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Attached please find NTCA–The Rural Broadband Association’s comments filed in response to the RUS and the NTIA Notice and Request for Comment to inform the deliberations of the Broadband Opportunity Council. Please feel free to contact the following with any questions you may have:

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**Before the
National Telecommunications and Information Administration
and the
Rural Utilities Service
Washington, D.C. 20230**

Broadband Opportunity Council Notice) Docket No.1540414365-5365-01
and Request for Comments)

**COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

I. BACKGROUND AND SUMMARY OF NTCA RECOMMENDATIONS

NTCA–The Rural Broadband Association (“NTCA”) hereby submits comments in the above-captioned proceeding,¹ in which the National Telecommunications and Information Administration (“NTIA”) and the Rural Utilities Service (“RUS”) seek comment on methods by which government agencies can remove barriers to broadband deployment. As the Notice states, among other things the Broadband Opportunity Council (“Council”) is tasked with removing barriers to broadband deployment and adoption and realigning existing programs to make that possible.

NTCA represents nearly 900 rural rate-of-return regulated telecommunications providers (commonly referred to as “RLECs”) providing service in 46 states. All of NTCA’s RLEC members are full service local exchange carriers and broadband providers, and many of its members provide wireless, cable, satellite, and long distance and other competitive services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (the “Act”).

¹ Department of Agriculture, Rural Utilities Service, Department of Commerce, National Telecommunications and Information Administration, Broadband Opportunity Council Notice and Request for Comment, Docket No.1540414365-5365-01, (rel. Apr. 24, 2015) (“Notice”).

RLECs serve approximately *5 percent of the population* of the United States but approximately *forty percent of its landmass*. These companies operate in rural and tribal areas long ago left behind by larger service providers because the markets were too high-cost – too sparsely populated, too far from larger towns and cities, and/or too challenging to serve in terms of topography, terrain, and lack of subscriber density. RLECs operate in areas in which little, if any, “business case” can be made to deploy and operate advanced communications networks throughout their rural service area absent of the availability of sufficient and predictable High Cost Universal Service Fund (“USF”) support to enable the provision of affordable and high-quality communications services and, in many cases, agency financing of those networks in the first instance.

As anchors (and residents) in the areas they serve, these small businesses create jobs, drive economic activity, and connect rural Americans to the world. Moreover, RLECs have been at the forefront of the broadband and Internet Protocol evolution for years, making every effort to innovate and deploy advanced networks that respond to consumer and business demands for the cutting-edge services that urban consumers take for granted.

As an initial matter, given the unique challenges of serving rural markets, it is critical that any action taken by the Council be coordinated with the Federal Communications Commission (“FCC”) in its role as administrator of the USF High Cost Program. Although NTCA understands that the Council cannot direct or directly affect FCC action, in rural areas in particular, the goals that the Council desires to achieve simply cannot be realized without frequent and effective interagency coordination. Put another way, the High-Cost Program is foundational to any efforts to deploy or sustain networks in rural areas, and in the absence of

robust coordination with the FCC, the Council's efforts to address our nation's communications challenges will face serious headwinds in rural areas. The role of the High Cost Program has traditionally been to ensure the sustainability of networks by keeping end user rates for services on those networks affordable. In that role the mechanism has historically been – and can continue to be if cared for well – an unqualified success.

While the High Cost Program has by and large been a commendable success in areas served by RLECs, the job is far from complete and the program faces challenges. This is because “universal service” is according to statute an evolving concept, and thus the concept of “reasonable comparability” in terms of services and rates requires ongoing sufficient and predictable support. Moreover, reforms underway or under consideration – if not calibrated properly – threaten to undermine the effective workings of the program rather than improving and enhancing them.

Thus, even if the FCC is not a part of the Council itself, as the Presidential Memorandum establishing the Council makes clear, FCC programs such as the USF program must be viewed as the foundation for any efforts focused on any rural areas. The Council can do this by coordinating its actions with the FCC (and urging the FCC to reciprocate), considering both the implications of changes in federal agency policies that affect the High Cost Program and also changes in the High Cost Program that affect other federal initiatives. Such coordination is necessary to ensure that individual agency initiatives work hand-in-hand as part of a holistic federal policy aimed at promoting “broadband opportunities” rather than at cross purposes with one another in a manner that undermines the success of both – to the detriment of broadband opportunities and the consumers who need them.

Below, NTCA offers more specific recommendations for how to promote such coordination, including the creation of an “Interagency Broadband Plan” and suggestions to address shortcomings in laws or policy that may serve to hinder broadband deployment and/or adoption.

