

**From:** [Hurley, Denis](#)  
**To:** [BOCrfc2015](#); [Karen Hanson](#); "[Denise.Scott1@wdc.usda.gov](mailto:Denise.Scott1@wdc.usda.gov)"  
**Cc:** [Cohen, Thomas](#); [Dempsey, Jameson](#); "[Heather.b.gold@ftthcouncil.org](mailto:Heather.b.gold@ftthcouncil.org)"  
**Subject:** Broadband Opportunity Council - FTTH Council Comments  
**Date:** Wednesday, June 10, 2015 12:25:45 PM  
**Attachments:** [FTTH Council Response to BOC Request for Comment - 6-10-2015.pdf](#)

---

To The Broadband Opportunity Council:

Please find attached the comments of the Fiber to the Home Council Americas on the Broadband Opportunity Council's Request for Comments (Docket No. 1540414365-5365-01, RIN 0660-XC019). Should you have any questions please contact Heather B. Gold at (202) 365-553 or at [Heather.b.gold@ftthcouncil.org](mailto:Heather.b.gold@ftthcouncil.org).

Sincerely,

Denis Hurley

**KELLEY**  

---

**DRYE**

**Denis Hurley | Paralegal**

Kelley Drye & Warren LLP  
Washington Harbour, Suite 400  
3050 K Street, NW, Washington, DC 20007  
w: (202) 342-8524 | c: (917) 858-6016  
[dhurley@kelleydrye.com](mailto:dhurley@kelleydrye.com)

[www.linkedin.com/in/hurleydenis/](http://www.linkedin.com/in/hurleydenis/)

The information contained in this E-mail message is privileged, confidential, and may be protected from disclosure; please be aware that any other use, printing, copying, disclosure or dissemination of this communication may be subject to legal restriction or sanction. If you think that you have received this E-mail message in error, please reply to the sender.

This E-mail message and any attachments have been scanned for viruses and are believed to be free of any virus or other defect that might affect any computer system into which it is received and opened. However, it is the responsibility of the recipient to ensure that it is virus free and no responsibility is accepted by Kelley Drye & Warren LLP for any loss or damage arising in any way from its use.



June 10, 2015

**BY E-MAIL**

National Telecommunications and Information Administration  
U.S. Department of Commerce  
1401 Constitution Avenue NW, Room 4626  
Attn: Broadband Opportunity Council  
Washington, DC 20230

**Re: In the Matter of Broadband Opportunity Council Notice and Request for Comment – Docket No. 1540414365-5365-01, RIN 0660-XC019**

Dear Ms. Hanson and Ms. Scott:

I am writing on behalf of the Fiber to the Home Council Americas (“FTTH Council” or the “Council”)<sup>1</sup> in response to the Rural Utilities Service (“RUS”) and the National Telecommunications and Information Administration (“NTIA”) Broadband Opportunity Council (“BOC”) Notice and Request for Comment (“Request for Comment”) seeking input on “actions the federal government can take to promote broadband deployment, adoption, and competition, including by identifying and removing regulatory barriers unduly impeding investments in broadband technology.”<sup>2</sup> In particular, the FTTH Council responds to the overarching questions: “How can the federal government promote best practices in broadband deployment and adoption? What resources are most useful to communities? What actions would be most helpful to communities seeking to improve broadband availability and use?”<sup>3</sup>

To encourage the deployment of advanced, all-fiber broadband infrastructure to all Americans, the federal government should adopt comprehensive strategies to lower regulatory barriers. For this reason, the Council appreciates the Executive Branch’s efforts taken so far to

---

<sup>1</sup> The FTTH Council is a not-for-profit association whose mission is to accelerate deployment of all-fiber access networks by demonstrating how fiber-enabled applications and solutions create value for service providers and their customers, promote economic development, and enhance quality of life. The more than 300 members of the Council represent all areas of the broadband access industry, including service providers of all types and hardware and software equipment vendors.

