

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

In the Matter of)	
)	
Inquiry Concerning the Deployment of)	GN Docket No. 09-137
Advanced Telecommunications Capability)	
to All Americans in a Reasonable and)	
Timely Fashion, and Possible Steps to)	
Accelerate Such Deployment Pursuant to)	
Section 706 of the Telecommunications Act)	
of 1996, as Amended by the Broadband)	
Data Improvement Act)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51

**COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES**

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SUMMARY

Rural ILEC service areas should have the same definition of broadband as urban areas, based upon the Commission's forward-looking speed tier system. The 1996 Act states that consumers in rural and high-cost areas should have access to advanced services that are reasonably comparable in price and quality to those that are available in urban areas. It would therefore be inconsistent with the universal service principles set forth by Congress to establish a separate, inferior definition of broadband for areas served by rural ILECs. As part of its annual Section 706 review of the state of broadband deployment, the Commission should consider adjusting the speed ranges that are associated with each speed tier in order to reflect changes in technology and consumer demand.

Due to their remoteness, rural service areas will benefit greatly from highly bandwidth-intensive applications and services such as telemedicine, educational services, and telepresence. It is critical that rural service areas not be deprived of access to these advanced services as a result of a definition of broadband that is set at a "lowest common denominator" level so that service providers utilizing technologies with limited bandwidth capacities can achieve it. The primary definition of broadband should focus on the capabilities of highly scalable fixed networks. Indisputably, fixed networks, particularly those utilizing fiber, have superior bandwidth capability and scalability and are therefore in a unique position to accommodate the growing number of highly bandwidth intensive applications and services that rural consumers and business will desire and need to utilize.

Separate definitions for technologies with limited bandwidth capabilities can also be established. Like consumers in other areas of the country, rural consumers demand and deserve complimentary mobile broadband services. However, it is critical that these services not be deemed as a substitute for fixed technologies as a result of a generalized definition of broadband that is set at a substandard speed.

It is important to include middle mile and special access facilities and services in the definition of broadband. These facilities and services directly impact the end user's broadband experience, which is only as robust as the weakest part of the network that exists between them and the Internet backbone node that serves them. In addition, rural ILECs are often located so far from an Internet peering point that upgrading their middle-mile capacity to keep pace with consumer demand is prohibitively expensive. Therefore, in the event that the Commission adds broadband to the list of supported services under the High Cost program, including middle mile facilities and services in the definition of broadband would allow these costs to be supported.

Data collections overseen by the FCC, NTIA, and other government bodies should be synchronized wherever possible, so that rural ILECs are not unnecessarily burdened by reporting requirements that ask for the same information in different ways. The FCC should measure broadband availability using the same units of measurement as those established for the state-level mapping program funded by NTIA, and should phase out any elements of Form 477 that overlap with the broadband mapping data collection.

Rural ILECs have overcome many obstacles to offer as much broadband capacity as possible to roughly 90 percent of the consumers in their service areas, on average. Therefore, deployment in these service areas has been reasonable and timely, thus far.

However, the need for faster speeds and increased bandwidth capacity continues to escalate in order to accommodate a steadily growing number of transformative bandwidth-intensive applications and services that advance other public policy goals. In order for broadband deployment to remain reasonable and timely in rural service areas, rural ILECs need the ability to make broadband available at speeds and prices that are reasonably comparable to those available in urban areas. Below are specific steps the Commission should take to enable rural ILECs to accomplish this:

