

**Before the
DEPARTMENT OF COMMERCE
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
the
DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE
and the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC**

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| In the Matters of |) | |
| |) | |
| THE AMERICAN RECOVERY AND |) | NTIA/RUS |
| REINVESTMENT ACT OF 2009 |) | Docket No. 090309298-9299-01 |
| BROADBAND INITIATIVES |) | |
| |) | |
| THE COMMISSION'S |) | FCC |
| CONSULTATIVE ROLE IN |) | GN Docket No. 09-40 |
| THE BROADBAND PROVISIONS |) | |
| OF THE RECOVERY ACT |) | |

COMMENTS OF PAETEC COMMUNICATIONS, INC.

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SUMMARY

I. NTIA Question 3: Eligibility

In addition to the entities listed in Section 6001(e)(A)-(B) of the ARRA, Eligible applicants shall also include any current infrastructure provider of broadband service who proposes a project that, in its face, meets the applicable criteria for an award.

II. NTIA Question 13(a)/FCC Issue 2: Definition of “Underserved” Areas

In instances where a grant applicant proposes to provide a broadband solution to a public safety, hospital, educational or other public community to meet a currently underserved need, an “underserved area or population” should not be benchmarked solely to an arbitrary speed threshold, but instead proposals should be evaluated by NTIA on a case-by-case basis to determine the proposal addresses an underserved need of the entity or entities to be served.

III. NTIA Question 13(b)/FCC Issue 3: Definition of “Broadband”

NTIA should decline to adopt a narrow definition of “broadband” and should instead rely on more flexible criteria that can evolve with time and advances in technology.

DISCUSSION

PAETEC Holding, through its operating subsidiaries, PAETEC Communications, Inc., US LEC d/b/a PAETEC Business Services, and McLeodUSA Telecommunications Services, Inc. d/b/a PAETEC Business Services, (all jointly referred to as “PAETEC”), is a competitive communications services and solutions provider guided by the principle that delivering superior customer service is the key to competing successfully with other communications services providers. PAETEC’s primary business is providing large, medium-sized and, to a lesser extent, small business end-user customers with a package of integrated communications services that includes local and long distance voice, data, and broadband Internet access services. PAETEC provides a range of voice and data services on a retail basis to large, medium-sized and small end-user business customers, and residential customers in certain markets. PAETEC complements its offering of these “network services” with sales to its retail customers of “integrated solutions,” including software applications, network integration services, managed and other services, and communications equipment. PAETEC also offers a range of voice and data “carrier services” on a wholesale basis to other communications companies and to larger-scale purchasers of network capacity. PAETEC provides competitive services in 44 states and is, by some measures, the largest competitive local exchange carrier.

I. NTIA Question 3 - Eligible Grant Recipients:

In addition to the entities listed in Section 6001(e)(A)-(B) of the ARRA, Eligible applicants shall also include any current infrastructure provider of broadband service who proposes a project that, in its face, meets the applicable criteria for an award.

Broadband providers by definition are experienced in deploying broadband networks and providing broadband service. By virtue of their existing networks and expertise they are best positioned to carry out the ARRA’s purpose of “efficient and expeditious” broadband

deployment, and, accordingly, should be eligible for grants. Indeed, the types of entities specifically listed in Section 6001(e)(1) as “eligible” will in many, if not most cases, need to turn to experienced broadband network operators to construct and operate broadband facilities and services. Particularly given the ARRA’s overriding interest in stimulating economic growth in the short term and bringing long-term broadband benefits to as many unserved and underserved Americans as possible, such operators should be eligible to apply directly for grants under the ARRA. An equally important consideration is that existing broadband providers have the existing expertise that will allow the broadband funds to be used in the most efficient manner since new entities in this arena may inefficiently consume funds getting “up to speed” in a technically complex environment. Indeed, that is the only speed that should be in the equation - how quickly an entity can get the projects up and running to stimulate the economy in the most cost efficient way possible. Such a criteria demands entrusting the grants to experienced, knowledgeable broadband service providers.

II. NTIA Question 13(a)/FCC Issue 2 - Definition of “Underserved” Areas:

In instances where a grant applicant proposes to provide a broadband solution to a public safety, hospital, educational or other public community to meet a currently underserved need, an “underserved area or population” should not be benchmarked solely to an arbitrary speed threshold, but instead proposals should be evaluated by NTIA on a case-by-case basis to determine the proposal addresses an underserved need of the entity or entities to be served.

Although there will likely be many proposals for construction and deployment of public broadband network facilities to reach unserved or underserved areas generally, some of the proposals for NTIA grants will likely involve broadband network solutions tailored to the needs of particular types of critical infrastructure users such as public safety, hospital, and educational communities. What constitutes an underserved need for such users is by necessity a case-by-case question, and proposals to provide improved broadband application solutions to such public

or quasi public users therefore need to be evaluated by NTIA on a case-by-case basis. Any arbitrary threshold network speed to define such entities' eligibility as "underserved" areas or populations would likely be either over or under inclusive depending upon the particular types of applications and needs of the institutions, and would interfere with their ability to configure their networks to their own very specialized needs and purposes. Accordingly, PAETEC urges that NTIA not attempt to adopt a one-size-fits-all eligibility threshold, particularly with respect to network solutions aimed at institutions and entities with public or quasi public rather than purely commercial purposes.

III. NTIA Question 13(b)/FCC Issue 3 - Definition of "Broadband:"

NTIA should decline to adopt a narrow definition of "broadband" and should instead rely on more flexible criteria that can evolve with time and advances in technology.

The term "broadband" is constantly evolving with technology, and can be used to describe services as low as any speed in excess of the speeds available to dial-up users to speeds that are as fast as large multiples of that speed.¹ Clearly, the definition of broadband will (and should) continue to evolve with technology, and NTIA should not, in the context of these grants, draw any line in the sand that would quickly become outdated.

Respectfully submitted,

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¹ See, e.g., *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd. 9691, 9701 (2008) ("These terms are evolving definitions that could change over time based on advances in technology.")