Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
The Commission's Consultative Role in the	)	GN Docket No. 09-40
Broadband Provisions of the Recovery Act	)	DA 09-668
	)	

NTCA
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
The Voice of Rural Telecommunications
www.ntca.org

INITIAL COMMENTS

Respectfully submitted,

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April 9, 2009

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INITIAL COMMENTS

The National Telecommunications Cooperative Association (NTCA)[1] files these comments in response to the Federal Communications Commission's (Commission's or FCC's) March 24, 2009, Public Notice[2] seeking comment on Congress's directive to consult with the U.S. Department of Commerce's National Telecommunications and Information Administration (NTIA) and the U.S. Department of Agriculture's Rural Utility Service (RUS) to administer the broadband grants and loan programs under the 2009 American Recovery and Reinvestment Act of 2009 (Recovery Act).[3]

The Commission, to aid its consulting role with NTIA and RUS, seeks comment on the definitions of "unserved area," "underserved area" and "broadband," and the non-discrimination

[1] NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents over 585 rural rate-of-return regulated telecommunications providers. All NTCA members are full service rural local exchange carriers (RLECs), and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.
[2] *Public Notice of Comment Procedures Regarding the Commission's Consultative Role in the Broadband Provisions of the Recovery Act*, GN Docket No. 09-40, DA 09-668 (rel. Mar. 24, 2009) (Notice).
[3] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (Recovery Act).

and network interconnection obligations that will be contractual conditions of NTIA's Broadband Technologies Opportunities Program (BTOP) grants.[4]

I. INTRODUCTION AND SUMMARY

Important to setting definitions and establishing obligations is reaching an understanding of rural broadband needs through fact-gathering efforts such as hearings, meetings, and NTCA's Broadband Survey of rural broadband providers. Based on this background data, NTCA recommends that the FCC offer the following definitions, limitations and conditions to NTIA and RUS to be used when distributing the $7 billion in NTIA and RUS taxpayer broadband stimulus money:

1. Define "broadband" based on high-speed Internet access capabilities that are generally available in a significant sample of service offerings in urban areas to establish a standard of comparability and affordability in urban and rural areas. As the capability of broadband technology and IP applications develop, the definition must evolve to meet consumer, education, business, and public health/safety demands. By linking the definition to generally available services, affordability, and comparability, the definition is enduring, technology neutral, and in the public interest.

2. Define "unserved areas" as populated areas that have no service or have dial-up only service (excluding satellite broadband service).

3. Define "underserved areas" as populated areas that have access to broadband service at speeds greater than 56 kbps dial-up Internet access service but less than 768 kbps broadband service taking into consideration average customer usage during peak-hour or busy-hour load as established by the FCC.

4. Broadband grants, loans, or loan guarantees should not be given to carriers in areas where they have agreed to achieve broadband deployments as part of past and future merger approvals. These promises should not be premised or conditioned upon receiving USF broadband funding. Companies should not be allowed to use federal broadband pilot program monies to subsidize these mergers or fund previous commitments made to regulators and customers.

5. Broadband grants, loans, or loan guarantees should not be given to carriers in areas where they have included broadband services in their petitions for forbearance from Title II regulation. Some of these carriers' forbearance petitions have maintained that competition is sufficient to no longer require them to unbundle their networks to CLECs.

[4] Notice, pp. 1-2.

6. Broadband grants, loans, or loan guarantees should not be given to carriers in areas where they have entered into state incentive regulation plans, which require these carriers to achieve specific broadband deployments in return for pricing and earnings flexibility. Companies should not be allowed to use federal broadband pilot program monies to fund previous commitments made to state regulators and customers.

7. Require large, vertically-integrated communications carriers to provide non-discriminatory access to special access transport needed to reach the Internet backbone.

8. Require large vertically-integrated communications carriers to base the price charged for special access transport needed to reach the Internet backbone upon the cost of providing the service.

9. Require large, vertically-integrated communications carriers to make available to non-affiliated companies the same terms, conditions, and prices charged to their affiliated companies for special access transport needed to reach the Internet backbone.