- Add broadband to the list of supported services under the High Cost universal service program so that rural ILECs are able to deploy broadband ubiquitously throughout their service areas and can continue to maintain, upgrade, and expand broadband capable infrastructure.
- In order to sufficiently support the deployment and ongoing provision of robust broadband services in rural service areas, update the existing rural high-cost support system, based on embedded costs, by: (1) removing the cap on the high cost loop support mechanism, (2) providing support for high middle mile transport costs, and (3) establishing a replacement mechanism for lost access revenues.
- Establish a rebuttable presumption that it is not in the public interest to support multiple wireline broadband providers in a rural service area, because supporting additional providers beyond the ILEC would threaten the quality and affordability of broadband and unnecessarily increase the size of the Universal Service Fund.
- Permanently eliminate the identical support rule for competitive eligible telecommunications carriers and expand the base of Universal Service Fund contributors to include all facilities-based broadband Internet access providers, which will sustain a High-Cost program that can sufficiently support robust broadband services in rural service areas.
- Expand the Low Income universal service program to support broadband Internet access service.
- Expediently reform retransmission consent and other video access rules, because bundling video subscription services with broadband generates additional value for consumers and therefore spurs broadband adoption while enhancing rural carriers' ability to deploy and upgrade broadband infrastructure.

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**COMMENTS
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ORGANIZATION FOR THE PROMOTION AND
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I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in response to the Notice of Inquiry (NOI) in the above-captioned proceeding.¹ OPASTCO is a national trade association representing approximately 520 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3.5 million customers. Almost all of OPASTCO's members are rural telephone companies as defined in 47 U.S.C. §153(37). On average, OPASTCO members offer broadband to roughly 90 percent of the customers in their service territories.

¹ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 09-137; *A National Broadband Plan For our Future*, GN Docket No. 09-51, Notice of Inquiry, FCC 09-65 (rel. Aug. 7, 2009) (NOI).

Rural ILEC service areas should have the same definition of broadband as urban areas, based upon the Commission's forward-looking speed tier system, which should be annually examined to consider changes in technology and consumer demand. The definition of broadband should not be set at a "lowest common denominator" level in order to ensure that service providers utilizing technologies with limited bandwidth capacities can achieve it. Instead, different definitions for these technologies can be established. The primary definition of broadband should focus on the capabilities of highly scalable fixed networks, which are in a unique position to accommodate the growing number of bandwidth intensive applications that rural consumers and businesses need and desire. While other technologies can offer benefits such as mobility, these services must not be deemed as a substitute for fixed technologies as a result of a substandard, generalized definition of broadband.

Middle mile and special access facilities and services should be included in the definition of broadband because they directly impact the end user's broadband experience. In addition, if the Commission adds broadband to the list of supported services under the High Cost universal service program, including middle mile facilities and services in the definition of broadband would allow these costs to be supported, which are prohibitively high for some rural ILECs.

Data collections overseen by the FCC, NTIA, and other government bodies should be synchronized wherever possible, so that rural ILECs are not unnecessarily burdened by overlapping reporting requirements. Therefore, any elements of Form 477 that overlap with the broadband mapping data collections funded by NTIA should be phased out.

Broadband deployment in rural ILEC service areas has been reasonable and timely, thus far. However, to ensure that it remains reasonable and timely, the Commission should reform universal service and intercarrier compensation mechanisms, and update retransmission consent and other video access rules. These actions will accelerate deployment and network upgrades by rural ILECs and spur adoption by consumers.

II. RURAL ILEC SERVICE AREAS SHOULD HAVE THE SAME DEFINITION OF BROADBAND AS URBAN AREAS, BASED UPON THE COMMISSION'S FORWARD-LOOKING SPEED TIER SYSTEM

The NOI seeks comment on how “broadband” should be defined.² As an initial matter, it must be stressed that the Telecommunications Act of 1996 (1996 Act) states that consumers in rural and high-cost areas should have access to advanced services that are reasonably comparable in price and quality to those that are available in urban areas.³ Therefore, it would be inconsistent with the universal service principles set forth by Congress to establish a separate, inferior definition of “broadband” for areas served by rural ILECs. As OPASTCO has noted previously,⁴ it would be reasonable for the FCC to continue to utilize the tiered broadband definition system which divides broadband into seven connection speed categories, or “tiers.”⁵

² NOI, ¶34. OPASTCO filed extensive comments in response to the Commission’s recent Public Notice on defining “broadband.” See, OPASTCO comments, GN Docket Nos. 09-47, 09-51, 09-137, DA 09-1842 (fil. Aug. 31, 2009) (OPASTCO Broadband Definition comments). See also, OPASTCO comments, GN Docket No. 09-51 (fil. June 8, 2009), pp. 4-6 (OPASTCO National Broadband Plan comments).