<sup>2</sup> See Broadband Opportunity Council Notice and Request for Comment, Docket No. 1540414365-5365-01, RIN 0660-XC019, 80 Fed. Reg. 23785 (Apr. 29, 2015) (“Request for Comment”).

<sup>3</sup> See *id.* ¶ 1.

reduce federal barriers to broadband deployment. For example, EO 13604 took the important step of establishing a Steering Committee on Federal Infrastructure Permitting and Review Process Improvement to investigate ways to streamline the federal permitting and review process, while EO 13616 established a Broadband Deployment on Federal Property Working Group specifically to address barriers to broadband deployment on federal property.<sup>4</sup> Subsequently, the Steering Committee and Working Group issued progress reports highlighting the steps they have already taken—and steps they plan to take—to improve the federal permitting process and facilitate time- and cost-effective permitting approval of major infrastructure projects, including broadband deployments.<sup>5</sup> However, the Working Group has not provided a status report on its progress in nearly two years, and the Steering Committee’s Implementation Plan only addresses broadband in passing. Thus, there is still much work to do and threshold problems to address.

One of the most pressing concerns is that providers and local communities do not have a single, easy-to-use source of information to enable them to understand how to access federal funds, obtain necessary permits, and adopt successful strategies to deploy broadband infrastructure. Instead, information is distributed across numerous federal websites, none of which provides a complete picture.<sup>6</sup> Even the Federal Infrastructure Projects Permitting

---

<sup>4</sup> See Executive Order 13604, *Improving Performance of federal Permitting and Review of Infrastructure Projects*, 77 Fed. Reg. 18887 (Mar. 22, 2012); Executive Order 13616, *Accelerating Broadband Infrastructure Deployment*, 77 Fed. Reg. 36903 (June 14, 2012); Presidential Memorandum, “Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures” (May 17, 2013), *available at* <https://www.whitehouse.gov/the-press-office/2013/05/17/presidential-memorandum-modernizing-federal-infrastructure-review-and-pe>.

<sup>5</sup> In August 2013, the Working Group issued a progress report identifying several of its accomplishments, including: aggregating data sets on federal asset locations; creating common forms and templates; developing an online platform for common applications and forms; ensuring increased accessibility and usability of federal broadband documentation; and establishing “dig once” best practices. See Broadband Deployment on Federal Property Working Group, “Implementing Executive Order 13616: Progress on Accelerating Broadband Infrastructure Deployment” (Aug. 2013), *available at* [https://www.whitehouse.gov/sites/default/files/microsites/ostp/broadband\\_eo\\_implementation.pdf](https://www.whitehouse.gov/sites/default/files/microsites/ostp/broadband_eo_implementation.pdf). Similarly, in May 2014, the Steering Committee issued an Implementation Plan with strategies—including improving transparency and establishing a dedicated team for multi-agency approval processes—for halving aggregate timelines for major infrastructure projects. See Steering Committee on Federal Infrastructure Permitting and Review Process Improvement, “Implementation Plan for the Presidential Memorandum on Modernizing Infrastructure Permitting,” *available at* <http://www.permits.performance.gov/pm-implementation-plan-2014.pdf>. However, since that time, neither the Steering Committee nor the Working Group has filed progress updates, and it is unclear whether progress continues.

<sup>6</sup> While the broadband map on the Federal Infrastructure Projects Permitting Dashboard provides helpful information about federal assets with respect to wireless facilities siting,

Dashboard, which is intended to track project schedules and metrics for major infrastructure projects, fails to provide users with a comprehensive guide.<sup>7</sup> As a result, providers spend too much time and resources, including by hiring outside consultants, gathering even basic information about project development. This can cause significant delays and additional cost before the feasibility of a broadband deployment can even be assessed.

To remedy this problem, the Council recommends the Executive Branch adopt two proposals: (1) an online broadband deployment handbook; and (2) an interagency broadband deployment consulting service to assist providers with navigating federal permitting policies and procedures and accessing federal funding resources.