II. QUESTIONS

A. OVERARCHING QUESTIONS

- 1. 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?**

The Identification of Unique Capabilities and Well-Defined Roles of Individual Agencies, Paired with Coordination Among Federal Agencies to Leverage Each Agency’s Strengths, Should be the Primary Goal of the Broadband Opportunity Council

The touchstone of any effort by the Broadband Opportunity Council to promote a set of “best practices” must be coordination between and among each individual agency on the Council and also the FCC. Proper coordination, in turn, depends heavily on each Council agency and independent agency having a well-defined and discrete role that is cognizant of the others’ roles and operates in accordance with clearly and carefully drawn lines with respect to those spheres of responsibility. To be clear, this requires that each individual federal agency has a well-defined and commonly understood role, in contrast to individual agencies (or programs within even a single agency) effectively competing against one another to fund broadband deployment and/or setting up amorphous interagency initiatives that ultimately work at cross purposes with one another.

As just one example that gets at the heart of RLEC operations, financing of networks in high-cost areas can be difficult (as there is often a lack of a business case to make network

investments). Effective financing programs that recognize this reality are needed, and RUS initiatives have long helped to fulfill that role. Rather than “stepping on top of” or even competing with the efforts of RUS to manage federally-overseen resources to facilitate the construction of networks, the FCC, NTIA, and other agencies could and should coordinate with the RUS so that each can utilize its own expertise and operate effectively within its well-defined role, offering targeted solutions to market failure or regulatory barriers that limit the availability or affordability of broadband service.

The FCC’s universal service programs, when properly aligned and coordinated, can continue to ensure sustainability of RUS-financed investments by permitting consumers to adopt services at affordable rates. NTIA could, in turn, focus its efforts – in coordination with Lifeline, for example – on stimulating adoption and educational efforts that drive consumer use of networks. Such a concerted, aligned effort would ensure that the USF does not operate at cross-purposes with RUS or NTIA efforts, making sure instead that resources are available to sustain networks built through private capital, borrowed private debt, or RUS federal financing and that resources are also deployed to educate consumers about the benefits of broadband and enable procurement of services by them.

To effectuate such a coordination effort, NTCA recommends that the Council create an “Interagency Broadband Plan.” Such a plan may offer the most effective means of ensuring that each agency recognizes and marshals its resources toward what it does best, and works hand-in-hand with and leverages existing mechanisms at other executive agencies and at the FCC. (Quite frankly, such a plan could be a resource to not only the public, but to agencies themselves that may not fully comprehend or even be aware of efforts underway in other agencies.) An

Interagency Broadband Plan should start by defining categories of programs – *e.g.*, those that support deployment, those that support operations, those that support affordability, and those that support consumer education and training. As the next part of the plan, the Council could take inventory of each individual federal agency’s role or potential interaction with broadband deployment and adoption (whether that be financing, infrastructure grants, permitting for construction on federal lands, protection of endangered species, etc). Individual programs of each agency would be slotted into the pre-defined categories as part of the inventory exercise, so that potential areas of overlap and complement can be isolated and examined. This inventory should then be made public to enable state, local, tribal, and federal officials as well as members of the public and network operators to identify and propose solutions to areas of overlap or duplication. Taking this kind of systematic approach – using the Interagency Broadband Plan as a comprehensive inventory of federal broadband programs and an opportunity to reconcile conflicts and complements among them – will ensure that each agency program is working hand-in-hand to promote broadband investment and remove regulatory barriers, rather than working at cross-purposes with one another.

As one example of the need for better coordination, a publicly filed summary of a meeting between U. S. Department of Agriculture (“USDA”) Secretary Thomas Vilsack and then-FCC Chairman Julius Genachowski highlights how USF changes affect network investment and the USDA/RUS loan program.² Even as that filing explained how the economic stability of rural areas depends on the availability of resilient and robust communications infrastructure

² See, *Ex Parte* letter filed on 2/15/13 by Acting Administrator Padalino which can be accessed here: <http://apps.fcc.gov/ecfs/document/view?id=7022122079>

financed in significant part by USDA programs, the letter also reported that, in Fiscal Year 2012, carriers were able to draw down only 37 percent of the telecom infrastructure financing made available by USDA. USDA expressly noted that existing and prospective borrowers of the program cited uncertainty arising out of the FCC's changes in declining to move forward with planned construction efforts, and the threat of more changes to come only exacerbated such concerns. CoBank, one of the few other lenders to small rural carriers for network deployment capital, also apparently severely cut back its lending in this space,³ and the bank made a filing at the FCC explaining how regulatory uncertainty surrounding the USF program was challenging its ability to advance capital in support of rural telecom investment.⁴ An Interagency Broadband Plan could help to facilitate the kind of coordination that avoids such confusion and concern in the future.