³ 47 U.S.C. §254(b).

⁴ OPASTCO Broadband Definition comments, pp. 3-4.

⁵ *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).

The NOI also inquires how to keep its definition of broadband flexible enough to keep pace with technological evolutions.⁶ As part of its annual review of broadband under Section 706 of the 1996 Act, the Commission should consider adjusting the speed ranges that are associated with each tier in order to reflect changes in technology and consumer demand. In other words, the speed range that now defines “Broadband Tier 2” would become “Basic Broadband Tier 1,” while the current speed range for “Broadband Tier 3” would be re-designated as “Broadband Tier 2,” and so forth.⁷ This will help prevent broadband definitions from remaining static and becoming outdated.

It is also important that the definition of broadband be set at a speed level that will enable the United States to achieve and maintain a world leadership position in broadband, and as a result maintain a leadership role in the competitive world economy. Speed also determines the applications, services, and content that consumers can access, which in turn determines the value of broadband for consumers.⁸ If consumers perceive broadband to be value laden, it will increase and sustain adoption, which in turn will enable carriers to make further investments in their networks.

A. The definition of broadband should not be set at a reduced level merely to accommodate technologies with lower bandwidth capacities; instead, different definitions for these technologies can be established

The NOI further asks if the definition of broadband should account for different types of transmission technologies.⁹ It is important that the definition of broadband not be set at a “lowest common denominator” level in order to ensure that service providers utilizing technologies with limited bandwidth capacities can achieve it. The primary

⁶ NOI, ¶41.

⁷ OPASTCO Broadband Definition comments, pp. 3-4.

⁸ *Id.*, pp. 4-8.

⁹ NOI, ¶38.

definition of broadband should focus on the capabilities of highly scalable fixed networks. At the same time, separate definitions for technologies with limited bandwidth capabilities can be established, if the Commission so chooses.

Indisputably, fixed networks, particularly those utilizing fiber, have superior bandwidth capability and scalability. They are therefore in a unique position to accommodate the growing number of highly bandwidth intensive applications and services that rural consumers and business seek to utilize.¹⁰ The NOI correctly observes that Congress has underscored the importance of broadband with respect to advancing consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy independence and efficiency, education, worker training, private sector investment, entrepreneurial activity, job creation, and economic growth.¹¹ The Congressional Research Service has reported that many applications and services associated with these goals, such as telemedicine, educational services, and telecommuting with high quality video, can only function well at speeds of 10 - 100 Mbps. Moreover, future applications, such as high definition telemedicine, remote server services for telecommuting, and high definition telepresence, will require speeds of 100 Mbps - 1 gigabit per second (Gbps).¹²

Due to their remoteness, rural service areas in particular will benefit greatly from these types of applications and services, and rural ILECs are uniquely suited to ensure

¹⁰ See, Acting Chairman Michael J. Copps, Federal Communications Commission, *Bringing Broadband to Rural America: Report on a Rural Broadband Strategy*, GN Docket No. 09-29 (May 22, 2009) (Report on a Rural Broadband Strategy), ¶¶11, 82.

¹¹ NOI, ¶2, citing the American Recovery and Reinvestment Act of 2009, §6001(k)(2), Pub. L. No. 111-5, 123 Stat. 115 (2009) (Recovery Act) and the Broadband Data Improvement Act, §§102(1)-(2); 47 U.S.C. §§1301(1)-(2), Pub. L. No. 110-385, 122 Stat. 4096 (2008) (BDIA).

¹² Patricia Moloney Figliola, Angele A. Gilroy, and Lennard G. Kruger, *The Evolving Broadband Infrastructure: Expansion, Applications, and Regulation*, Congressional Research Service, R40230 (Feb. 19, 2009), p. 3, Table 1.

that they are made available. Indeed, rural ILECs have long worked with community anchor institutions such as schools, libraries, health care facilities, and local governments to provide them with the highest quality basic and advanced services possible. It is critical that rural ILECs' service areas not be deprived of access to highly beneficial advanced services due to a "lowest common denominator" definition of broadband.

