



360networks

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July 2, 2009

Secretary Gary Locke
U.S. Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Re: **The American Recovery and Reinvestment Act's Broadband Stimulus Program**

Dear Secretary Locke

360networks (USA) inc. is a regional facilities based fiber network provider with over \$1 billion of invested communications infrastructure. With 17,000 miles of long haul and metro fiber network traversing the 18 western states, we provide unique access to a large number of rural communities. We use our optical, transport and switching infrastructure to provide a platform for multiple service providers to facilitate the delivery of low cost next generation voice, video and data services. This wholesale platform permits multiple wireline, wireless and Internet last mile service providers to utilize our network, facilitating competition for end-user services.

360networks plans to apply, individually and/or through partnerships, to participate in the American Recovery and Reinvestment Act's Broadband Stimulus Program. Both through our participation in the Program and in otherwise pursuing profitable business plans, we hope to help facilitate the delivery of broadband services throughout the western region of the United States by:

- Building "middle mile access" to fiber backbone to provision backhaul to last mile service providers in unserved and underserved areas
- Building access points of presence for fiber and wireless connectivity to our fiber backbone
- Building tower access for last mile broadband wireless connectivity

- Constructing fiber to connect anchor institutions throughout the unserved and underserved communities
- Contracting with multiple last mile wireless, wireline and Internet service providers that can deliver end-user voice, video and data services
- Providing wholesale service packages to help to enable delivery of competitively priced next-generation broadband services

360's ability to help facilitate the delivery of these services to enable the delivery of broadband connectivity to communities depends on a variety of factors, including 360's ability to maintain profitability on our existing privately funded long haul fiber infrastructure. 360 understands that a number of applicants will be seeking funding under the Broadband Stimulus Program to overbuild existing long haul interstate fiber networks in the name of encouraging competition in the "middle mile." 360 requests that your office do whatever it can to prevent the use of public funding to overbuild existing privately funded interstate fiber routes.

The current long haul fiber optic broadband networks are just now beginning to stabilize financially from a period of what the industry termed "the telecom nuclear winter". This was due to excess capital flowing into the construction of these networks and leading to tremendous over supply of capacity. The result was a drastic deterioration in pricing which led to a high level of bankruptcies in the fiber optic carrier business during the period 2001-2005. Government infused capital to non market driven projects in the long haul sector would relive this situation. Broadband customers are the ultimate losers as disruption of service would destabilize the entire market as carriers again struggle to earn a rate of return required to maintain and expand their existing networks.

The overarching goals of the Broadband Stimulus Program are the fast deployment of broadband infrastructure in unserved or underserved areas of the country, the preservation and/or creation of sustainable jobs, and the fostering of long term economic benefits in the newly connected communities.²⁰ Particularly when a limited amount of money is allocated to achieve these goals, subsidizing an additional broadband provider where facilities currently exist is inefficient and wasteful. In fact, it undermines these goals by jeopardizing existing jobs created by unsubsidized competitors and putting at risk the economic viability of privately funded enterprises. Moreover, subsidizing competition would retard rather than promote the investment of private capital. Service providers that have expended billions of risk capital to build out broadband networks naturally will be wary of making further investments if the government pays for a competitor to construct overlapping facilities. While enabling competition amongst service providers appears laudable, it would be inequitable to use government funds to subsidize some providers in a given market and not others.

For all of these reasons, 360 requests that you avoid supporting applications that would give artificial advantages to particular competitors on routes where fiber is already

²⁰ American Reinvestment and Recovery Act, Section 6001(b).

available from at least one provider. Please feel free to contact me if you would like to discuss these matters further.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Rob Frasene".

Rob Frasene
President