



Transportation Center (ITTC), an intermodal transportation hub with railroad access, via the BNSF Railway, to the Port of Oakland,<sup>3</sup> as well as (b) resulted in plans for a municipal fiber-to-the-premise (FTTP) network. Thus, the entrepreneurial City of Shafter, which has earned the designation “State Enterprise Zone #23” for a portion of the community,<sup>4</sup> views its municipal fiber network, Shafter Fiber Network, as the cornerstone of its vision to provide its rural citizens with high-speed access—as well as to ensure the viability of ITTC, which has begun to attract the attention of national enterprises that value Shafter’s readily available workforce and strategic location as a logistics and distribution center.<sup>5</sup>

Apart from bolstering its economy through diversification, the City of Shafter’s emerging status as an intermodal transportation hub, coupled with its existing agricultural base and stated desire to deploy a last-mile fiber network, portends a local economy premised on sustainability. The City of Shafter’s intermodal rail facility will, long-term, dramatically reduce pollutant emissions,<sup>6</sup> while its eventual last-mile network opens the door to further reducing emissions through broadband-based alternatives of video conferencing and telecommuting.

As a result of this pre-Recovery Act planning, the City of Shafter began construction on the first leg of its high-speed fiber backbone in Fall, 2007, deploying four miles of fiber to connect its city facilities, including City Hall, Police Department, Courthouse, Correctional Facility, and local School District Facilities. Even more significantly, the City has another 12

---

<sup>3</sup> See, <http://www.ittc.com/>.

<sup>4</sup> Such status makes a company investing in the City of Shafter eligible for tax credits against their California corporate income tax liability.

<sup>5</sup> Unfortunately, while Target, for example, has established a distribution center in the 700-acre ITTC, the City of Shafter has concerns that the shortcomings of the incumbent’s existing network may deter other national enterprises from establishing facilities in their community.

<sup>6</sup> See, <http://www.shafter.com/index.asp?NID=188>.

miles of completed engineering awaiting funding and construction to build out the rest of its planned fiber backbone.

Still, despite its forward-looking aspirations and initial fiber infrastructure investments, the fallout from the country's recession woes have struck the City of Shafter with particular ferocity. Consequently, while Kern County's overall unemployment rate stood at 14.2% during May, 2009, the ranks of Shafter's unemployed stood at a staggering 24.5%.<sup>7</sup>

The City enjoys racial diversity, with 68.1% of the population of Hispanic origin.<sup>8</sup> As of the 2000 census, 36.6% of the population was under the age of 18; the median income for a household in the city was \$29,515; and the median income for a family was \$31,457. A 2005 CRS Report for Congress concluded that, in comparing the San Joaquin Valley to the Appalachian Regional Commission area, poverty and unemployment rates were higher, and per capita income was lower, in the San Joaquin Valley. Indeed, represented by the Honorable Representative Jim Costa (D-CA), the 20<sup>th</sup> Congressional District (of which Shafter is a part) is the poorest in the nation.<sup>9</sup>

In short, the City of Shafter is a diverse community rooted in agricultural, quietly working proactively to position itself for long-term development and overcome its current economic challenges.

**II. The National Broadband Plan Must Adopt an Implementation Path that (a) Ensures Tier 7 Broadband Speeds for All Americans, and (b) Changes the *Status Quo* Equivalent of "Unavailable" for Those Citizens of Shafter and Elsewhere Who Forego High-speed Broadband Simply Because it Costs Too Much.**

---

<sup>7</sup> See, U.S. Bureau of Labor Statistics at [http://www.google.com/publicdata?ds=usunemployment&met=unemployment\\_rate&idim=county:PS060400&q=unemployment+rate+kern+county](http://www.google.com/publicdata?ds=usunemployment&met=unemployment_rate&idim=county:PS060400&q=unemployment+rate+kern+county).

<sup>8</sup> See, Wikipedia, [http://en.wikipedia.org/wiki/Shafter,\\_California](http://en.wikipedia.org/wiki/Shafter,_California).

<sup>9</sup> See, [http://en.wikipedia.org/wiki/California%27s\\_20th\\_congressional\\_district](http://en.wikipedia.org/wiki/California%27s_20th_congressional_district).

The City of Shafter looks forward to the day when the bottom six tiers of the Commission’s seven-tier definition of broadband become irrelevant—that is, when broadband is generally available at speeds greater than 100 Mbps. The National Broadband Plan should aim for long-term achievement of universal, affordable access to broadband services at the Tier 7 level, and, to that end, it’s reasonable to use the broadband definition system recently established by the Commission to measure the incremental steps made toward that goal.<sup>10</sup> The City of Shafter agrees with OPASTCO’s comments in this regard—particularly where it notes that the “need for speed” will continue to accelerate, and that “[i]t would be a fundamental error to establish goals for bandwidth capacity that are merely sufficient to accommodate today’s broadband-enabled applications and services.”<sup>11</sup>

Moreover, the National Broadband Plan should be firmly rooted in the notion of affordability. As was noted by the City of Los Angeles, “unaffordable broadband” is the functional equivalent of “unavailable” service.<sup>12</sup> And, as was highlighted by the NAACP in its June 8, 2009 comments, among households making \$50,000 or less per year, only 35% have broadband service.<sup>13</sup> Within the City of Shafter, the 2000 Census median household income was \$29,515, which works out to just under \$2,500 per month before taxes. With housing, food, transportation and energy costs all on the rise, it’s fair to surmise that even so-called “average” households struggle with the additional cost associated with maintaining a broadband

---

<sup>10</sup> *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, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 9691, 9700-9701, ¶ 20 (2008).

