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Hearing on Review of Rural Broadband Programs

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Chairman McIntyre, Ranking Member Conaway, and members of the Subcommittee, thank you for the opportunity to testify this morning on behalf of the National Telecommunications and Information Administration (NTIA) at this hearing to review the Federal government's rural broadband programs. An agency of the U.S. Department of Commerce, NTIA is the principal advisor to the President on domestic and international telecommunications and information policy matters. NTIA's portfolio grew upon the enactment of the American Recovery and Reinvestment Act of 2009¹ (Recovery Act) on February 17, 2009, which authorized and provided \$4.7 billion in funding for the Broadband Technology Opportunities Program (BTOP), a grant program to support the deployment of broadband infrastructure and promote the adoption of broadband service. The program will advance objectives articulated by the President in his Inaugural address on January 20, 2009, in which he stated:

“[W]e will act, not only to create new jobs, but to lay a new foundation for growth. We will build the roads and bridges, the electric grids and digital lines that feed our commerce and bind us together.”

Eight days ago in Wattsburg, Pennsylvania, Vice President Biden, joined by Secretary of Commerce Gary Locke and Secretary of Agriculture Tom Vilsack, announced the “first step toward realizing President Obama’s vision of a nationwide 21st century communications infrastructure—one that encourages economic growth, enhances America’s global competitiveness, and helps address many of America’s most pressing challenges.” Secretary Locke is working to ensure we make this vision a reality – and the Department of Commerce has been charged with administering a key part of the President’s broadband expansion initiative. The first step to which the Vice President referred was the release of the first Notice of Funds Availability (NoFA) by NTIA and the U.S. Department of Agriculture’s Rural Utilities Service

¹ Public L. No. 111-5, 123 Stat. 115.

(RUS) for the broadband initiatives included in the Recovery Act—NTIA’s BTOP and the RUS Broadband Initiatives Program (BIP).² On July 1, 2009, NTIA also released a NoFA announcing the availability of funds to implement the State Broadband Data and Development Grant Program (State Broadband Data Program) to fund state-level broadband data collection, mapping and planning projects and the development and maintenance of a national broadband map.

In my testimony, I will focus on NTIA’s implementation of BTOP and the State Broadband Data Program, and address our collaborative efforts with RUS and the Federal Communications Commission (FCC) to achieve the objectives of the Recovery Act and expand access to broadband services in the United States.

Statutory Provisions and Interagency Coordination

The Recovery Act allocates \$4.7 billion to BTOP for the general purpose of accelerating the deployment and adoption of broadband services. Of that amount, at least \$250 million is to be made available for programs that encourage sustainable adoption of broadband services, and at least \$200 million is to be made available for expanding public computer center capacity, including at community colleges and public libraries. The Recovery Act further provides for up to \$350 million to implement the State Broadband Data Program and to develop and maintain a broadband inventory map.

As set forth in the Recovery Act, Congress designed BTOP to accelerate broadband deployment in unserved and underserved areas and to strategic community institutions that provide important public benefits. The Act also focuses on stimulating demand for broadband services. The Act specifies that the program be designed to stimulate job creation, economic growth, and demand for broadband services. Other purposes of BTOP include: improving

² The NoFA provides general policy and applications procedures for BTOP and the RUS Broadband Initiatives Program (BIP).

access to and the use of broadband services by public safety agencies and providing funds for broadband education, awareness, training, access, and support to a number of institutions including schools, libraries, job-creating strategic facilities, and organizations that provide broadband outreach and assistance to vulnerable populations.

The Recovery Act specifies the key elements NTIA must consider in awarding BTOP grants. For example, in the case of broadband infrastructure grants, the Act directs NTIA to consider whether:

- an application will increase the affordability of, and subscribership to, services to the greatest population of users in an area;
- the application will enhance service for health care delivery, education, or children to the greatest population of users in an area;
- an application, if approved, will not result in unjust enrichment as a result of support from another Federal program in the area;
- the applicant is a socially or economically disadvantaged small business;
- the application will provide the greatest broadband speed to the greatest population of users in an area.

Consistent with the statute, NTIA also aims to award grant funds to at least one project in each state.

As we have worked to implement the Recovery Act's broadband provisions, NTIA has coordinated closely with the other Federal agencies directed to lead these efforts including the USDA's RUS, which was appropriated \$2.5 billion by the Recovery Act for broadband loans and grants and the FCC which recently published its Rural Broadband Strategy and is also required to develop a national broadband plan. NTIA, RUS, and the FCC are working together closely to

leverage our authorities and resources to develop and implement a coordinated federal government approach to addressing the challenge of expanding the access and quality of broadband services across the country.