10. Require large, vertically-integrated communications carriers to make publicly available all of the terms, conditions and prices for special access transport needed to reach the Internet backbone.

11. Require similar protections for the cost of the Internet backbone.

12. Define special access (middle-mile) transport to include, among other services, packet-switched broadband services, optical transmission services (e.g., frame relay, ATM, LAN, Ethernet, video-transmission, optical network, wave-based, etc.), TDM-based services (e.g., DS-1, DS-3, etc.), and other future transport services to reach the Internet backbone.

By including these definitions, limitations and conditions on the $7 billion in broadband stimulus money, NTIA and RUS will be able to efficiently manage the broadband infrastructure investment program consistent with Congress's goals of developing a national ubiquitous broadband network and spurring economic development throughout the United States.

II. UNDERSTANDING RURAL BROADBAND NEEDS IS KEY TO THE DEFINITIONAL PROCESS.

The Commission seeks comment on the proper definitions of "unserved area," "underserved area" and "broadband" for purposes of advising NTIA and RUS on broadband

grants and loans under the Recovery Act.[5] Engaging in this definition process is the first step and, arguably, the most important task the Commission can undertake towards enhancing rural broadband deployment as these definitions will echo throughout NTIA, RUS and FCC actions for some time, in addition to grants and loans under the Recovery Act. These definitions must reflect the nature of the rural areas which Congress has said is the focus of the joint efforts of NTIA, RUS and FCC.

Public hearings, private meetings, and review of rural broadband surveys are all useful tools for the Commission, NTIA and RUS to better understand rural broadband needs. NTIA and RUS have conducted several public hearings on broadband funding issues concerning the potential use of funds provided under the Recovery Act. These hearings have included private sector eligibility, innovative programs to encourage sustainable broadband adoption, and the definitions of "unserved areas," "underserved areas," and "broadband." NTCA also participated and/or attended several of the public hearings in an effort to explain the small rural broadband provider view and provide recommendations for the most efficient and effective manner to distribute the $7 billion in NTIA and RUS broadband Recovery Act money. The Commission should review NTCA's testimony and information as part of the definition process.

For the last ten years, NTCA has conducted its annual Broadband/Internet Availability Survey to gauge the broadband deployment rates of advance services by its member companies. All NTCA members are small carriers that are "rural telephone companies" as defined in the Communications Act of 1934, as amended. While some offer local exchange service to as few as 44 lines and a small handful to 50,000 or more, nearly 50% of NTCA members serve between

[5] Notice, pp. 1-2.

1,000 and 5,000 lines. Population density in most member service areas is in the range of 1 to 5 customers per square mile.

The 2008 Broadband/Internet Survey provides valuable aggregated insight into the broadband speeds offered by small independent rural communications providers, the customer take rates, the technologies small rural providers use to deliver broadband, distance from primary Internet connection, levels of competition, rural carriers' marketing efforts, their future deployment plans and deployment barriers that rural providers face in providing broadband to their members. Key results of this 2008 Survey are as follows:

- 91% of respondents' customers can receive 200 – 768 kbps service, 83% can receive 768 kbps – 1.5 Mbps, 58% can receive 1.5 – 3 Mbps, 46% can receive 3 – 6 Mbps, and 25% can receive greater than 6 Mbps.

- Regarding take rates, 11% of respondents' customers subscribe to up to 56 kbps service, 19% to 200 – 768 kbps, 36% to 768 kbps – 1.5 Mbps, 10% to 1.5 – 3 Mbps, 11% to 3-6 Mbps, and 5% to greater than 6 Mbps.

- Of the technologies used to bring broadband to their customers, 99% of the respondents use DSL, 44% use fiber to the home or fiber to the curb, 33% use some form of wireless, 14% use satellite and 10% use cable modem (some respondents use more than one technology).

- The typical respondent is located 98 miles from their primary Internet connection, reflecting the distance issues that hinder broadband deployment.

