

**Before the  
Rural Utilities Service  
U.S. Department of Agriculture**

Rural Broadband Access	)	Docket No. RUS-06-Agency-0052
Loans and Loan Guarantee	)	RIN 0572-AC06
	)	

**COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®**

CTIA – The Wireless Association® (“CTIA”) hereby submits the following comments in response to rule changes proposed by the Rural Utilities Services (“RUS”) for the Rural Broadband Access Loan and Loan Guarantee Program (“Broadband Loan Program”).<sup>1</sup>

CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, and ESMR, as well as providers and manufacturers of wireless data services and products.<sup>2</sup>

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<sup>1</sup> Rural Broadband Access Loans and Loan Guarantees, 72 Fed. Reg. 26742 (proposed May 11, 2007) (“NPRM”).

<sup>2</sup> CTIA has been in the forefront of the efforts to develop policies to promote the development of wireless telecommunications and broadband services in rural America. CTIA has participated actively in many proceedings before the Federal Communications Commission (“FCC”) seeking to improve wireless services of all types in rural markets. For example, with CTIA’s support, the FCC recently increased base station power limits for wireless carriers operating in rural areas. *See* Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, WT Docket No. 02-381, 19 FCC Rcd 19078 (2004), at ¶86. The increased power provides wireless carriers additional flexibility to more efficiently expand and improve coverage in rural areas.

This is the first ever opportunity for public comment on the rules for the Broadband Loan Program, and CTIA welcomes the opportunity to participate.<sup>3</sup> CTIA strongly endorses RUS's efforts to expand broadband service availability in rural markets. It is important, however, that RUS modify its Broadband Loan Program rules to assure funding eligibility for providers of mobile broadband service in each otherwise eligible rural community and to accord applications for mobile broadband a priority in processing.<sup>4</sup> RUS also should streamline its application process by deleting unnecessary paperwork and thereby facilitate the preparation and prompt grant of eligible loan applications.

## **I. INTRODUCTION**

The wireless industry currently provides highly competitive services throughout all regions of the United States, including rural areas. Although approximately 80 percent of the U.S. population lives in metropolitan areas, our society is increasingly mobile; and ubiquitous service is essential not only to those individuals living in rural areas but also those whose business and leisure activities take them to all parts of the

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CTIA also has been active in fostering wireless carriers' economic incentives to serve sparsely populated areas with access to appropriately targeted universal service funding. For example, CTIA has urged the FCC to work with States that exercise control of eligible telecommunications carrier ("ETC") status to reduce the length of time for approval of ETC status so residents of rural areas can gain faster access to telecommunications services. *See* Comments of Cellular Telecommunications & Internet Association, FCC WT Docket No. 02-381 (filed Feb. 3, 2003) at 5.

<sup>3</sup> NPRM at 26743 (explaining that current rules were adopted without public comment).

<sup>4</sup> By mobile broadband service, CTIA refers to broadband service that can be accessed in motion or while untethered to the network, in contrast to a portable service whereby the end user device can be moved but used only at connection points in a fixed infrastructure.

nation.<sup>5</sup> The RUS broadband loan program can be a critical tool in extending to mobile broadband services the successful trend of increased deployment and new service options in rural areas.

Providing appropriate economic incentives is essential to promoting access to mobile wireless broadband in rural America. To achieve this, prospective providers in rural areas must have adequate access to capital resources. Gaining access to capital, however, can be a problem for rural providers that have fewer consumers over whom they can spread the costs of providing broadband service. RUS loan programs can bridge the gap by providing wireless carriers with affordable financing to deploy wireless infrastructure in rural areas, including areas not served by cable and DSL broadband technologies. It is therefore important that RUS rules not be biased against, or otherwise fail to facilitate, the provision of mobile broadband service in rural areas.

The continued economic viability of rural America will depend on its telecommunications infrastructure, and mobile broadband is well-suited to serve areas with a widely dispersed population, whether the population is at home or on the road. As such, mobile broadband has the potential to transform rural development throughout the country. Rural business, health care, public safety, national security, and education will benefit from the increased range and low infrastructure cost of modern mobile wireless networks. For example, mobile broadband will provide students in rural areas with access to the wealth of information on the Internet wherever they are, whenever they need it. Moreover, a mobile wireless network can provide necessary diversity and

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<sup>5</sup> See Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services, WT Docket No. 02-381, 17 FCC Rcd 25554, 25561 (2002).

redundancy, so that if the wired network is disabled, critical communications can still be completed. In times of crisis, mobile connectivity will save vital time when rural Americans need it most. This is evidenced by the public safety community's increased reliance on mobile technologies.

These proposed changes to the RUS rules are particularly important to the development of rural broadband networks because the federal high-cost universal service mechanisms do not support broadband networks. These important changes to the RUS Broadband Loan programs will speed the development of high-speed broadband networks, and the highly-valued benefit of mobility, to rural America.

## **II. DISCUSSION**

Two changes to the proposed RUS rules will advance the vital interest of rural Americans in mobile broadband. First, recognizing the importance of mobility, RUS should promulgate rules that ensure that communities without mobile broadband will remain eligible for RUS broadband loan support so that the benefits of mobility arrive for them; second, RUS application processing rules should give priority to applications for funding of mobile broadband services. Taken together, these changes will provide rural communities increased access to the Broadband Loan Program to enable them to benefit from the unique advantages of mobile broadband. Additionally, RUS should streamline its application requirements to ease the burden placed on prospective applicants seeking loans to provide broadband in rural communities.

