

June 26th, 2007

Michele Brooks, Acting Director
Program Development & Regulatory Analysis
USDA Rural Development
1400 Independence Avenue
STOP 1522, Room 5159
Washington D.C. 20250-1522

Re: Docket Number RUS-06-Agency-0052, In the Matter of the Rulemaking Relating to Rural Broadband Access Loans and Loan Guarantees

Ms. Brooks:

I am submitting these comments on behalf of the Oregon Telecommunications Association (OTA). The OTA represents Incumbent Local Exchange Carriers (ILECs) operating throughout Oregon. All of our members provide their customers access to high speed broadband products and services in rural parts of Oregon. Many of our members provide access to these products and services in every part of their service territory.

The OTA supports the Agency in its commitment to the goal of Title VI: to give priority in the broadband loan program to eligible rural communities where broadband service is not available. With that goal in mind, the OTA offers the following comments.

Proposed Rule Changes:

Section (1) (b) Eligible Rural Community

The OTA feels that establishing four Existing Broadband Service Providers (EBSP) as the threshold for designation as an eligible rural community is too high. In fact, in some areas where OTA members serve, more than two EBSP successfully serving an area would be challenging and would qualify the area to be designated as fully served.

The OTA feels that it is appropriate for an applicant for an RUS Broadband Loan to clearly demonstrate that the area to be served can support more EBSP than are currently operating in the area. The OTA appreciates the analysis provided by the Agency in this section of the proposed rules. However, the establishment of a target such as four EBSP for any particular area can lead to situations where the Agency is subsidizing a speculative effort to expand broadband services to rural areas already fully served.

The OTA respectfully requests that the Agency lower the number of allowable EBSP in an area from four to at least two.

Proposed Rule Changes:

Section (2) (a) New Equity and Market Survey Requirements

In this section the Agency seems to be lowering the bar in it's loan underwriting efforts. If the agency is seeking to provide loans in areas where it may be difficult to earn a return sufficient enough to make a reasonable case for starting a business to provide broadband service in areas where there may already be more than one provider of such service it would seem to make more sense to require applicants to have more of their own funds at stake.

The OTA respectfully requests that the Agency maintain a 20% stake in the proposed business on the part of the loan applicant. If the 20% stake must be changed from a credit support situation to actual 20% equity in the project, OTA supports that effort. The OTA does not support lowering the bar to a 10% equity stake in the proposed project.

Proposed Rule Changes:

Section (3) New Legal Notice Requirements to Increase Transparency

The OTA has serious concerns with this section. It appears as though the burden to determine if applications for broadband loans have been submitted for their service area would rest with the incumbent provider of service, not the loan applicant.

Section (ii) of (3) states that one of the goals of the legal requirements is to notify communities of the potential entrant of a new service provider. However, it is not readily apparent how that goal is to be met. Rather, the requirement is for the loan application to be posted on the Agency's web page after the application has been received and where it will remain for 30 days.

If the above change takes place, is there an expectation that all providers of broadband service check the Agency web page at least once every day to determine if an application has been filed in their area? If so, then the burden for notifying the community has shifted from the applicant to the community notifying itself through diligently checking the Agency web page.

The OTA respectfully requests that the agency require each loan applicant to advertise the fact of it's application in a local newspaper of general circulation at least twice in a 30 day period of time. The applicant should also be required to notify by registered mail each incumbent provider of broadband service operating in the area the applicant proposes serving with the loan.

Further, it would seem as though the current providers of broadband have obligations they must meet in response to the "Legal Notice". What would happen if a provider did not discover through it's own efforts at checking the Agency web page that an application had been submitted? The agency could very well fund a loan in an area where more than four EBSP are operating simply because the EBSP did not diligently check the Agency web page on a daily basis. At best, the Agency would not have the information it needs to determine if the loan should be funded.

The OTA cannot state this strongly enough - **the burden for notifying the community should be squarely on the loan applicant.**

Additionally, the information that the Incumbent Service Provider would have to submit to the Agency under section (iii) is burdensome. The OTA understands that the Agency commits to keeping the information confidential. However, exactly what other services does the Agency need information on? How far into the ILECs offerings does the Agency contemplate going and for what purpose is the information needed? This particular part of this section needs clarification.

Again, in closing, the OTA supports the Agency's efforts in the proposed rule change. However the OTA respectfully requests that the Agency give serious consideration to the above requests.

Please do not hesitate to contact me if you have any questions about these comments. The members of the OTA can provide the Agency with information that might prove to be useful during this rulemaking process.

Sincerely,

Brant Wolf, EVP