- Ninety-three percent of the survey respondents said they already face competition in the provision of advanced services in some parts of their service area from at least one other service provider. These competitors include national Internet service providers (ISPs), satellite broadband providers, cable companies, and wireless ISPs. Over half of the respondents found it difficult to compete with competitors' price promotions. Deployment costs remain the most significant barriers to wide deployment of fiber.[6]

These survey data draw a clear picture of the difficulties small rural carriers face in providing broadband to rural customers. While on average 91% of NTCA members' customers have broadband available, the last nine percent has been largely too costly to receive previous

[6] *See* NTCA 2008 Broadband/Internet Survey Report (rel. Oct. 2008), available at: http://www.ntca.org/images/stories/Documents/Advocacy/SurveyReports/2008ntcabroadbandsurveyreport.pdf.

public or private financing. Rural carriers currently use a variety of technologies to reach customers: DSL, fiber to the home/fiber to the curb, wireless (both licensed and unlicensed), satellite and cable modem. These carriers are intimately familiar with rural issues and challenges, and understand the best way to serve their customers - who are, in large part, friends and neighbors in their community.

During the last 20 years, rural carriers have continued to invest in rural, high-cost and insular areas in the United States based on a system of rate-of-return regulation, National Exchange Carrier Association (NECA) pooling, and high-cost USF support. This existing regulatory structure has allowed the Commission to meet its Congressional mandate to ensure rural consumers access to telecommunications services at prices that are comparable to services and prices received by urban consumers. Rural consumers, meanwhile, continue to demand the high quality of service that they are accustomed to receiving from the carriers that have served them for decades. Small rural incumbent carriers have provided high-quality, dependable, enduring service for decades and the Commission should use the definition process to allow small rural incumbent carriers to complete the broadband build-out in their rural communities.

According to the Rural Development Telecommunications Program's May 2008 investment report, through its loan programs, over $6.3 billion has been invested in expanding broadband capabilities since 2001.[7] While this is a staggering number, it does not include financing received from other sources, including CoBank, RTFC and local banks, among others. This is a good story. Broadband is being deployed in rural networks and the Commission should not take actions that would be contrary to the further deployment of broadband in rural areas.

[7] http://www.usda.gov/rus/telecom/broadband/pdf/BIBA_asof_5-9-08.pdf

III. DEFINING "UNSERVED AREAS" AS DIAL-UP ONLY IS APPROPRIATE.

The Commission should define unserved areas as populated areas that have no service or have dial-up only service (excluding satellite broadband service). The intent of the Recovery Act is to achieve 100% broadband availability and subscription in every U.S. Household before using stimulus money to over-build any existing broadband networks. The current $7 billion available in NTIA and RUS broadband grants, loans, and loan guarantees will not meet the needs of the estimated 10 million U.S. households currently without available broadband service. The Commission should recommend to NTIA and RUS, therefore, that Recovery Act money therefore should be used exclusively for unserved areas (populated areas with only dial-up service) first before considering underserved areas. The letters attached from Senators sent to NTIA, RUS and FCC define "unserved areas" as "dial-up only areas" and urge NTIA, RUS, and the FCC to use the broadband stimulus money in unserved (dial-up only) areas first and foremost. NTCA's proposed definitions are consistent with the congressional intent of the ARRA, prevent the gaming of NTIA/RUS broadband stimulus program, and protect and promote the public interest.

IV. "UNDERSERVED AREAS" SHOULD BE DEFINED AS LESS THAN 768 KBPS.

Further, the Commission should define underserved areas as populated areas that have access to broadband service at speeds greater than 56 kbps dial-up Internet access service but less than 768 kbps broadband service taking into consideration average customer usage during peak-hour or busy-hour load as established by the FCC. As noted before, the Recovery Act does not provide sufficient funding to satisfy the demands of all the unserved areas as NTCA defines the term, much less any underserved areas.