<sup>11</sup> See *Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies*, in GN Docket No. 09-51, dated June 8, 2009, at p. iii.

<sup>12</sup> See *Comments of the City of Los Angeles, California*, in GN Docket No. 09-51, dated June 8, 2009, at p. 1.

<sup>13</sup> See *Comments of the National Association for the Advancement of Colored People, Washington Bureau*, in GN Docket No. 09-51, dated June 8, 2009 at p. 1, citing to figures presented in a *Business Week* article.

connection. Affordability, then, should be fairly viewed on a community-by-community basis, with the understanding that “affordable” rates will necessarily vary based on the community’s median income. Put another way, the Commission’s National Broadband Plan must ensure an implementation path that changes the *status quo* equivalent of “unavailable” for those citizens of Shafter and elsewhere who have no choice other than to forego high-speed broadband simply because it costs too much.

### **III. The National Broadband Plan Should Encourage Solutions Beyond Private Sector Investment.**

National LambdaRail correctly observes that, overall, “[o]ver-reliance on private sector investment has resulted in underdeveloped, second-rate broadband infrastructure.”<sup>14</sup> Google cites Verizon’s \$23 billion investment in rolling out its FiOS network, but in advocating that the “FCC should also explore specific, creative solutions” for addressing the various impediments to broadband deployment, more than suggests that something should be done to help those communities, where, like Shafter, their citizens have been by-passed, overlooked, or simply avoided when it comes to the overbuilding of antiquated copper networks.<sup>15</sup>

To be sure, as one such solution, the California Public Utilities Commission notes among its successes, the California Advanced Services Fund, which is “developing into a comprehensive tool for subsidizing broadband deployment in unserved and underserved areas transcending the usual industry participants.”<sup>16</sup> While the CASF program is currently restricted to certificated carriers, the City of Shafter remains hopeful that state legislative action will permit municipalities such as Shafter to participate in the CASF funding process for the clear benefit of

---

<sup>14</sup> See *Comments of National LambdaRail, Inc.* in GN Docket No. 09-51, dated June 8, 2009, at p. 7.

<sup>15</sup> See *Comments of Google, Inc.*, in GN Docket No. 09-51, dated June 8, 2009, at pp. 35-36.

<sup>16</sup> See *Comments of The California Public Utilities Commission*, in GN Docket No. 09-51, dated June 8, 2009, at p. 57.

their communities.

Still, in the meantime, the Commission should proactively ensure that the National Broadband Plan addresses, and fosters, the potential contributions that municipalities can make to broadband network deployment.

**IV. Municipalities Are Uniquely Situated To Respond To The Needs Of Their More Vulnerable Constituents And To Maximize The Economic Development Potentials Of Broadband.**

Unlike the private sector service providers who must ultimately answer to their shareholders, municipalities such as Shafter answer to their citizens. The City of Shafter is uniquely positioned to address the policy goals of the National Broadband Plan as they relate to civic involvement, public safety, economic development and the needs of the community's children, minorities and disadvantaged citizens. Shafter has already taken definitive steps to invest in its community where others won't.<sup>17</sup>

AT&T observes that "government can reduce barriers to adoption and increase incentives to use broadband services by participating in the broadband marketplace as both a consumer of broadband services and as a provider of broadband-enabled services, applications, and content to the public."<sup>18</sup> The City of Shafter, for its part, envisions participation beyond mere web presence, and believes local governments—particularly in the absence of investment by existing carriers—should not be constrained from playing a vital role in providing their citizens with critical broadband infrastructure. To that end, Google notes that "municipal networks have already been shown to help serve these [hard-to-reach] populations, with both wired and wireless

---

<sup>17</sup> Significantly, despite the fact that two of California's main fiber-optic transport backbones pass through Shafter's city limits, both carriers have effectively blocked the City's Shafter Fiber Network from access to their facilities. So, for the moment, despite the fact that Shafter literally lies within close proximity to the "information superhighway," its own network lacks an on-ramp.

<sup>18</sup> See *Comments of AT&T*, in GN Docket No. 09-51, dated June 8, 2009, at p. 60.

networks having a significant impact on economic growth and development.”<sup>19</sup>

Without limiting the significance of the other policy aims of the National Broadband Plan, the City of Shafter notes, in particular, that its own overarching goal of economic development goes hand-in-hand with addressing the needs of the City’s youth and Latino populations.