First, the Executive Branch should develop an online federal broadband deployment handbook that can serve as a one-stop shop for prospective broadband infrastructure projects. This handbook should include at least the following four components:

- **A Roadmap for Accessing Federal Funding.** The handbook should include an easy-to-use roadmap of all federal resources available for funding different aspects of a broadband infrastructure deployment—from developing feasibility plans through actual construction. The Council has developed a similar guide as a part of its Community Toolkit, which provides local communities with information about federal funding that can be used to deploy all-fiber networks.<sup>8</sup> However, in developing its guide, the Council has faced significant challenges trying to compile the information and ensure that it is complete and up to date.
- **Clear Instructions for Permitting.** While the existing Dashboard contains information about permitting, this information can be overwhelming for small providers and communities. The handbook, therefore, should have clear instructions for providers and local communities to understand the permitting process for access to federal assets, such as poles, ducts, conduits, and other rights of way.
- **A More Complete Broadband Map.** The handbook should include a more complete national broadband map that providers and local communities can use when applying for funding or permits. This map should not only denote all underserved and unserved areas, but other federal assets that providers could use to expedite deployment, such as highway conduit and federal buildings.
- **Best Practices for Local Communities.** The handbook should also include a collection of best practices that local communities can leverage to improve the business case for all-

---

it does not appear to provide similarly helpful information for wireline deployments. *See* Federal Infrastructure Projects Permitting Dashboard, Broadband Map, [http://www.permits.performance.gov/broadband\\_map](http://www.permits.performance.gov/broadband_map).

<sup>7</sup> *See* Federal Infrastructure Projects Permitting Dashboard, <http://www.permits.performance.gov/>.

<sup>8</sup> *See* FTTH Council, Community Toolkit: Funding, <http://www.ftthcouncil.org/p/cm/ld/fid=374>.

fiber deployments. For example, Google has developed a Google Fiber City Checklist to enable communities to lower barriers to fiber deployment by gathering information about existing infrastructure, assisting providers with gaining access to rights of way, and facilitating permitting, construction, and maintenance processes.<sup>9</sup> Similarly, the FTTH Council Community Toolkit seeks to provide strategies for local communities to make themselves fiber-ready.<sup>10</sup>

Second, the Executive Branch should establish an interagency consultancy to assist communities and providers—particularly smaller entities—with understanding and navigating the federal permitting process and available federal funding sources for broadband infrastructure deployments. This consultancy will provide a complement to the online handbook and will enable interested parties to work with the Executive Branch to develop strategies and leverage federal resources to build networks in a more cost-effective and timely manner. Based on their unique expertise in facilitating and funding broadband builds through the Broadband Technology Opportunities Program and the Broadband Initiatives Program, the Council proposes that this consultancy be housed within either NTIA or RUS.

Together, these proposals will address a significant hurdle that providers and local communities face when developing strategies to deploy all-fiber infrastructure. By improving federal resources and assistance programs for those seeking to build all-fiber networks, the Executive Branch agencies can accelerate the deployment of ultra-high-speed networks throughout the country. The Council appreciates the opportunity to submit these comments and stands ready to assist the BOC.

Sincerely,



FIBER TO THE HOME COUNCIL AMERICAS

Heather Burnett Gold  
President & CEO  
Fiber to the Home Council Americas  
6841 Elm Street #843  
McLean, VA 22101  
Telephone: (202) 365-5530  
[Heather.b.gold@ftthcouncil.org](mailto:Heather.b.gold@ftthcouncil.org)

---

<sup>9</sup> See Google Fiber City Checklist (Feb. 2014), available at <https://fiber.storage.googleapis.com/legal/googlefibercitychecklist2-24-14.pdf>.

<sup>10</sup> See FTTH Council, Community Toolkit, <http://toolkit.ftthcouncil.org/>.