V. "BROADBAND" NEEDS AN EVOLVING DEFINITION.

As with any changing technology, the definition of the broadband supported service necessarily will evolve over time. The Commission should define broadband based on high-speed Internet access capabilities that are generally available in a significant sample of service offerings in urban areas to establish a standard of comparability and affordability in urban and rural areas. As the capability of broadband technology and IP applications develop, the definition must evolve to meet consumer, education, business, and public health/safety demands. By linking the definition to generally available services, affordability, and comparability, the definition is enduring, technology neutral, and in the public interest.

VI. THE FCC SHOULD ADVISE NTIA AND RUS THAT BROADBAND STIMULUS MONEY RECIPIENTS SHOULD BE REQUIRED TO PROVIDE COST-BASED SPECIAL ACCESS (MIDDLE-MILE) TRANSPORT SERVICE TO THE IP-BACKBONE AT NON-DISCRIMINATORY RATES, TERMS AND CONDITIONS.

The Commission should advise NTIA and RUS to require those who receive Recovery Act grant or loan money or guarantees to verify that their special access (middle-mile) transport rates are cost-based and non-discriminatory. This approach is crucial to ensuring that rural broadband providers who depend on special access (middle-mile) transport services can do so at non-discriminatory, cost-based rates, terms and conditions.[8] NTCA recommends that all large, vertically-integrated communications carriers, such as Verizon, Qwest, and Comcast be required to provide non-discriminatory, cost-based special access (middle-mile) transport services needed to reach the Internet backbone.

[8] Special access (middle-mile) transport service includes, among other services, packet-switched broadband services, optical transmission services (e.g., frame relay, ATM, LAN, Ethernet, video-transmission, optical network, wave-based, etc.), TDM-based services (e.g., DS-1, DS-3, etc.), and other future transport services to reach the Internet backbone.

Increasing broadband demand means that carriers must increase their transport capacity to the Internet backbone. When these carriers must purchase special access services at above cost rates, customers eventually will see these higher costs included in their broadband rates.[9] These costs, as well as the middle-mile transport and the Internet backbone itself are significant cost factors in providing rural broadband service. Keeping large carriers middle-mile transport cost-based will accelerate broadband deployment and subscription, result in more affordable broadband services to consumers, and drive economic development throughout the United States.

The National Exchange Carrier Association (NECA) performed an extensive analysis of middle-mile costs in a recent study. NECA's findings were dire-concluding that high-speed Internet service is uneconomic in many rural areas. NECA further found that increased IP traffic will exacerbate, rather than ameliorate, the problem, as existing revenue shortfalls are multiplied as the scale of operations increases. For example, the study shows revenue shortfalls at $9.7 million per year at a 0.5% penetration rate, growing to $33.6 million per year at a 5% penetration rate, $49.8 million at a 10% penetration rate, and $63.8 million per year at a 15% penetration rate. NECA's sobering conclusion: "high-speed Internet service may not be sustainable in many rural areas based on pure economics."[10]

NTCA members report similar realities. The cost of purchasing internet capacity on a per megabit basis has gone down in some instances over the last several years; however, in response to customer demand, small rural broadband providers are buying more and more capacity.

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[9] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-4 (Fed.-State Jt. Bd., rel. Nov. 20, 2007) ("Overlooking transport costs can harm remote carriers, and the problem worsens when those carriers must purchase special access facilities to connect their customers."), ¶ 21.

[10] NECA, Middle Mile Cost Study Executive Summary, www.neca.org/source/NECA_Publications_1154.asp.

Therefore, rural ILEC Internet total capacity costs are increasing while the prices for broadband Internet access have remained at fairly constant levels. One NTCA member company, which provided NTCA with cost data under the proviso that its identity not be revealed, reported that total bandwidth costs for backhaul purposes increased by 105% between 2001 and 2008. Over the same period, Internet access capacity costs increased by more than 500%. While these cost increases were, in part, offset by increased broadband revenues, the average cost per customer is increasing because customers are consuming increasingly larger quantities of bandwidth.