Our coordinated efforts began on March 10 of this year with a public meeting that NTIA, RUS and the FCC co-sponsored to initiate public outreach about the current availability of broadband services in the United States and ways in which the availability of broadband services could be expanded. NTIA and RUS followed the March 10 meeting with the release of an Request for Information (RFI) and six additional public meetings and field hearings, all convened by NTIA and RUS in March 2009. Nearly 120 panelists—including representatives from consumer and public interest groups, state and local governments, tribal governments, minority and vulnerable populations, industry, academia, and other institutions—made presentations at the hearings and commented on ways to make BTOP and BIP effective, equitable and efficient.

In response to the RFI and public meetings, RUS and NTIA received over 1,500 written comments from institutions and individuals. These comments along with more than five months of constant meetings among the agencies' staff and a concerted effort to leverage the combined significant experience brought to the table by the two agencies all played a crucial role in formulating the structure of the NTIA and RUS broadband programs and the development of the NoFA. In establishing the coordinated grant and loan programs that make up the broadband initiatives, we believe, we have had an unprecedented level of coordination between the two cabinet-level agencies and an independent Federal agency. We also believe that ultimately consumers, especially rural consumers, will be the beneficiaries of this work.

BTOP Implementation

The NoFA, which NTIA and RUS released jointly on July 1, 2009, announces the availability of approximately \$4 billion in program funding and describes application requirements for the first round of BTOP grants and BIP loans and grants. The collaborative approach that NTIA and RUS have taken in this NoFA will help to ensure that the agencies' activities are complementary and integrated, taxpayer funds are best utilized, and the application process is easy to understand.

BTOP will seek to serve the highest priority needs for federal investment—particularly projects that offer the potential for economic growth and job creation, and provide benefits to education, health care, and public safety. The program will favor viable, sustainable, and scalable projects. NTIA will also favor proposals that satisfy the public-interest objectives specified in the statute and detailed in the NoFA. These projects can serve as models for future private investments once economic conditions improve.

In keeping with statutory requirements for NTIA, NTIA expects to distribute grants across geographic areas of the United States, addressing these various public purposes. We will issue grant awards on a technologically neutral basis, and we expect to support projects employing a range of technologies, including fixed and mobile wireless, fiber, and satellite.

Up to \$1.4 billion in BTOP funds will be available in this first grant round.³ The application deadline for the first round of grants is August 14, 2009. Consistent with its appropriation, BTOP is divided into three categories of projects. Under the first NoFA, the Broadband Infrastructure category will fund up to \$1.2 billion in projects that deliver broadband service to unserved and underserved areas. Applications to fund broadband infrastructure

³ NTIA retains the discretion to divert funds from one project category to another. Up to \$200 million is reserved to augment any of the individual BTOP funding categories in this round or remain unused for subsequent NoFAs.

projects in areas that are at least 75 percent rural are required to be submitted to RUS for consideration under BIP. If an applicant intending to serve such rural areas also chooses to have an application considered for BTOP funding, the applicant must complete the additional elements required of BTOP infrastructure applicants. NTIA may determine such applications to be meritorious and make grant awards if RUS reviews the application and determines not to fund it. All other Broadband Infrastructure applications—i.e., those projects with proposed service areas that are less than 75 percent rural—must be submitted to NTIA for consideration under BTOP. A single application portal—www.broadbandusa.gov—will help streamline the process for grant applicants.

Within the Broadband Infrastructure category, NTIA and RUS determined that a distinction should be made in funding infrastructure projects, and we have created the broad categories of Last Mile and Middle Mile projects. Applications for Last Mile projects under BTOP must be for unserved or underserved areas and have the predominant purpose of providing broadband service to end users (and end users devices), including households, businesses, community anchor institutions, public safety entities, and critical community facilities. Applications for Middle Mile projects under BTOP also must be for unserved or underserved areas, but these projects should have an express purpose other than providing broadband service to end users and end-user devices and may include such things as interoffice transport, backhaul, Internet connectivity, or special access services.

The second BTOP grant category, Public Computer Centers, will fund projects that expand public access to broadband services and enhance broadband capacity at entities that permit the public or specific vulnerable populations, such as low-income, unemployed, aged,

children, minorities, and people with disabilities to use these computer centers. In the first round, BTOP will fund up to \$50 million for public computer centers.

The third BTOP grant category, Sustainable Broadband Adoption, will fund innovative projects that promote broadband demand and affordability, such as projects focused on broadband education, awareness, training, access, equipment and support, particular among vulnerable populations where broadband technology has traditionally been underutilized. In this first round, BTOP will fund up to \$150 million in broadband demand projects.