### **A. RUS Needs to Recognize the Importance of Mobile Broadband to Rural America in Its Eligibility and Priority Rules**

The RUS should modify its proposed eligibility criteria so as not to discourage the introduction of mobile broadband service in rural areas. In recognition of the importance

of mobile broadband, RUS should modify its rules so that any rural community without a mobile broadband service provider is eligible for funding. Specifically, the definition of Eligible Rural Community in proposed Section 1738.2 should be revised so that rural communities without a mobile broadband provider remain eligible for funding, regardless of the number of Existing Broadband Service Providers that provide a fixed service (wireless or wireline):

*Eligible Rural Community* means any area, as confirmed by the latest decennial census of the Bureau of the Census, which is not located within:

- (1) The boundaries of an Urban Area;
- (2) An incorporated City or town with a population greater than 20,000; or
- (3) An area that has four or more Existing Broadband Service Providers (excluding the applicant).
- (4) An area that is not eligible under (3) above will remain eligible if none of the four or more Existing Broadband Service Providers (excluding the applicant) provides a mobile wireless Broadband Service.

Additionally, the first sentence of Section 1738.21(a)(2) should be revised to read:

- (2) Contain at least 40 percent of households with no access to Broadband Service or no access to an Existing Broadband Service Provider that provides a mobile wireless Broadband Service or access to only one Existing Broadband Service Provider.

It is our understanding that to date RUS has approved few, if any, loans for a mobile broadband service. To remedy this, CTIA proposes that RUS modify Section 1738.61(a) of its rules to provide mobile broadband service applications priority for processing:

- (a) In making or guaranteeing loans, priority shall be given to applications that seek assistance to support:

- (1) broadband services in eligible rural communities in which broadband services are not provided to residential customers; or
- (2) mobile broadband services in eligible rural communities in which no mobile broadband service is provided to more than 40 percent of the geographic area of that community.

**B. RUS Should Streamline Its Application Requirements.**

The RUS loan application rules and practices currently in effect are unnecessarily complex, expensive, and burdensome. The required application currently consists of an application form along with more than a dozen required attachments and exhibits. Depending on the nature of the application and the number of rural communities involved, the applications can comprise over a thousand pages of material.

RUS correctly proposes to eliminate some of the unnecessary paperwork by modifying its legal notice procedures. Currently Section 1738.11(c)(2)(iii) requires the applicant to publish notice in “state and local newspapers covering the applicant’s proposed service area” specifying its intent to provide broadband service and the area proposed to be served.<sup>6</sup> RUS also currently requires the applicant to obtain from a local attorney a legal opinion that the legal notice is sufficient under state and local laws. RUS proposes to replace the current newspaper and legal opinion requirements with a new procedure by which RUS posts the legal notice on its own web site. RUS should adopt this proposal as it will increase transparency, reach a broader range of interested parties, eliminate unnecessary paperwork, and reduce legal costs.

RUS should reduce an applicant’s upfront legal expenses in other ways also. Under current rules, an applicant must contract for legal opinions on issues including

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<sup>6</sup> 7 C.F.R. § 1738.11(c)(2)(iii) (2007).

corporate formation and authority, the accuracy of real property descriptions, and estimated tax liability for filing a mortgage in each relevant county.<sup>7</sup> Requiring an applicant to retain attorneys to conduct the research necessary to provide such legal opinions before receiving any assurance that its loan application will even be accepted for processing is burdensome and wasteful. Additionally, applicants are required, as part of their Business Plan submission, to provide comparisons of their competitors' service offerings and pricing, to describe the quality of services, and to provide "details on the investments competitors have made."<sup>8</sup> The latter information likely is impossible to obtain, while the other information is duplicated elsewhere in the application process.<sup>9</sup>

Current RUS regulations also include a requirement for a "market study" to be conducted through direct mail, telephone, door-to-door interview, and "town meetings" to determine the levels of interest in the services and rate plans to be offered by the applicant. CTIA applauds RUS's proposal to eliminate the market survey requirement for communities where an applicant is proposing to serve less than 15 percent of the market.<sup>10</sup> However, CTIA urges RUS to eliminate the market survey requirement for *all* applicants as it is expensive and burdensome, especially to those applicants proposing to serve multiple markets.

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<sup>7</sup> RUS Application Form 532, Schedule B-1.

<sup>8</sup> U.S. Department of Agriculture, Rural Utilities Service, Rural Broadband Access Loan and Loan Guarantee Program Application Guide, RUS Bulletin 1738-1 (issue date June 17, 2004), at 19.

<sup>9</sup> In response to the legal notice requirement, incumbent broadband providers in a community are to provide data on the broadband and other services they provide and the rates for them. *See* NPRM, 72 Fed. Reg. at 26750.

<sup>10</sup> *Id.*

### **III. CONCLUSION**

CTIA strongly supports RUS's efforts to accelerate the deployment of broadband service to the rural areas of the country and urges RUS to modify its rules as proposed herein.

Respectfully submitted,

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July 10, 2007