

TESTIMONY OF MR. DENNY LAW

EASTERN REGIONAL MANAGER

GOLDEN WEST TELECOMMUNICATIONS

WALL, SOUTH DAKOTA

HOUSE SUBCOMMITTEE ON SPECIALTY CROPS,

RURAL DEVELOPMENT AND FOREIGN AGRICULTURE

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Chairman McIntyre, Ranking member Musgrave, members of the subcommittee, I would like to thank you for the opportunity to be here today. My name is Denny Law and I am here today on behalf of the National Telecommunications Cooperative Association and Golden West Telecommunications Cooperative in Wall, South Dakota where I serve as Eastern Regional Manager. Golden West Telephone Company was incorporated in 1916 as an effort to provide telephone service between the towns of Interior and Quinn, SD. During the Great Depression, Golden West suffered setbacks and the assets were sold by the county sheriff to pay taxes. After President Truman signed the telephone amendments to the Rural Electrification Act in 1949, residents of the community in Quinn met to form Golden West Telephone Cooperative and soon applied for a loan from the REA. Beginning with telephone line strung along fence posts to farms and ranches, Golden West Telecommunications and its subsidiaries now provide service to over 43,000 telephone customers, 15,000 internet subscribers, and 10,000 cable television customers. Golden West serves customers across 63 telephone exchanges and 24,500 square miles – an area larger than the states of New Hampshire, Massachusetts and New Jersey combined.

While Golden West serves a large geographical area, our resident population is very small. The largest community Golden West serves is Hot Springs, South Dakota with a population of approximately 4,000 people. At the other end of the spectrum, Golden West provides telecommunications services to the small community of Hayes. The entire Hayes telephone exchange encompasses 1,119 square miles, but has only 192 access lines, which equates to 0.17 access lines per square mile. Residents in the Hot Springs exchange as well as the Hayes exchange have access to broadband services due, in part, to the RUS loan programs that have provided affordable financing to construct these telecommunications facilities.

Golden West also provides telecommunications service on four Native American tribal reservations in South Dakota, including the Pine Ridge Indian Reservation. Bringing service to parts of the Pine Ridge Indian Reservation in 1973 when no other company would provide service, Golden West formally purchased the entire Pine Ridge telephone exchange in 1981. Of the almost 1,700 access lines comprising the Pine Ridge exchange, close to half receive service through the FCC's Lifeline or Link-up programs which provides discounted telephone service to

customers on public assistance. According to information compiled in the 2000 Census, landline telephone penetration on the Pine Ridge Reservation was measured at 75.2 %. This figure has also been confirmed by the FCC's Indian Telecommunications Initiative Study on Telephone Subscribership on American Indian Reservations and Off-Reservation Trust Lands and a January, 2006 GAO Report on the challenges of telecommunications for Native Americans on Tribal Lands.

Throughout Golden West's history, we have been borrowers through the REA and since USDA's most recent reorganization, the Rural Utilities Service. Due to RUS funding, many communities served by independent telephone cooperatives throughout the United States have significantly higher broadband deployment than neighboring communities served by regional Bell operating companies. While the mantra from Congress is there is a "digital divide", that is far from the case in many areas of rural America. What has been overlooked is that since 1995 RUS telecommunications infrastructure loans have been required to be in harmony with state modernization plans and be broadband capable. RUS telecommunications lending has stimulated billions of dollars in private capital investment in rural communications infrastructure.

In recent years, on average, less than a few million in federal subsidy has effectively generated \$690 million in federal loans and guarantees. For every \$1 in federal funds invested in rural communications infrastructure, \$4.50 in private funding has been invested. By the early part of this decade, RUS telecommunications borrowers had used more than \$12 billion in loans to build a network of more than one million miles of infrastructure to provide advanced communications services across rural America. NTCA members' tremendous record of broadband deployment in some of the most rural and remote areas of rural America is largely due to the RUS telecommunications loan program. NTCA's 2006 annual member survey shows more than 96% of its members are offering broadband (200 Kbps) to some portion of their customer base and 88% of its members are providing broadband at speeds of more than 1 Megabyte.