BTOP Eligibility

The Recovery Act delineates those entities that are eligible to apply for BTOP funding, including the U.S. states and their subdivisions, U.S. territories and possessions, tribes, and non-profit entities. Consistent with the Recovery Act, the Assistant Secretary of Commerce for Communications and Information found it to be in the public interest to permit for-profit corporations and non-profit entities not otherwise encompassed in the Recovery Act that are willing to promote the goals of the Act and comply with the statutory requirements of BTOP to be eligible for a grant. By adopting this approach, the Assistant Secretary enabled a large and diverse applicant pool to participate in BTOP and to expand broadband capabilities in a technologically neutral manner.

Other eligibility factors set forth in the NoFA require that all BTOP applicants: submit a complete application and all supporting documents; demonstrate the project can be substantially completed within two years of the grant issuance date and fully completed within three years of the grant issuance date; advance one or more of BTOP's five statutory purposes; provide matching funds of at least 20 percent toward total eligible project costs (unless a waiver petition

is approved); document that the project would not be implemented during the grant period but for a federal grant; and demonstrate that the budget is reasonable.

Applicants for Broadband Infrastructure grants are also required to satisfy the following additional eligibility criteria:

- The applicant must propose to offer “broadband” service as defined in the NoFA—i.e., two-way data transmission with advertised speeds of at least 768 kbps downstream and at least 200 kbps upstream to end users; or sufficient capacity in a middle-mile project to support “broadband” service to end users.
- The applicant must provide information that enables NTIA to determine that the proposed project is technically feasible, including submitting a system design and project timeline certified by a professional engineer for any project requesting funds over \$1 million.
- The applicant must demonstrate the ability of the project to be sustained beyond the funding period.
- The applicant must commit to the program’s Nondiscrimination and Interconnection Obligations— 1) adherence to the FCC’s Internet Policy Statement;⁴ 2) not favor some lawful Internet applications and content over others; 3) describe and display any network management policies; 4) connect to the public Internet and not be an entirely private closed network; and 5) offer interconnection where technically feasible, including the ability to connect to the public Internet and physical interconnection for the exchange of traffic.⁵

⁴ FCC 05-151, adopted August 5, 2005.

⁵ The NoFA also requires that applicants disclose proposed interconnection, nondiscrimination, and network management practices in the application. These requirements are subject to the needs of law enforcement and reasonable network management.

- Applicants for Last Mile infrastructure projects must provide service to the entire territory of each census block included in the funded service area unless the applicant can provide a reasoned explanation as to why providing coverage for an entire census block is infeasible.

BTOP Application Process

The NoFA sets forth a two-step application review process. The goal in step one is to create a pool of viable and potentially fundable applications. After an initial screening to determine whether applications meet eligibility factors (such as application completeness) step one will consist of evaluating and scoring each BTOP application against objective criteria and not against other applications. Applications will be evaluated by at least three expert reviewers against objective criteria within four general categories: 1) project purpose, 2) project benefits, 3) project viability, and 4) project budget and sustainability. Scores will be averaged and the applications that are considered to be the most highly qualified will advance for further consideration.

The goal of step two, which we consider to be the “due diligence” phase, is to fully validate the applications that advance from step one and identify the most highly qualified applications for funding. In step two, NTIA will request that applicants submit additional information as necessary to substantiate representations made in their application. The nature and scope of additional information requested will depend on the BTOP funding category in which the application was made. NTIA will review and analyze supplemental information and assign a rating, based on a five-point scale, reflecting the consistency of the application with supporting documents. Not all applications that are selected for step two will necessarily receive

a grant. Grant recipients will be notified if their application has been selected for a BTOP grant. NTIA and RUS intend to announce awards beginning on or about November 7, 2009.

To assist potential applicants with their applications for both BTOP and BIP, NTIA and RUS are jointly conducting ten workshops this month throughout the country. The workshops include an overview of both BTOP and BIP and a review of the application process for funding.

The locations of the workshops are representative of rural and urban needs, as well as a diversity of regions, populations, topographies and city/metropolitan-area sizes. Two workshops were held earlier this week here in Washington DC and in Boston. Tomorrow, a workshop is scheduled in Charleston, West Virginia. In the coming weeks, workshops will be held in: Birmingham, Alabama (July 14); Memphis, Tennessee (July 15); Lonoke, Arkansas (July 16); Billings, Montana (July 17); Minneapolis, Minnesota (July 21); Albuquerque, New Mexico (July 23); and Los Angeles, California (July 24). For those unable to attend any of the workshops, NTIA will also have a webinar version of the workshops available on our website. We will also post application guidance and frequently-asked-questions on issues of general applicability to assist applicants complete a successful application. For the second and third rounds of funding for BTOP and BIP, NTIA and RUS anticipate that additional workshops will be held to aid applicants.