To achieve and maintain the goal of universal affordable broadband service for all Americans, the Commission should regulate the terms, conditions and pricing of Internet backbone services, including special access (middle mile) transport needed to reach the Internet backbone, to ensure that large, vertically-integrated Internet backbone providers do not abuse their market power by imposing unfair and discriminatory pricing on small, rural communications carriers providing retail high-speed Internet access service in rural, insular and high-cost areas of the United States. The Commission has already adopted some of these conditions as part of the Commission's approval of the AT&T/BellSouth merger.[11] NTCA urges the Commission to encourage NTIA and RUS to certify that their special access rates are cost-based and non-discriminatory.

None of the current $7 billion NTIA and RUS stimulus money available for broadband should be distributed to AT&T who was required to buildout 100% of its service area in 2007 as part of the FCC's AT&T/Bell South merger conditions and has invested billions overseas. The Commission should recommend NTIA and RUS to ensure that Recovery Act money used to

[11] *In the Matter of A&T and BellSouth Corporation Application for Transfer and Control,* Order on Reconsideration, Appendix, Page 5, WC Docket No. 06-74, (rel. March 26, 2007).

serve any existing unserved AT&T households should be given only to other providers applying for funding.

VII. NETWORK INTERCONNECTION OBLIGATIONS FOR BTOP GRANTS.

A meaningful method in which the Commission can assist NTIA and RUS is to encourage those federal agencies to require Recovery Act recipients to certify that they are adhering to the Commission's principles contained in its broadband policy statement adopted August 5, 2005.[12] The FCC adopted the following principles to ensure that broadband networks are widely deployed, open, affordable, and accessible to all consumers:

- To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to access the lawful Internet content of their choice.
- To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to run applications and use services of their choice, subject to the needs of law enforcement.
- To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to connect their choice of legal devices that do not harm the network.[13]
- To encourage broadband deployment and preserve and promote the open and interconnected nature of the public Internet, consumers are entitled to competition among network providers, application and service providers, and content providers.[14]

NTCA believes net neutrality principles should also be designed to permit reasonable and non-discriminatory management of network bandwidth capacity, establish reasonable prices for

[12] *In the Matters of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities,* CC Docket No. 02-33*, Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services,* CC Docket No. 01-337*, Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services: 1998 Biennial Regulatory Review – Review of Computer II and ONA Safeguards and requirements,* CC Docket Nos. 95-20, 98-10*, Inquiry Concerning High-Speed Access to the Internet Over cable and Other Facilities,* GN Docket No. 00-185*, Internet Over Cable Declaratory Ruling, Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities,* CS Docket No. 02-52, Policy Statement, FCC 05-151, Released September 23, 2005.

[13] *See Hush-A-Phone Corp. v. United States,* 238 F.2d 266, 269 (D.C. Cir. 1956); *Use of the Carterfone Device in Message Toll Telephone Service,* 13 FCC 2d 420 (1968).

[14] *See* Preamble, Telecommunications Act of 1996, P.L. 104-104, 100 Stat. 56 (1996) (enacting 1996 Act "to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies").

special access services to the Internet backbone, and provide reasonable and non-discriminatory access to high-quality IP-based services to all consumers using the network. NTCA therefore recommends that the FCC expand its existing network management principles and recommend the following to NTIA and RUS:

1. Communications network providers seeking stimulus money should be required to provide consumers with non-discriminatory access to any lawful content or services on the public Internet through their Internet connection and allow consumers to attach any lawful equipment to their Internet connection.

2. Communications network providers seeking stimulus money should be allowed to offer quality of service priced public and private services to providers of IP-enabled services who seek to guarantee the quality of their services to the communications network provider's end-user customers.

3. Communications network providers seeking stimulus money should be allowed to take reasonable and non-discriminatory measures to protect their networks through the management of bandwidth and transmission of content and applications to their customers.

4. Communications network providers seeking stimulus money, including Internet backbone providers, should be required to provide all communications network providers with non-discriminatory access to the Internet backbone, including special access (middle-mile) transport needed to reach the Internet backbone.