Certainly, like consumers in other areas of the country, rural consumers demand and deserve complimentary mobile broadband services. However, it is critical that these services not be deemed a substitute for fixed technologies as a result of a generalized definition of broadband that is set at a substandard speed. The complimentary services offered by mobile technologies lack the scalability needed to keep pace with the demands of consumers in rural service areas.¹³ A September 2008 report from Rysavy Research and 3G Americas confirms this, stating that "wireline networks have always had greater capacity, and historically have delivered faster throughput rates." As a result, "... in most instances, [wireless and wireline technologies] are complementary."¹⁴ The Rysavy Research report further illustrates that mobile wireless broadband technologies lack the capacity to substitute for fixed technologies:

[T]he overall capacity of wireless systems is generally lower than it is with wireline systems. This is especially true when wireless is compared to optical fiber, which some operators are now deploying to people's homes. With wireline operators looking to provide 20 to 100 Mbps... **the question becomes, is it possible to match these rates using wireless approaches? The answer is "yes" from a purely technical perspective, but it is "no" from a practical point of view.** It is only possible to achieve these rates by using large amounts of spectrum, generally more than is available for

¹³ OPASTCO Broadband Definition comments, pp. 8-11.

¹⁴ Rysavy Research and 3G Americas, *Edge, HSPA and LTE – Broadband Innovation* (Sept. 2008), p. 5, http://www.rysavy.com/Articles/2008_09_Broadband_Innovation.pdf (Rysavy Research). See also, Pew Internet & American Life Press Release, *The Mobile Difference: Wireless connectivity draws many users more deeply into digital life, but most Americans still connect to the internet mainly on wireline and rarely use a mobile device to access digital resources*, (Mar. 25, 2009), <http://www.pewinternet.org/Press-Releases/2009/The-Mobile-Difference.aspx>.

current 3G systems, and by using relatively small cell sizes. **Otherwise, it simply will not be possible to deliver the hundreds of gigabytes per month that users will soon be consuming over their broadband connections with wide-area wireless networks.** The only possible wireless approach to address such high-data consumption is with [short-range fixed mobile convergence] approaches... **This presupposes, however, an existing wireline Internet connection.**¹⁵

The Rysavy Research report projects that in the foreseeable future, advanced wireless technology will eventually be able to deliver peak rates of 42 Mbps of service to consumers.¹⁶ Higher wireless speeds are possible in theory,¹⁷ but the report recognizes that factors such as spectrum, backhaul, hardware, and network topology collectively impose practical limits on the speeds that wireless technology can provide.¹⁸

OPASTCO has previously highlighted one example of a rural broadband provider that is currently experiencing an average per-household demand of 40 Mbps, and another that has launched a 100 Mbps offering.¹⁹ Research confirms that demand for service levels of 40 Mbps is fast becoming typical among consumers choosing a triple-play package of voice, video, and data services, while it is anticipated that demand will reach 90 Mbps as early as 2013.²⁰ Even if subscription video applications are excluded, household demand is still projected to reach 30 Mbps in 2013, with demand continuing to escalate afterwards.²¹ This conclusively demonstrates that highly scalable fixed networks are necessary to meet consumer demand in the foreseeable future, and the primary definition of broadband should reflect this.

¹⁵ Rysavy Research, pp. 6-7 (emphasis added).

¹⁶ *Id.*, p. 57.

¹⁷ Report on a Rural Broadband Strategy, ¶10, fn. 14.

¹⁸ Rysavy Research, pp. 24-25.

¹⁹ OPASTCO National Broadband Plan comments, p. 8.

²⁰ See, Steven S. Ross, *FTTH: Shovel Ready!*, Broadband Properties (May/June 2009), p. 33.

