# PUBLIC NOTICE

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## COMMENT SOUGHT ON ADDRESSING CHALLENGES TO BROADBAND DEPLOYMENT FINANCING

**NBP Public Notice # 28**

**PLEADING CYCLE ESTABLISHED**

**GN Docket Nos. 09-47, 09-51, 09-137**

MAILED
DEC 23
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**Comment Date: January 8, 2010**

In the American Recovery and Reinvestment Act of 2009 ("Recovery Act"), Congress directed the Commission to create a national broadband plan by February 17, 2010, that seeks to "ensure that all people of the United States have access to broadband capability and ... establish[es] benchmarks for meeting that goal."[1] Among other things, the Commission is to provide "an analysis of the most effective and efficient mechanism for ensuring broadband access by all people of the United States"[2] and "a detailed strategy for achieving affordability of such service and maximum utilization of broadband infrastructure and service by the public."[3]

One identified obstacle to broadband access in rural communities is the lack of available private financing for network deployment, whether through capital investment, debt financing, or other financial support.[4] While several federal programs support broadband deployment in unserved and underserved areas, challenges in obtaining private debt or equity support that prevent effective deployment remain. Even with government support, many enterprises may be unable to achieve a profitable operating model, and the business case for potential deployment projects in many rural areas may be inadequate to merit sufficient private sector support.[5]

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[1] American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 § 6001(k)(2) (2009).

[2] *Id.* at § 6001(k)(2)(A).

[3] *Id.* at § 6001(k)(2)(B).

[4] Letter from Thomas Cohen, Kelley Drye & Warren LLP, counsel for Hiawatha Broadband Communications, Inc., to Marlene H. Dortch, Secretary, FCC (Nov. 25, 2009) ("Hiawatha Nov. 25 *Ex Parte*") at 1 and attach. 1 "Hiawatha Broadband Communications Inc. White Paper" at 1. *See also* Letter from Thomas Cohen, Kelley Drye & Warren LLP, counsel for Hiawatha Broadband Communications, Inc., to Marlene H. Dortch, Secretary, FCC (Nov. 5, 2009) ("Hiawatha Nov. 5 *Ex Parte*), at 1, attach. "Barriers to Broadband Rural Deployment – Challenges and Solutions," at 1-3.

[5] *See* Hiawatha Nov. 5 *Ex Parte*, attach. "Barriers to Broadband Rural Development – Challenges and Solutions," at 1-3. *See also* Bronner (Novak Biddle) Statement at Capital Formation Field Hearing (10/1/09) (suggesting that

In an effort to address these challenges, the Commission seeks comment on the potential private sector and government funding vehicles for effective financing of broadband deployment projects in rural and high cost areas. While many of these vehicles may be outside the Commission's scope and jurisdiction, the Commission is considering a range of potential vehicles in order to address the Congressional call for "an analysis of the most effective and efficient mechanism for ensuring broadband access" to all Americans.

Recognizing the issues are complex and differ in various contexts, the Commission seeks to focus on how government policies and programs create more effective incentives for private financing of deployment of broadband infrastructure in the country's underserved and unserved areas.

1. What existing federal government institutions, program mechanisms, and sources of funding could be employed to create greater incentives for privately financed rural broadband deployment?[6]

   a. What current federal programs administered by existing institutions, including Rural Utilities Service and National Telecommunications and Information Administration, provide instructive precedents for innovative financing support vehicles, such as loan guarantees?[7]

   b. What types of federal government financing (one-time grants, ongoing grants, loans, loan guarantees, etc.) are best suited in what contexts and what would be the respective levels of private financial leverage we can expect each type to provide?

2. What new financing methods should be employed to increase effectiveness and encourage entrepreneurship in the private sector for supporting rural broadband deployment?

   a. How would the new financing vehicle be structured and administered? What would its cost be, both financially and administratively, and how would the government ensure the sustainability of the overall program to continue future support?

   b. How can existing financing vehicles (e.g., grants, loans, etc.) be leveraged and/or rechanneled to create appropriate incentives for private sector financing of deployment in rural areas? What would be the qualitative and quantitative impact on private behavior for different types of support (e.g., one-time grants, ongoing grants, loans, revolving loans, etc.)?

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venture capital firms examine the return on investment in each point of the value chain and that the cost of capital is often too high).

[6] Commenters do not need to re-submit any information previously provided in response to NBP Public Notice #19 regarding universal service and intercarrier compensation. *See Comment Sought on the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, GN Docket Nos. 09-47, 09-51, 09-137, Public Notice, DA 09-2419 (WCB, rel. Nov. 13, 2009).

[7] *See, e.g.*, Remarks of Dr. Gary Bojes, USDA/RUS, at Capitalization Strategies for Small and Disadvantaged Businesses Workshop (11/12/2009) at 15-17 (http://www.broadband.gov/docs/ws_capitalization_strategies/ws_capitalization_strategies_transcript.pdf) (last visited December 18, 2009) (explaining that USDA/RUS provides many low interest loans that help improve telecommunications infrastructure).

c. Are there new financing vehicles (e.g., loan guarantees) that have not been employed in the broadband context that should be considered?

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. *See* 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. *See* 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

- **All comments should refer to GN Docket Nos. 09-47, 09-51, and 09-137.**
- **Please title comments and reply comments responsive to this Notice as "Comments —NBP Public Notice # 28."**
- **Filers using the Commission's Electronic Comment Filing System (ECFS) should enter the following text in the "Custom Description" field in the "Document(s)" section of the ECFS filing page: "Comments – NBP Public Notice #28".**
- **We strongly encourage parties to develop responses to this Notice that adhere to the organization and structure of the questions in this Notice.**

Comments may be filed using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.[8] Comments can be filed through the Commission's ECFS filing interface located at the following Internet address: http://www.fcc.gov/cgb/ecfs/. Comments can also be filed via the Federal eRulemaking Portal: http://www.regulations.gov.[9] In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. **PLEASE NOTE**: Through December 24, 2009, the Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. This filing location will be permanently closed after December 24, 2009. The filing hours at both locations are 8:00 a.m. to 7:00 p.m.

[8] *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

[9] Filers should follow the instructions provided on the Federal eRulemaking Portal website for submitting comments.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

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For further information about this Public Notice, please contact Randy Clarke at (202) 418-1500.