5. Communications network providers seeking stimulus money, including Internet backbone providers, should be required to price their Internet backbone service, including special access (middle-mile) transport needed to reach the Internet backbone, based on their cost to provide the service.

6. Communications network providers seeking stimulus money, including Internet backbone providers, should be required to provide non-affiliated communications network providers with the same terms, conditions, and prices that the Internet backbone providers charge their affiliated companies for access to the Internet backbone, including special access (middle-mile) transport needed to reach the Internet backbone.

7. Communications network providers seeking stimulus money, including Internet backbone providers, should be required to make publicly available all of the terms, conditions and prices for their Internet backbone services, including special access (middle-mile) transport needed to reach the Internet backbone.

Considered as a package, these expanded net neutrality principles constitute a sound basis for protecting the interests of consumers, ISPs/broadband service providers, and IP application/content providers. Nothing in NTCA's proposed principles condones the blocking or dropping of any lawful IP applications or broadband transmissions used by consumers or IP application/content providers.

VIII. THE COMMISSION SHOULD STRIVE TO APPLY REGULATORY FLEXIBILITY ACT (RFA) ALTERNATIVE RULES TO REDUCE THE ECONOMIC IMPACT ON SMALL RURAL ILECS.

In advising the NTIA and RUS on how to administer Regulatory Act funds, the Commission should recommend that NTIA and RUS adhere to the Regulatory Flexibility Act (5 U.S.C. Section 601) and consider alternative rules that will reduce the economic impact on small entities. The NTIA and RUS should adopt NTCA's recommended definitions of "unserved area," "underserved area," "broadband," and non-discrimination and network interconnection obligations for BTOP grants, which will comply with the RFA and reduce the economic burden on small, rural LECs and the consumers they serve. NTCA's approach will also promote the public interest, convenience, and necessity, will spur development of new advanced communications technologies and broadband deployment, and most importantly, will ensure that consumers living in rural, high-cost areas are able to receive high-quality, affordable voice and broadband services.

IX. CONCLUSION.

The primary intent of the American Recovery & Reinvestment Act is to achieve 100% broadband availability and subscription in every U.S. household before using stimulus money to over-build any existing DSL broadband networks with fiber. This money therefore should be used for unserved areas (populated areas with only dial-up service) first before considering

underserved areas. NTCA therefore recommends that the FCC provide the following definitions, limitations and conditions to be used by NTIA and RUS when distributing the $7 billion in taxpayer broadband stimulus money:

1. Define "broadband" based on high-speed Internet access capabilities that are generally available in a significant sample of service offerings in urban areas to establish a standard of comparability and affordability in urban and rural areas. As the capability of broadband technology and IP applications develop, the definition must evolve to meet consumer, education, business, and public health/safety demands. By linking the definition to generally available services, affordability, and comparability, the definition is enduring, technology neutral, and in the public interest.

2. Define "unserved areas" as populated areas that have no service or have dial-up only service (excluding satellite broadband service).

3. Define "underserved areas" as populated areas that have access to broadband service at speeds greater than 56 kbps dial-up Internet access service but less than 768 kbps broadband service taking into consideration average customer usage during peak-hour or busy-hour load as established by the FCC.

4. Broadband grants, loans, or loan guarantees should not be given to carriers in areas where they have agreed to achieve broadband deployments as part of past and future merger approvals. These promises should not be premised or conditioned upon receiving USF broadband funding. Companies should not be allowed to use federal broadband pilot program monies to subsidize these mergers or fund previous commitments made to regulators and customers.

5. Broadband grants, loans, or loan guarantees should not be given to carriers in areas where they have included broadband services in their petitions for forbearance from Title II regulation. Some of these carriers' forbearance petitions have maintained that competition is sufficient to no longer require them to unbundle their networks to CLECs.

6. Broadband grants, loans, or loan guarantees should not be given to carriers in areas where they have entered into state incentive regulation plans, which require these carriers to achieve specific broadband deployments in return for pricing and earnings flexibility. Companies should not be allowed to use federal broadband pilot program monies to fund previous commitments made to state regulators and customers.

