



pennsylvania

OFFICE OF ADMINISTRATION

May 6, 2009

Coordination Meeting

Commonwealth of Pennsylvania / NTIA

Discussion Items & Input from Commonwealth of Pennsylvania

1. **No Detriment Due To Prior Actions** - Prior positive action by states, including the Commonwealth, should be “without prejudice” to receiving additional stimulus funding although those documented costs should count as part of any mandated matching contribution. For instance:
 - Since 2004, Pennsylvania has its own broadband deployment initiative (Chapter 30) that has been and continues to be largely financed by end-user consumers for broadband deployment, particularly in rural areas.
 - Pennsylvania is a net contributor state to the federal Universal Service Fund (USF) at the level of \$125-\$135 million annually. These contributions support affordable telecommunications and, more recently, broadband deployment and subscription efforts proposed by the FCC and supported by NARUC (National Association of State Utility Commissioners).
 - Pennsylvania implemented extensive intrastate carrier access charge reforms at a corresponding high cost to its own ratepayers to promote competition while operating its own state-specific USF.

2. **Requirement for State Plan:** All states that apply for funding through the Broadband Technology Opportunities Program (BTOP) should be required to develop, implement, and monitor a State Broadband Plan. Proper planning and diagnosis of the need for broadband deployment is required to allow states to more judiciously expend their deployment funding. Thus, during the first application window, anticipated to occur shortly, states that have already undertaken planning and broadband mapping efforts can submit applications for deployment projects and should be given priority consideration for deployment during first wave of NTIA funding, whereas other jurisdictions can receive planning grants and apply for project funding during second and third cycles of consideration. If a state advances monies for the planning and grant preparation purposes, it should be entitled to be reimbursed from BTOP awards for reasonable expenses associated therewith.

3. **State Endorsement:** Further, all projects that are funded through the BTOP should be endorsed by the state or be aligned with the State Broadband Plan. States are the only entity that has the ability to balance the interests and needs across regions of the state. States are also uniquely positioned to assess how potential projects correlate and coordinate with local conditions (state, regional, local), state plan, mapping conditions,

project partners, outreach and aggregation efforts, state or local resources, other potential Recovery Act initiatives, to name but a few.

4. **Equitable Distribution of BTOP Funding to States:** NTIA should consider an allocation of BTOP funds to states on a per capita basis (as opposed to area, square mileage). Pennsylvania is a state confronted with topographical and demographic challenges (i.e. per the 2007 census: PA has the 3rd largest number of elderly in the US behind FL and WV; PA also has the 3rd largest number of rural population in US trailing only TX and NC). A distribution based on a flat rate basis or other means would be arbitrary and inequitable given Pennsylvania's unique circumstances.
5. **State Assistance with Program Administration:** The NTIA should consider having states administer portions of the BTOP on their behalf and as such, should distribute administrative costs accordingly. Specifically, the state plan should be approved by the NTIA and the state would approve the projects that are aligned with the plan. This provides mutual benefit to the parties and may assist the NTIA with fulfillment of the legislative intent to distribute the monies to states quickly to spur economic growth.
6. **Matching Requirements:** The NTIA should consider Pennsylvania's financial investments and statutorily imposed revenue increases (consumer contributions) in addressing the match requirement for BTOP funds, including:
 - Infrastructure investment made through public safety radio and microwave towers and related infrastructure. Depreciation taken on these towers during the BTOP grant year should be considered an eligible match to BTOP funding.
 - Grants issued by the Commonwealth under a state Broadband Outreach & Aggregation Fund (BOAF) which have led to the identification of many shovel ready projects. Thus far, approximately \$2.4 million in BOAF grants have been awarded to 26 grantees across the state.
 - Grants issued annually by the PA Department of Education under the state E-Fund program in the amount of \$10 million per year to purchase or lease of telecommunications services, infrastructure, or facilities to establish and support broadband networks between, among, and within school entities (Intermediate Units and School Districts) and the procurement of telecommunications network equipment and end-user equipment
 - Pennsylvania-specific statutorily mandated broadband deployment initiative under Ch. 30 of the Pennsylvania Public Utility Code has necessitated almost automatic annual intrastate revenue and rate increases that have been and continue to be shouldered by Pennsylvania end-user consumers in perpetuity to finance the ubiquitous deployment of broadband facilities and services within Pennsylvania. These monetary amounts are directly connected with and continue to provide the incentives and the funding for the construction and ubiquitous deployment of broadband facilities and services in the service areas of the regulated incumbent local exchange carrier telephone companies (ILECs). Thus they should be considered as an integral part of Pennsylvania's 20% matching State fund for BTOP. Revenue and rate increases authorized annually since 2005 continue to be paid by Pennsylvania end-user consumers in perpetuity on an annual basis. The total amount of these revenue increases was \$82.57 million in 2008 alone. In 2009, this annual amount will increase to \$98.18 million.

