded service area, composed of one or more contiguous census blocks meeting certain criteria that measure the availability of broadband service and the level of advertised broadband speeds. These criteria conform to the two distinct components of the Broadband Infrastructure category of eligible projects- Last Mile and Middle Mile. Specifically, a proposed funded service area may qualify as underserved for last mile projects if at least one of the following factors is met, though the presumption will be that more than one factor is present: 1. No more than 50 percent of the households in the proposed funded service area have access to facilities-based, terrestrial broadband service at greater than the minimum broadband transmission speed (set forth in the definition of broadband above); 2. No fixed or mobile broadband service provider advertises broadband transmission speeds of at least three megabits per second (“mbps”) downstream in the proposed funded service area; or 3. The rate of broadband subscribership for the proposed funded service area is 40 percent of households or less. A proposed funded service area may qualify as underserved for Middle Mile projects if one interconnection point terminates in a proposed funded service area that qualifies as unserved or underserved for Last Mile projects.”

Submitter: Comcast Cable

Comment: Attached is a summary of the Comcast Cable homes passed, subscriber and advertising information related to the service areas encompassed by this application.

Submitter: Chickamauga Telephone Corporation

Comment: Chickamauga Telephone Corporation is the city of Chickamauga's and portions of Walker County's and Catoosa County's incumbent local exchange carrier and a Rural Utilities Service borrower whose fiber-fed network is capable of providing 85% of its residences and businesses download rates of at least 3 megabits per second and upload rates of at least 768 kilobits per second; 95% of its residences and businesses download rates of at least 1.5 megabits per second and upload rates of at least 768 kilobits per second; and 100% of its residences and businesses download and upload rates of at least 768 kilobits per second. Due to an ongoing multimillion dollar construction project, in 2010, every residence and business in the Chickamauga Telephone Corporation service area will be capable of receiving download rates of at least 3 megabits per second and upload rates of at least 768 kilobits per second.

-----**Service Area:** TN Region

Submitter: Comcast Cable

Comment: Attached is a summary of the Comcast Cable homes passed, subscriber and advertising information related to the service areas encompassed by this application.

Submitter: Highland Telephone Cooperative, Inc.

Comment: Highland Telephone Cooperative's data clearly demonstrate that the proposed funded service area does not qualify as an underserved area. HTC offers facilities-based, terrestrial broadband service to a majority of households in the proposed service area. Any of these households may subscribe to broadband service if they so choose. HTC contends that downstream broadband speeds of three Mbps are advertised, more than 50 percent of households have access to service, and subscribership rates are higher than 40 percent as defined in the Notice of Funds Availability quoted below.

An "underserved area" is defined as: "Underserved area means a proposed funded service area, composed of one or more contiguous census blocks meeting certain criteria that measure the availability of broadband service and the level of advertised broadband speeds. These criteria conform to the two distinct components of the Broadband Infrastructure category of eligible projects-Last Mile and Middle Mile. Specifically, a proposed funded service area may qualify as underserved for last mile projects if at least one of the following factors is met, though the presumption will be that more than one factor is present: 1. No more than 50 percent of the households in the proposed funded service

area have access to facilities-based, terrestrial broadband service at greater than the minimum broadband transmission speed (set forth in the definition of broadband above); 2. No fixed or mobile broadband service provider advertises broadband transmission speeds of at least three megabits per second (“mbps”) downstream in the proposed funded service area; or 3. The rate of broadband subscribership for the proposed funded service area is 40 percent of households or less.

In conclusion, the Morgan and Scott County service area does not meet any of the definitions or criteria for an "underserved area". Simply stated, Highland Telephone Cooperative currently provides the defined broadband access to all

households in the service area.

Therefore, no other organizations should receive funds to provide broadband service in an area which is not "underserved".

F. L. Terry,

General Manager

-----**Service Area:** VA Region

Submitter: Shentel

Comment: Shentel has deployed a state-of-the-art fiber optic network that serves Ashburn, Front Royal, Winchester, Gainesville, and Warrenton. Available services include Ethernet (10 Mbps to 10 Gbps) and TDM services (T-1 to OC-192). Total system capacity is up to 800 Gbps.