Participation of the States in BTOP

States will play an important role in BTOP. First, the NoFA invited each State to review and prioritize applications for projects in or affecting the state. Second, through a separate NoFA released on July 1, 2009, creating the State Broadband Data Program, NTIA is encouraging all states to collect broadband data for use in the national map mandated by the

Recovery Act.⁶ The State Broadband Data Program is a competitive, merit-based matching grant program to fund projects that collect comprehensive and accurate state broadband mapping data, develop state broadband maps, and provide for broadband planning. With data collected at the state level, NTIA will develop and maintain a national broadband map, a key priority of this program. As such, NTIA intends to fund high-quality projects that are designed to gather data at the address level on broadband availability, technology, speed, infrastructure, and average revenue per user across the project area.

The Recovery Act authorizes NTIA to expend up to \$350 million to support state mapping and planning efforts and for the development and maintenance of a broadband inventory map. NTIA expects to make approximately \$240 million available for this activity, with grant awards that range between \$1.9 million and \$3.8 million per state for the mapping portion of each project, and up to \$500,000 for the planning portion of each project. The amount of grant awards will depend on the specifics of each project and the quality of each project as determined in NTIA's review, as well as demographic and geographic features unique to each state.

As set forth in the NoFA for the State Broadband Data Program, broadband mapping projects must propose:

- the collection of comprehensive and verifiable broadband data meeting the Program standards that will be accessible and clearly presented to NTIA, the public, and state and local governments without unduly compromising data or the protection of confidential information;
- a workable and sustainable framework for repeated updating of data;

⁶ See Recovery Act, Pub. L. No. 111-5, 123 Stat. 115 (2009); Broadband Data Improvement Act, Title I of Pub. L. No. 110-385, 122 Stat. 4096 (2008).

- a plan for collaboration with state-level agencies, local authorities, and other constituencies, as well as a proposal for planning projects designed to identify and address broadband challenges in the state;
- feasibility as demonstrated by a reasonable and cost-efficient budget, and a showing of applicant capacity, knowledge, and experience; and
- a timeline for expedient delivery of data with a preference for initial delivery by November 1, 2009.

For broadband planning projects, the NoFA requires that applicants propose projects or award uses that relate to broadband planning activities, such as the identification of barriers to the adoption of broadband service and information technology services, the creation and facilitation of local technology planning teams, and the establishment of computer ownership and Internet access programs.⁷

Grant recipients may use the collected broadband data for any lawful use consistent with the requirements of the program. In addition to providing all data collected to NTIA, applicants are expected to use the data to develop and maintain a statewide broadband map separate and distinct from the national broadband map.

The collected data will be used to inform future NTIA grant-making decisions under BTOP and for the development and maintenance of a national broadband map. As described in the NoFA for this program, NTIA expects that these and other data will publicly display the following information about broadband service: geographic areas in which broadband service is available; technologies used to provide broadband service; spectrum used for the provision of wireless broadband service in such areas; the speeds at which broadband service is available; and

⁷ Only applications that meet NTIA's broadband mapping purposes will be considered for planning funding. Mapping proposals do not need to include a planning component in order to be eligible for funding.

broadband service availability at public schools, libraries, hospitals, colleges and universities, and all public buildings. The national map will also be searchable by address and, to the greatest extent possible, at every address, provide the type and speed of broadband service that will be provided. For providers of wireless broadband service, the spectrum used for the provision of service will be provided.

Conclusion

Congress has entrusted NTIA with a significant responsibility. We believe the collaborative, open and transparent approach that we have taken in developing these two NoFAs is not only responsive to the statutory mandates for these programs, but also to the goals these programs are intended to achieve—to expand the access and quality of broadband services in the United States, preserve and create jobs, and promote economic recovery. NTIA intends to continue our close collaboration with RUS and the FCC as these programs progress and we look forward to getting Recovery Act funds into the hands of those who can use it to create jobs and to promote broadband deployment in unserved and underserved areas.

All Americans, no matter where they live or what our individual circumstances may be, deserve to enjoy all of the promises that broadband service has to offer. The Administration is committed to realizing the President's vision of bringing the benefits of broadband technology to all Americans.

Thank you and I look forward to your questions.