With respect to the interplay between education and broadband access, the Sesame Workshop identified several stark statistics in its comments:<sup>20</sup>

- According to the U.S. Department of Education, most low-income children in this country are below grade level in reading by fourth grade, and, with respect to public school fourth graders, half of Hispanic students read below basic grade level.
- Growth in broadband access has been flat for African-Americans and low-income Americans.
- Less than half of Native Americans (41%), African American (43%) and Latino youth (44%) have home Internet access, compared to 75 percent of Asian-American and 80 percent of white youth.

On a more optimistic note, the Sesame Workshop cited research showing “that broadband can be an effective instructional tool, noting that it can have a strong influence on improving academic performance, especially among children who have lower grades.”<sup>21</sup> A community with strong schools offers potential employers a readily-available, competent workforce. Thus, the City of

---

<sup>19</sup> See *Comments of Google, Inc.* in GN Docket No. 09-51, dated June 8, 2009, at p. 37, citing Craig Settles, Municipal Broadband Snapshot Report™, *The Economic Development Impact of Municipal Broadband* (Dec. 2008), concluding that municipal networks make our current and potential workforce more efficient in a global, digital economy.

<sup>20</sup> See *Comments of Sesame Workshop*, in GN Docket 09-51, dated June 8, 2009.

<sup>21</sup> *Id.* at p. 2.

Shafter—with its disproportionately high number of low-income residents—believes that municipalities must play a pivotal, even strategic, role in ensuring that their youngest citizens have the tools they need to prosper.

Noting the *Business Week* reference to low broadband penetration in households with an annual income less than \$50,000, the Latino Institute for Corporate Inclusion observes in its comments that, with the median household income (nationally) for Hispanics at \$30, 475, broadband adoption is an issue directly affecting the Hispanic community.<sup>22</sup> Moreover, a recently released study by the Public Policy Institute of California reveals that

Although most demographic groups report increases in computer ownership, Internet connectivity, and broadband adoption, a digital divide persists. Just over half of Latinos (52%) say they have home computers, far lower than the percentage of Asians (89%), whites (87%), and blacks (75%) who do. Only 39 percent of Latinos have a home broadband connection, compared to 75 percent of whites, 74 percent of Asians, and 62 percent of blacks. There is no divide when it comes to Californians' views about the importance of Internet access: Nearly all residents (93%) say it is very (72%) or somewhat (21%) important. Across demographic groups, Californians place a high value on access, with 75 percent of Latinos—the least likely to have an Internet connection—saying it is very important.<sup>23</sup>

In the face of these statistics and its own substantially high Latino population, the City of Shafter is compelled to address broadband access as a linchpin issue in its long-term economic development plans.

## **V. Conclusion.**

The City of Shafter hears its constituents' calls for improved broadband access. The incumbent providers have largely failed to deliver. The City would like to expand its own fiber network, but must do so in a fiscally-responsible manner, and would clearly benefit from the kinds of assistance traditionally available only to service providers. The City of Shafter remains

---

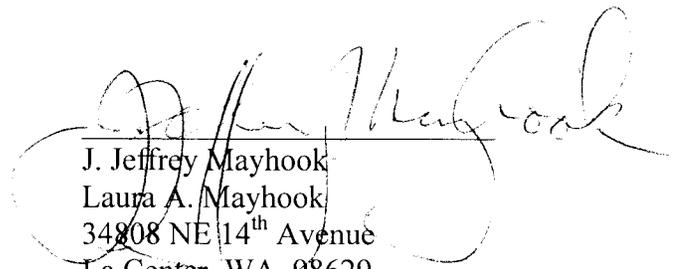
<sup>22</sup> See, *Comments of Latino Institute for Corporate Inclusion*, in GN Docket No. 09-51, dated June 8, 2009.

<sup>23</sup> See, [http://www.ppic.org/content/pubs/survey/S\\_609MBS.pdf](http://www.ppic.org/content/pubs/survey/S_609MBS.pdf).

hopeful that the Recovery Act's Broadband Technology Opportunities Program will provide needed support for its next phase of network deployment. That said, however, the Commission's National Broadband Plan must necessarily look beyond the horizon of the Recovery Act programs, and the City of Shafter encourages the Commission to make provision for municipal networks in the long-term, big picture view of the National Broadband Plan.

Respectfully submitted,

MAYHOOK LAW, PLLC



J. Jeffrey Mayhook  
Laura A. Mayhook  
34808 NE 14<sup>th</sup> Avenue  
La Center, WA 98629  
Tel: (360) 263-4340  
Fax: (360) 263-4343  
[jeffrey@mayhooklaw.com](mailto:jeffrey@mayhooklaw.com)  
[laura@mayhooklaw.com](mailto:laura@mayhooklaw.com)

Attorneys for City of Shafter, California

July 21, 2009