Parallel to this process, the Council should urge each agency to “look within” – to examine their own programs/mechanisms that can be streamlined or improved. In each instance, identification of areas of overlap or programs that may work at cross-purposes *within* each agency should be paramount. This list could again feed into the inventory and inform better coordination among existing programs both within and across agencies. Returning to the example above, RUS loans to enable capital investment and a High Cost Program that enables repayment of that loan and ensures the affordability of end user rates provides a perfect example of how separate and discrete federal mechanisms can work together in concert to result in

³ See, “State USF White Paper: New Rural Investment Challenges” by Michael J. Balhoff and Bradley P. Williams, June 2013, accessed here: <http://www.balhoffrowe.com/pdf/BW%20State%20USF%20White%20Paper%20June%202013.pdf>

⁴ See, Comments of CoBank filed June 21, 2013, WC Docket No. 10-90, pp. 4-5.

sustainable broadband deployment and operation for the benefit of consumers, tackling the same problem from slightly different angles to achieve a holistic solution.

The Broadband Opportunity Council Should Provide Communities Better Tools to Publicly Identify Service Gaps and Give Providers the Tools to Respond

In addition to identifying and better coordinating federal agency programs that can promote and sustain broadband investment, the Council can also assist local communities lacking access to any broadband provider in seeking broadband solutions. Public/private partnerships can have a very real and lasting effect on the ability of providers to connect communities. A “broadband clearinghouse,” for example, could pair unserved communities lacking access to any broadband provider with experienced and proven providers looking to expand their reach.

This “clearinghouse” approach, much like the Interagency Broadband Plan, would look to leverage the relative strengths of different parties. In many cases, there appears to be a lack of awareness of service providers available to extend service to entirely unserved communities that seek access to a provider, while at the same time providers may not be aware of a community’s unserved status or its willingness to coordinate efforts. A “broadband clearinghouse” can enhance community/provider connections and make possible efficient and effective public/private partnerships under which each entity brings its strengths and experiences to the equation.

Under such an approach, unserved communities could publicly post a Request for Proposal (“RFP”) signaling a need for broadband service. To enable this, the Council should create a simple but comprehensive, standard web-based interface accessible to every community and provider across the nation. This standard form should enable communities to fill in certain

relevant fields, such as their location, population, existing providers (if any),⁵ and the existing broadband speeds typically available to residents, businesses, and other community anchor institutions such as schools, libraries, and government buildings. In keeping with the public/private partnership theme, these communities could also indicate the assets they are willing to contribute to such a partnership, for example (but not limited to) tax abatements to providers, streamlined permitting, easements, conduit access, and/or rights-of-way.⁶ In effect, a “clearinghouse” could be used to enable the same kinds of collaborative relationships that enabled Google to deploy fiber in selected neighborhoods and subdivisions of major cities, but writ larger on a more national stage with providers and communities letting one another know what they will do for each other to facilitate network deployment and extend service to unserved areas.

Moreover, as another separate but related measure, as described more fully at question 27, NTCA also recommends the creation of a more robust and properly maintained national broadband map with federal resources put behind it to ensure its veracity, accuracy, and ongoing integrity. Unlike current maps that are constructed through unverified coverage claims or even marketing assertions, a true, continually updated and verifiable map would permit any interested

⁵ To be clear, the clearinghouse should be used exclusively for communities that lack any access to even basic broadband. These communities face issues with access to broadband far different from others that may have access to one or more providers. The latter may require different initiatives to fill gaps, but those must in all instances be coordinated with existing programs so as not to cannibalize those networks, often already built with a combination of agency loans and High Cost support. In any case, communities should look to existing providers in the first instance and leverage existing networks.

⁶ It also important that any such offers extend on a nondiscriminatory basis to existing providers already using such rights-of-way, pole attachments, or conduits or providers already operating in the community. This will ensure that the clearinghouse promotes broadband deployment in unserved areas while separate initiatives and existing support mechanisms leverage existing networks in communities that may have access to broadband but are in need of gap filling measures.

party to see where gaps exist and consider concrete actions to fill them. This will require additional federal resources to become a reality, but it is clearly the only way to ensure “data-driven” decision-making on federal broadband policy and avoid the chance that “false positives” will result in a community appearing served when it is not, or “false negatives” where a community looks unserved when in fact a provider is already offering broadband at substantial speeds in that area.

Finally, the Council should consider tools to identify and eliminate barriers to deployment, such as state and local laws that hamper or delay deployment; preferences that treat certain broadband operators on a discriminatory basis with respect to poles, cuts, conduits, and rights-of-way; or policies, rules or laws that give favor in particular to government-owned or government-operated broadband networks as compared to private sector operators.