²¹ *Id.*

B. Middle mile facilities and services should be included in the definition of broadband; middle mile should be defined as facilities that are used to connect retail broadband providers with the Internet backbone

The NOI asks to what extent should middle mile and special access facilities and services be included in the definition of broadband.²² It is important to include these facilities and services in the definition, because they directly impact the end user's broadband experience, which is only as robust as the weakest part of the network that exists between them and the Internet backbone node that serves them. It is also important because rural ILECs are often located so far from an Internet peering point that upgrading their middle-mile capacity to keep pace with consumer demand is prohibitively expensive. Thus, in the event that the FCC adds broadband to the list of supported services under the High Cost universal service program – which OPASTCO strongly supports – including middle mile facilities and services in the definition of broadband would allow these costs to be supported, helping to keep end-user rates affordable.²³

The NOI notes that the Rural Broadband Report describes middle mile facilities as those “that are commonly used to connect the ‘last mile’ ISP with an Internet backbone service provider.”²⁴ This is an accurate and appropriate definition. This definition also does not preclude the possibility that a last mile provider, such as a rural ILEC or its subsidiary or affiliate, may need to utilize the transport services of more than one carrier in order to reach the backbone.

²² NOI, ¶39.

²³ OPASTCO National Broadband Plan comments, pp. 19-21, 24-25.

²⁴ NOI, ¶39, citing Rural Broadband Report, ¶114, *et. al.* In addition, the NOI also inquires about the term “special access” (NOI, ¶39). This term is usually used to describe a tariffed service, which may be used for a variety of purposes, including but not limited to obtaining connectivity to the Internet backbone. For example, special access is also used to provide internal connections within mid-sized or large enterprise customers that have multiple locations, either within and/or beyond an ILECs' local service area. Therefore, “special access” is not necessarily synonymous with “middle mile.”

The NOI further inquires about how the capabilities of, and needs for, middle mile and special access services vary among rural, urban, and suburban environments.²⁵ Transport costs are determined based upon both distance and capacity. As a result, rural broadband providers that are located far from an Internet backbone peering point incur disproportionately high backhaul transport costs than providers in other areas. Thus, when rural ILECs wish to purchase higher capacity middle mile facilities in order to enable faster end-user speeds, the price per mile increases. This factor, combined with significant distances, risks making these faster speeds unaffordable for consumers in rural service areas. Furthermore, many rural broadband providers have access to only one backbone provider. In order to ensure that consumers can have access to the online content and applications of their choice, rural broadband providers require access to the Internet backbone on a most-favored nation basis; *i.e.*, at the same rates, and under the same terms and conditions that are offered to other providers.

III. AVAILABILITY OF BROADBAND SHOULD BE DETERMINED IN CONJUNCTION WITH THE BROADBAND MAPPING EFFORTS COORDINATED BY NTIA, WHICH WOULD ALLOW DUPLICATIVE DATA COLLECTIONS TO BE CONSOLIDATED

The NOI seeks comment on the extent to which broadband mapping efforts currently under development²⁶ can and should influence this or future inquiries concerning broadband availability.²⁷ More specifically, it seeks comment on whether the

²⁵ *Id.*

²⁶ *See*, Department of Commerce, National Telecommunications and Information Administration, State Broadband Data and Development Grant Program, Docket No. 0660-ZA29, Notice of Funds Availability, 74 Fed. Reg. 32545 (July 8, 2009), as modified by Notice of Funds Availability; Clarification, 74 Fed. Reg. 40669 (Aug. 12, 2009) (clarified NTIA State Mapping NOFA).

²⁷ NOI, ¶44. *See also*, ¶67.

Commission should rely on Census Block data for its analysis of broadband availability.²⁸

The state-level mapping program being funded through NTIA is also intended, in part, to aid in the development and maintenance of a nationwide broadband inventory map, as required by the Recovery Act.²⁹ NTIA has decided that data collected for the state-level mapping project should be at the Census Block or street segment level.³⁰ This measurement is more granular than the Census Tract measurement used by the FCC's Form 477. There is no apparent benefit to having the FCC's Form 477 and the data collections for the state-level and national broadband mapping projects duplicate efforts, using different units of measurement. Therefore, the Commission should measure broadband availability using the same units of measurement as described in the clarified NTIA State Mapping NOFA, and should phase out any elements of Form 477 that overlap with the national broadband mapping data collection. The data collections overseen by the FCC, NTIA, and other government bodies should be synchronized wherever possible, so that rural ILECs are not unnecessarily burdened by reporting requirements that ask for the same information in different ways.³¹

The NOI also asks if the Section 706 inquiry should be expanded to assess the level of demand for broadband services.³² This assessment can be made without expanding the inquiry by comparing subscribership data provided on Form 477 with deployment data from the national broadband mapping project. This would allow the Commission to determine demand levels without increasing reporting burdens on rural

²⁸ NOI, ¶54.