7. Require large, vertically-integrated communications carriers to provide non-discriminatory access to special access transport needed to reach the Internet backbone.

8. Require large vertically-integrated communications carriers to base the price charged for special access transport needed to reach the Internet backbone upon the cost of providing the service.

9. Require large, vertically-integrated communications carriers to make available to non-affiliated companies the same terms, conditions, and prices charged to their affiliated companies for special access transport needed to reach the Internet backbone.

10. Require large, vertically-integrated communications carriers to make publicly available all of the terms, conditions and prices for special access transport needed to reach the Internet backbone.

11. Require similar protections for the cost of the Internet backbone.

12. Define special access (middle-mile) transport to include, among other services, packet-switched broadband services, optical transmission services (e.g., frame relay, ATM, LAN, Ethernet, video-transmission, optical network, wave-based, etc.), TDM-based services (e.g., DS-1, DS-3, etc.), and other future transport services to reach the Internet backbone.

By including these definitions, limitations and conditions on the $7 billion in broadband stimulus money, NTIA and RUS will be able to efficiently manage the broadband infrastructure investment program consistent with Congress's goals of developing a national ubiquitous broadband network and spurring economic development throughout the United States.

Respectfully submitted,

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By: /s/ Daniel Mitchell
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By: /s/ Karlen Reed
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April 9, 2009

CERTIFICATE OF SERVICE

I, Adrienne L. Rolls, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in GN Docket No. 09-40, DA 90-668, was served on this 9th day of April 2009 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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/s/ Adrienne L. Rolls
Adrienne L. Rolls

United States Senate
WASHINGTON, DC 20510

March 9, 2009

The Honorable Otto J. Wolf
Acting Secretary of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Acting Secretary Wolf:

As you begin the process of implementing the broadband initiatives provided in the American Recovery and Reinvestment Act of 2009 (ARRA), we urge you to prioritize deploying basic broadband to currently unserved areas through the National Telecommunications and Information Administration (NTIA). The legislation provided $4.7 billion for NTIA broadband deployment programs, but it also contained a number of priorities for you to consider in allocating those funds. Bringing broadband to unserved rural areas, however, must be our first priority because economic recovery will be difficult to achieve in rural communities without broadband access.

It is widely understood that high-speed broadband is a crucial driver of economic recovery, creating jobs and enhancing our global competitiveness. Currently, many areas are served only by dial-up, which can be very slow in rural areas. By providing access to high-speed broadband to places that only have access to dial-up connections, many rural communities will experience the development that broadband allows. Broadband access will spur job creation in rural areas hardest hit by the recession. Broadband will also be central to improving educational opportunities and delivering health care more efficiently, important benefits that also contribute to economic growth.

As you know, lowering health care costs is essential to economic recovery. Broadband networks enable innovative use of telemedicine services and applications, allowing more cost-effective and quality care, greater access to specialists, and remote monitoring of patient vital signs and diagnostic information by doctors. Perhaps most importantly, telemedicine gives rural and low-income communities access to medical experts even at great distance.

In addition, broadband networks are an essential part of improving educational opportunities for students. Access to broadband has transformed education by improving learning outcomes, serving multiple learning styles, and expanding access to high quality curriculum. It also allows for instant feedback between teachers and students and individual tailoring of instruction.

Without access to broadband, many rural communities will be unable to realize the benefits of economic recovery as intended in the ARRA. We urge you to make deploying broadband to unserved areas your first priority in dispensing the considerable resources accorded to broadband by Congress in the ARRA.