Submitter: Citizens Telephone Cooperative, Inc

Comment: Citizens Telephone Cooperative, Inc. and its wholly owned subsidiaries already provide last mile broadband services to residents and businesses in Wythe, Floyd, and Patrick counties, as well as an Open Access “Middle Mile” Fiber Network in the counties of Wythe, Carroll, Floyd, Grayson, and Patrick and the city of Galax.

Submitter: Virginia PCS Alliance, L.C. dba NTELOS

Comment: NTELOS herein provides information on its existing broadband services within Applicant's proposed service area to be funded.

Submitter: Comcast Cable

Comment: Attached is a summary of the Comcast Cable homes passed, subscriber and advertising information related to the service areas encompassed by this application.

Submitter: Pembroke Telephone Cooperative

Comment: Pembroke Telephone Cooperative (PemTel) provides this response to the BIP/BTOP application submitted by Allied Fiber, LLC (Allied Fiber). PemTel is filing this response in order to alert NTIA and RUS that information contained in the Allied Fiber's middle mile application may be inaccurate at least as it pertains to the availability of broadband service in significant portions of Giles County, Virginia and a small portion of Craig County, Virginia – areas that Allied Fiber represents in its application as being "underserved".

Submitter: JetBroadband VA, LLC.

Comment: Since 2005, Jetbroadband VA, LLC has provided full, robust broadband service in its service areas (see service area maps). JetBroadband VA, LLC advertises service of speeds above 3 Mbps throughout the identified service area[s]. JetBroadband VA, LLC passes over 50% of households within our service area and together with its existing competitors provide broadband services that combined exceed 40% subscribership penetration. Here is a recap of Jetbroadband's presence in the State:

- Jetbroadband VA, LLC has invested over \$140 million (\$140,000,000) of private capital in the State of Virginia
- Operates out of seven (7) local offices that it owns and or leases
- Employs nearly 100 local residents
- Operates its own Customer Care Call Center out of its Rustburg, VA central office
- Services the local communities with its existing 2,600 miles of cable plant, 63 vehicles and related equipment
- Jetbroadband currently offers last-mile broadband services that includes High Speed Data, Video and Digital Phone (Triple Play offerings),
- Jetbroadband service offerings are available to over 92,000 homes/households

- Serves over 50,000 customers in the State.

The service areas are served and therefore the NTIA/RUS should NOT disburse federal stimulus funds (public taxpayer funds) to applicants that seek to overbuild current service providers and Jetbroadband and compete with the significant private capital that has already been invested in these areas.

Submitter: Level 3 EON, LLC

Comment: Level 3 EON, LLC is filing this challenge based on the network services provided by Level 3 Communications ("Level 3"), LLC.

The overlapping service areas are drawn via the mapping tool. The supplemental information includes the speeds available in those regions as well as more details regarding the Level 3 fiber routing and points-of-presence. Level 3's fiber optic network infrastructure can support low speeds to support today's lower bandwidth needs and can scale to 40G and 100G to meet future bandwidth demands.

In addition, for this particular applicant, Allied Fiber, the project does not meet the "but for" test. On Page 54 of the September 9th issue of Capacity Magazine, under the "Company Profile" it states: "[Allied Fiber] is building a new nationwide fibre-optic network throughout the US with wireless towers and co-location facilities. The network will run from New York to Chicago, Ashburn, Atlanta, Miami and Seattle, down the west coast and across the south west." On its web site, Allied Fiber lists additional projects under Phase II that match the areas where Allied Fiber has applied for funding for this project under the broadband stimulus programs of the Recovery Act.

References:

<http://www.alliedfiber.com/network.php>

<http://www.alliedfiber.com/documents/AlliedFiber-PhaseII-Virginia.pdf>

A fundamental premise of the stimulus package has been that stimulus dollars would only go to those projects which would not be possible "but for" the federal investment. The proposed project brings nothing to the affected markets that had not already been promised or financed without federal funding. Therefore, the project fails the "but for" test for stimulus eligibility.

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