

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Comment Procedures Established )  
Regarding the Commission’s Consultative ) GN Docket No. 9-40  
Role in the Broadband Provisions of the )  
Recovery Act )

COMMENTS OF  
COHEN, DIPPELL AND EVERIST, P.C.

The following are comments in GN Docket No. 09-40 by the firm of Cohen, Dippell and Everist, P.C. (“CDE”) to the Federal Communications Commission’s (“Commission”). CDE and its predecessors have practiced before the FCC for over 70 years in broadcast and telecommunications matters. The undersigned has been making radiofrequency measurements since 1952 and joined the predecessor firm to Cohen, Dippell and Everist, P.C. in 1961.

The Commission has had significant experience in dealing with this type of service over the past 20 years. Recently, it has dealt with a Report and Order, WT Docket No. 03-66, RM-10586, released July 29, 2004<sup>1</sup>. At the same time, it issued Further Notice of Proposed Rulemaking on these same matters and those still remain outstanding in part as demonstrated by the Order released August 8, 2008.

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<sup>1</sup>Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz bands, Adopted: June 10, 2004, Released: July 29, 2004

The definition of unserved and underserved as related to broadband technologies should be one that realistically anticipates the ability for technology to increase its performance capabilities over time and with it the expectations and overall experience of the end user. According to the former FCC chairman, in commenting on its broadband policies<sup>2</sup> in 2007, defined basic broadband service to be at least 768 kbits/second. Additionally, the International Telecommunication Union (ITU) Standardization Sector previously defined in 1997 in its recommendation I.113 that broadband<sup>3</sup> is a service or system providing data rates greater than the primary rate, defined as 1.5 to 2 Mbits/second. Time has lapsed in the definition of both of these definitions, and with it the capabilities of data rates of existing networks and internet users' expected use of the internet (streaming video, etc.). Since time is expected to lapse after the definition of the NTIA's definition of broadband, the definition should be able to be applied at any given time so as to adjust to the expected current ideology of broadband at a given time in the future.

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<sup>2</sup> "In the Matter of Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership," WC Docket No. 07-38, Notice of Proposed Rulemaking, Adopted: February 26, 2007 Released: April 16, 2007

<sup>3</sup> 2.1 Services

101 broadband [wideband]

*F: large bande*

*S: banda ancha*

Qualifying a service or system requiring transmission channels capable of supporting rates greater than the primary rate.

Accordingly, the definitions of unserved and underserved, while dependent upon the definition of broadband, should also rely on publicly available and accredited sources, preferably governmental or government-related organizations such as the U.S. Census Bureau and other agencies that may rely on demographic data in conjunction with maps developed in the future demonstrating broadband speeds across the nation. This thrust, while the laws of physics remain unchanged, have a completely different set of dynamics. In order for a successful rollout of broadband service as envisioned by Congress will require, we believe an existing platform and infrastructure may now already be in place. Such a platform and infrastructure could be the U.S. Postal Service which has facilities in almost all of these rural outlying areas in which the Federal Government desires to serve.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Donald G. Everist". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

Donald G. Everist, PE.  
DC Registration No. 5714

Date: April 13, 2009