²⁹ NOI, ¶¶25-26.

³⁰ Clarified NTIA State Mapping NOFA.

³¹ Rural ILECs have an average of only 19 employees. *See*, Telergee Alliance, 2008 Telergee Benchmarking Study, p. 64 (2008).

³² NOI, ¶46.

broadband providers. Every effort should be made to minimize burdens and consolidate data collection requirements to the greatest extent possible so that rural carriers may continue to focus their efforts on providing service to consumers, rather than filling out paperwork.

IV. BROADBAND DEPLOYMENT IN THE AREAS SERVED BY RURAL ILECS HAS OCCURRED IN A REASONABLE AND TIMELY MANNER THUS FAR, BUT COMMISSION ACTION IS NEEDED TO ENSURE THE UBIQUITOUS AVAILABILITY OF ROBUST BROADBAND IN THESE AREAS GOING FORWARD

Rural ILECs (including their affiliates and subsidiaries) have overcome many obstacles to offer as much broadband capacity as possible to roughly 90 percent of the consumers in their service areas, on average. Therefore, deployment in these service areas has been reasonable and timely thus far. However, the need for faster speeds and increased bandwidth capacity continues to escalate in order to accommodate a continually growing number of transformative bandwidth-intensive applications and services that advance other public policy goals.

For example, aging populations are increasing the demand for home medical monitoring services, especially in rural areas where the lack of medical personnel has reached “crisis proportions.”³³ Business-critical teleconferencing and telepresence applications not only reduce travel costs and environmental impacts, but also enhance employment opportunities for rural residents and can be critical drivers of economic development. Family farms can use video applications to remotely monitor fields, crops, livestock, and equipment. Home and business security and fire monitoring services, featuring real-time and recorded video images that can be accessed from any location

³³ See, Carol Wilson, *Health care industry a challenge, opportunity for telecom*, TelephonyOnline (Aug. 24, 2009), http://telephonyonline.com/business_services/news/telecom-challenges-health-care-0824/.

with a broadband Internet connection, help keep families and property safe. In addition, people with disabilities, such as the hearing impaired, can use broadband video applications to communicate visually and in real time. And, distance learning designed to expand educational opportunities is significantly more effective when students can see teachers and any classroom materials that are presented.

In addition, as stated previously, rural carriers offering bundled voice, video, and data services are already experiencing an average demand of 40 Mbps or more per household.³⁴ This level of demand has been confirmed by independent market research, which anticipates that demand will reach 90 Mbps by 2013.³⁵ Even if subscription based video applications are excluded, household demand is predicted to reach 30 Mbps by that time.³⁶

Thus, in order for broadband deployment to remain reasonable and timely in rural service areas, rural ILECs need the ability to make broadband available to their customers and communities at speeds and prices that are reasonably comparable to those available in urban areas. Outlined in the section below are specific steps the Commission should take to enable rural ILECs to accomplish this.

V. THE COMMISSION CAN ACCELERATE BROADBAND DEPLOYMENT, NECESSARY NETWORK UPGRADES, AND ADOPTION BY REFORMING UNIVERSAL SERVICE AND INTERCARRIER COMPENSATION MECHANISMS, AND UPDATING RETRANSMISSION CONSENT AND OTHER VIDEO ACCESS RULES

The NOI asks what actions can be taken to accelerate broadband deployment, particularly in rural areas.³⁷ Similarly, it also asks how and why consumers adopt and

³⁴ OPASTCO National Broadband Plan comments, p. 8.

³⁵ See, Steven S. Ross, *FTTH: Shovel Ready!*, Broadband Properties (May/June 2009), p. 33.