Sincerely,

Jeanne Shaheen
United States Senator

Sam Brownback
United States Senator

Mary Landrieu
United States Senator

Pat Roberts
United States Senator

Debbie Stabenow
United States Senator

Ron Wyden
United States Senator

Russ Feingold
United States Senator

Mark Begich
United States Senator

Kay Hagan
United States Senator

Jeff Merkley
United States Senator

CC: Commissioner Jonathan S. Adelstein

Commissioner Robert McDowell

United States Senate
WASHINGTON, DC 20510

March 9, 2009

Acting Chairman Michael J. Copps
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Acting Chairman Copps:

As you begin the process of coordinating the broadband initiatives provided in the American Recovery and Reinvestment Act of 2009 (ARRA), we urge you to prioritize deploying basic broadband to currently unserved areas. The legislation provided federal agencies with $7 billion for broadband deployment programs, but it also contained a number of priorities for agencies to consider in allocating those funds. Bringing broadband to unserved rural areas, however, must be our first priority because economic recovery will be difficult to achieve in rural communities without broadband access.

It is widely understood that high-speed broadband is a crucial driver of economic recovery, creating jobs and enhancing our global competitiveness. Currently, many areas are served only by dial-up, which can be very slow in rural areas. By providing access to high-speed broadband to places that only have access to dial-up connections, many rural communities will experience the development that broadband allows. Broadband access will spur job creation in rural areas hardest hit by the recession. Broadband will also be central to improving educational opportunities and delivering health care more efficiently, important benefits that also contribute to economic growth.

As you know, lowering health care costs is essential to economic recovery. Broadband networks enable innovative use of telemedicine services and applications, allowing more cost-effective and quality care, greater access to specialists, and remote monitoring of patient vital signs and diagnostic information by doctors. Perhaps most important, telemedicine gives rural and low-income communities access to medical experts even at great distance.

In addition, broadband networks are an essential part of improving educational opportunities for students. Access to broadband has transformed education by improving learning outcomes, serving multiple learning styles, and expanding access to high quality courses. It also allows for instant feedback between teachers and students and individual tailoring of instruction.

Without access to broadband, many rural communities will be unable to realize the benefits of economic recovery as intended in the ARRA. We urge you to make deploying broadband to unserved areas your first priority in dispensing the considerable resources accorded to broadband by Congress in the ARRA.

Thank you for considering these views.

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Sincerely,

Jeanne Shaheen
United States Senator

Sam Brownback
United States Senator

Mary Landrieu
United States Senator

Pat Roberts
United States Senator

Debbie Stabenow
United States Senator

Ron Wyden
United States Senator

Russ Feingold
United States Senator

Mark Begich
United States Senator

Kay Hagan
United States Senator

Jeff Merkley
United States Senator

CC: Anna Gomez
Deputy Assistant Secretary for Communications and Information and Acting Administrator, National Telecommunications and Information Administration

United States Senate
WASHINGTON, DC 20510

March 9, 2009

The Honorable Tom Vilsack
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Secretary Vilsack:

As you begin the process of implementing the broadband initiatives provided to the Department of Agriculture (USDA) in the American Recovery and Reinvestment Act of 2009 (ARRA), we urge you to prioritize deploying basic broadband to currently unserved areas through the Rural Utilities Service (RUS). The legislation provided $2.5 billion for RUS/USDA broadband deployment programs, but it also contained a number of priorities for you to consider in allocating those funds. Bringing broadband to unserved rural areas, however, must be our first priority because economic recovery will be difficult to achieve in rural communities without broadband access.

It is widely understood that high-speed broadband is a crucial driver of economic recovery, creating jobs and enhancing our global competitiveness. Currently, many areas are served only by dial-up, which can be very slow in rural areas. By providing access to high-speed broadband to places that only have access to dial-up connections, many rural communities will experience the development that broadband allows. Broadband access will spur job creation in rural areas hardest hit by the recession. Broadband will also be central to improving educational opportunities and delivering health care more efficiently, important benefits that also contribute to economic growth.

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Without access to broadband, many rural communities will be unable to realize the benefits of economic recovery as intended in the ARRA. We urge you to make deploying broadband to unserved areas your first priority in dispensing the considerable resources accorded to broadband by Congress in the ARRA.

Thank you for considering these views.

Sincerely,

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Jeff Merkley
United States Senator

CC: James R. Newby
Acting Administrator, Rural Utilities Service