7. **Importance of Wireless Broadband Service:** While the majority of the discussion and public input has been focused on the delivery of broadband to fixed end-users, due consideration must also be given to deployment of services to non-sedentary applications (wireless phones, hand-held devices, etc.), particularly given the increased migration of broadband services to mobile platforms. These uses and applications are in high demand, and are vital for the purposes of public safety (emergency communications), economic development, tourism and general quality of life. “Broadband” without cellular service will leave rural areas as behind as ever in their ability to attract business and economic development / redevelopment opportunities.

8. **Sustainability:** Project approvals should only be approved if a high degree of confidence is achieved that the particular project(s) will be sustainable into the future. Communities remain unserved because providers have recognized that it is not currently economically feasible to make the necessary infrastructure investment. BTOP funding will provide the necessary capital expenditure to trigger deployment but it is essential to identify projects that have built the necessary partnerships (multiple party, multiple purposes) and the high-value targets (e.g. hospitals, schools, colleges, health care providers, local governments) to assure project sustainability after the federal ARRA funding ceases.

9. **Government Participation as a Catalyst for “Consumer Choice”:** The state can play a critical role in rural broadband deployment as a potential consumer (end-user), investor (provider of the match), infrastructure contributor (e.g. state towers and public facilities) and project catalyst. The provision of common carriage approaches, neutral collocation facilities, and other efficient interconnection arrangements may ensure that end-users can cross connect to service provider(s) of their choice regardless of the number of physical networks. Otherwise, communities may be left without provider choice since the critical mass may simply not be present to justify the deployment of physical networks let alone the presence of multiple providers. There are remote communities that simply lack the density of population and/or consumer demand such that it would be unreasonable or impractical to expect that end user choice among (multiple) providers would occur in those locations.

10. **Procurement & Contracting Mechanisms:** States should be entitled to rely on any and all contracting mechanisms permitted under state procurement rules.

Background Information

Pennsylvania has proactively taken aggressive steps to confront the digital divide in our Commonwealth particularly between rural and urban broadband deployment. In November 2004, Governor Edward G. Rendell signed into law landmark telecommunications legislation amending the existing state Public Utility Code to substantially increase the level of investment in telecommunications infrastructure within the Commonwealth. This enabled the acceleration of deployment of broadband facilities and services in Pennsylvania by:

1. Establishing a broadband facilities and services deployment timetable for incumbent local exchange carriers (“ILECs”) monitored and enforced by the Pennsylvania Public Utility Commission (“PA PUC”);
2. Providing financial assistance to school districts to support the goal of ensuring that every school in the Commonwealth has access to broadband and high-speed Internet service;
3. Establishing a broadband outreach and aggregation funding mechanism to ensure that essential tasks that are a condition precedent to successful broadband deployment can be achieved by local stakeholders and community champions;
4. Establishing the creation of a statewide inventory and mapping of availability of telecommunications services, regardless of technology used;
5. Recognizing the importance of telecommunications infrastructure to economic development by creating a mechanism for the state economic development agency to accelerate broadband deployment; and
6. Establishing a special program to help communities aggregate the demand for broadband services and requiring providers to respond to the demand for service in a more timely fashion. In fact, to our knowledge, this program is the only one in the country which creates a statutorily imposed “business case” for providers to deploy broadband services upon achieving an agreed-upon deployment threshold of committed customers. Already some 200 communities in Pennsylvania now have achieved connectivity as a result of this accelerated mechanism, and another 200 communities are now officially on the statutorily mandated accelerated broadband deployment schedule.

Pennsylvania has a unique position when it comes to the debate on broadband deployment in rural areas.

- * Pennsylvania has its own Chapter 30 broadband deployment initiative that has been and continues to be largely financed by end-user consumers for broadband deployment, particularly in rural areas.
- * Pennsylvania is a net contributor to the federal USF at the level of \$125-\$135 million annually. Those contributions support affordable telecommunications and, more recently, broadband deployment and subscription efforts proposed by the FCC and supported by NARUC (National Association of State Utility Commissioners).
- * Pennsylvania implemented extensive intrastate carrier access charge reforms at a corresponding high cost to its own ratepayers to promote competition while operating its own State-specific USF.
- * Pennsylvania supports affordable telecommunications in other states as a net contributor under USF and, if adopted as proposed, may be forced to continue supporting the deployment of broadband facilities, networks, and affordable subscription services in other states.
- * Pennsylvania has the 3rd largest number of rural residents of any state in the nation and the 3rd largest number of elderly residents over age 65 of any state in the nation. Pennsylvania also has two of the nation’s largest urban populations as well i.e., Philadelphia and Pittsburgh.

The availability of preexisting and documented aggregate demand for broadband services, i.e., Pennsylvania's Bona Fide Retail Request (BFRR) program – the only one of its kind in the nation – uniquely positions the Commonwealth to submit multiple “shovel ready” broadband projects where unmet demand has been established. Thus, ARRA funding can quickly address identified and documented areas with preexisting aggregate demand for broadband services because of Pennsylvania's BFRR program.