Since the initiation of the RUS broadband loan program five years ago, RUS has made over \$1 billion in loans to 68 entities, including 6 to South Dakota telcos. RUS Broadband loans have

been used by some rural independent companies to increase broadband capabilities within their traditional service territories.

Other independent telecommunications providers in South Dakota have used the broadband loan program to overbuild or compete in communities outside their traditional ILEC territories where broadband deployment may not be as advanced. However, there are also stories in many parts of the country where broadband loans have been approved where broadband already services existed through two or three competitors. In the case of a loan in Oregon, a loan was made in communities where broadband deployment was at 99% or greater. This loan was also made over the objections of the RUS Field Representative. While overbuilding and competition is allowed under the regulations, I do not believe this is what Congress has intended when the Farm Bill was signed into law.

The Rural Broadband Improvement Act (HR2035) was recently introduced by Reps. Stephanie Herseth Sandlin (D., S.D.) and Jerry Moran (R., Kan.). Golden West believes the Rural Broadband Improvement Act would provide better definitions between rural and urban as well as limit loan fund availability for applicants proposing to serve areas that already have a broadband provider. Golden West supports the principles outlined in HR2035. NTCA also agrees with the direction of this legislation and is committed to continuing to refine it to the degree necessary to ensure the programs integrity, effectiveness, and sustainability as well as ensure the areas that are most in need of such financing receive it.

As a telco provider, I am well aware of the challenges faced by a federal agency trying to determine where broadband currently exists. Under the FCC's Form 477, broadband deployment is reported only by a zip code and does not paint an accurate picture of what is available in rural America. I believe that RUS should be able to better determine the level of broadband deployed based on their own lending portfolio inventory. As Golden West has just been approved for our "Y" loan--- representing our 25th telecommunications infrastructure loan through RUS, I am well aware of the high standards required for borrowing from the American taxpayers. I can testify that the level of information required by RUS for approval of an infrastructure loan under its longer standing loan programs is extensive. A similar level of information should be required

under the broadband program. Whether an infrastructure loan or a broadband loan; the painstaking process of an RUS loan application is designed to protect the American taxpayers. This principle should be reinforced as Congress looks to reauthorize the program.

One possible change that others have addressed is reforming the current public notice process that is utilized under the broadband loan program. At the federal, state and municipal level, the “legal notice” is often accomplished through the publication of a newspaper notice or advertisement. Some broadband loan applicants have taken advantage of non-specific public notice requirements and merely placed ads in larger statewide papers and purposely avoiding local newspapers published in the communities that are proposed to be served. By doing this applicants are able to prevent comment by incumbents already providing broadband. NTCA has suggested to USDA and to Congress that this process should be reformed by establishing a system that requires notification by certified letter to all service providers in the affected area. While the RUS field representative is supposed to verify the level of broadband deployment in the area that is to be served, the awarding of some RUS loans indicates that this is not occurring. A thorough verification process needs to occur and would end the gaming of the system by all potential competitors.

Given Golden West’s success in connecting farms, ranches, small communities and tribal areas throughout South Dakota illustrates well how vital RUS Loan programs ensure that funds address the needs of those residents living in rural America. In many communities in South Dakota, a number of rural independent telecommunications companies provide broadband in areas outside the city limits where a cable company or an RBOC has no interest in providing service. These rural residents deserve the same consideration as those living within the city limits. Given the tremendous costs associated with connecting such long loops, Congress and USDA should examine how to better provide funds to these “last mile” customers. What’s good enough for residents living just miles away from the Houston skyline should be even better for residents living outside of Wall, South Dakota.

Golden West and other rural independent telcos have an extensive history of providing voice and advanced telecommunications services to some of the most remote, high cost areas of rural America. Since the 1950’s, RUS infrastructure loans have provided a solid foundation for the

deployment of these basic and advanced telecommunications services in rural areas throughout this county. The RUS Broadband loan program is a more recent application and there are many examples of loans being awarded to provide broadband to communities or regions where broadband did not exist, but it is obvious the program could be working better. I welcome the opportunity to answer any questions you might have.