³⁶ *Id.*

³⁷ NOI, ¶¶64-66.

use services utilizing broadband.³⁸ OPASTCO offered detailed recommendations in both the National Broadband Plan and Video Competition dockets which, if adopted, will accelerate broadband deployment and necessary network upgrades by rural ILECs, as well as broadband adoption by consumers. These recommendations include the following:

- Add broadband to the list of supported services under the High Cost universal service program so that rural ILECs are able to deploy broadband ubiquitously throughout their service areas and can continue to maintain, upgrade, and expand broadband capable infrastructure.³⁹
- In order to sufficiently support the deployment and ongoing provision of robust broadband services in rural service areas, update the existing rural high-cost support system, based on embedded costs, by: (1) removing the cap on the high cost loop support mechanism, (2) providing support for high middle mile transport costs, and (3) establishing a replacement mechanism for lost access revenues.⁴⁰
- Establish a rebuttable presumption that it is not in the public interest to support multiple wireline broadband providers in a rural service area, because supporting additional providers beyond the ILEC would threaten the quality and affordability of broadband and unnecessarily increase the size of the Universal Service Fund.⁴¹
- Permanently eliminate the identical support rule for competitive eligible telecommunications carriers and expand the base of Universal Service Fund contributors to include all facilities-based broadband Internet access providers, which will sustain a High-Cost program that can sufficiently support robust broadband services in rural service areas.⁴²
- Expand the Low Income universal service program to support broadband Internet access service.⁴³
- Expediently reform retransmission consent and other video access rules, because bundling video subscription services with broadband generates additional

³⁸ NOI, ¶40.

³⁹ OPASTCO National Broadband Plan comments, pp. 19-21.

⁴⁰ *Id.*, pp. 22-27.

⁴¹ *Id.*, pp. 27-31.

⁴² *Id.*, pp. 31-34.

⁴³ *Id.*, pp. 34-35; *see also* NOI, ¶59.

value for consumers and therefore spurs broadband adoption while enhancing rural carriers' ability to deploy and upgrade broadband infrastructure.⁴⁴

By taking these steps, the Commission will encourage further deployment and improvement of broadband infrastructure in rural service areas, while making it more affordable and desirable for consumers to adopt broadband services.

VI. CONCLUSION

Rural ILEC service areas should have the same definition of broadband as urban areas, based upon the Commission's forward-looking speed tier system, which should be annually examined to consider changes in technology and consumer demand. The definition of broadband should not be set at a "lowest common denominator" level to ensure that service providers utilizing technologies with limited bandwidth capacities can achieve it. Instead, different definitions for these technologies can be established. The primary definition of broadband should focus on the capabilities of highly scalable fixed networks.

Middle mile and special access facilities and services should be included in the definition of broadband because they directly impact the end user's broadband experience. Also, many rural ILECs incur prohibitively expensive middle mile transport costs, and should the FCC add broadband to the list of supported services under the High Cost universal service program, including middle mile facilities and services in the definition of broadband would enable these costs to be supported.

Data collections overseen by all government bodies should be synchronized wherever possible, so that rural ILECs are not unnecessarily burdened by overlapping

⁴⁴ OPASTCO National Broadband Plan comments, 45-48; *see also* OPASTCO Video Competition comments, pp. 10-20.

reporting requirements. Any elements of Form 477 that overlap with state-level and national broadband mapping data collections should therefore be phased out.

Broadband deployment in rural ILEC service areas has been reasonable and timely, thus far. However, to accelerate broadband deployment, network upgrades, and adoption in rural service areas, the Commission should reform the universal service and intercarrier compensation mechanisms, and update retransmission consent and other video access rules.

Respectfully submitted,

**THE ORGANIZATION FOR THE
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CERTIFICATE OF SERVICE

I, Brian Ford, hereby certify that a copy of the comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent via electronic mail, on this, the 4th day of September 2009, to those listed on the attached sheet.

By: /s/ Brian Ford
Brian Ford

SERVICE LIST
GN Docket Nos. 09-137, 09-51

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