2. How can the federal government best promote the coordination and use of federally-funded broadband assets?

NTCA’s response to question number 1 outlines a number of ways in which coordination among agencies may facilitate broadband deployment and operations by private network operators. But, as the question highlights, the federal government also holds assets that are essential to broadband deployment. Improved communication and coordination is necessary to ensure that they are fully leveraged. For example, the federal government holds much land over which rights-of-way are necessary for broadband deployment. However, as discussed more fully below in question #6, the process for obtaining rights-of-ways on federal lands is time consuming, costly, and confusing. A streamlined, unified process and publicly available “best practices” that provide certainty

to applicants would reduce manpower and financial expenditures of carriers better spent on broadband deployment.

Similarly, a “dig once” policy designed to reduce the number and scale of repeated excavations for the installation and maintenance of broadband facilities would preserve resources better used for broadband deployment by providers. The federal government should establish procedures for coordination with state, local and tribal entities and create a flexible set of “best practices” that can accommodate changes in broadband technology.

Finally, the federal government holds vast amounts of spectrum resources. Changes in technology that make spectrum usage more efficient and advances in applications may free up spectrum that can be utilized for consumer use. While this has already been a substantial focus of efforts at the FCC, the federal government should continually inventory its spectrum resources to identify unneeded spectrum that can be made available for auction or shared with commercial providers.

3. What federal regulations and/or statutes could be modernized or adapted to promote broadband deployment and adoption?

As noted in response to question 1 above, using an “Interagency Broadband Plan” to ensure that each federal agency identifies and works within a well-defined role as it relates to incenting or removing barriers to broadband deployment would represent a key first step. Part of this comprehensive review should include each agency identifying areas of duplication, areas where specific programs may be working at cross purposes with one another, and identification of programs or initiatives that have worked and those that have failed to achieve their stated purpose in terms of promoting broadband deployment.

More specifically, as candidates for consideration of specific rules or programs, the process for obtaining rights-of-way over federal lands is time consuming, inconsistent and expensive. The federal government should update, expedite and simplify the process by creating a standard set of “best practices” for how access to all federal lands is granted. See further discussion in connection with question 6.

Another viable candidate for consideration – and one that might not be obvious at first glance – is how federal policies governing (or not) the video marketplace affect the business case for broadband deployment and the sustainability of broadband operations. The FCC has found that these services are intrinsically linked.⁷ When small carriers are able to offer video and broadband services together, data shows that broadband adoption goes up 24 percent,⁸ which makes it more feasible to invest in broadband networks. However, the exponentially rising cost of content as a result of outdated statutes and regulations is frustrating deployment and adoption efforts. The cost is simply becoming unbearable for many consumers and broadband providers are cutting back on introducing video options. A viable video product requires access to broadcast content and broadcasters hold all of the power in retransmission consent negotiations. Laws must be updated to restore balance to the process so that a video/broadband bundle remains a viable marketing option. See also question # 24.

⁷ MB Docket No. 05-311, 22 FCC Rcd 5101, 5132-33, ¶62 (2007).

⁸ See NECA comments, GN Docket Nos. 09-47, 09-51, 09-137 (filed Dec. 7, 2009), p. 6.

4. **As the federal government transitions to delivering more services online, what should government do to provide information and training to those who have not adopted broadband? What should the federal government do to make reasonable accommodations to those without access to broadband?**
5. **How can the federal government best collaborate with stakeholders (state, local, and tribal governments, philanthropic entities, industry, trade associations, consumer organizations, etc.) to promote broadband adoption and deployment?**

In terms of the stakeholder collaboration contemplated by these questions, the above-discussed Interagency Broadband Plan and Broadband Clearinghouse concepts can effectuate progress in this area as well. As part of the Interagency Broadband Plan proposed herein, the Council should, as noted above, identify each agency's role in broadband deployment and ensure that each agency is working in well-defined roles. The plan should then be shared with each of the stakeholders (state, local, and tribal governments, philanthropic entities, industry, trade associations, consumer organizations, etc.) to ensure that each has the opportunity to assist the Council in identifying barriers to broadband deployment that are unique to them or initiatives that could be undertaken to better coordinate each agency's role.

B. ADDRESSING REGULATORY BARRIERS TO BROADBAND DEPLOYMENT, COMPETITION, AND ADOPTION

6. **What regulatory barriers exist within the agencies of the Executive Branch to the deployment of broadband infrastructure?**

Like any other broadband providers, RLECs face a number of obstacles to broadband deployment. In constructing network facilities, rights-of-way are a critical and complicated issue, as the deployment of broadband network facilities in rural areas requires access to federal, state, local, tribal, and private land. While NTCA members frequently interact with the Bureau of Land Management and its rights-of-way application process, the fact that multiple agencies

across the various levels of government can have authority over rights-of-way produces further complication, expense, and delay.⁹

Expediting and simplifying these processes should begin by each agency that is part of the Council identifying various divisions or sub-agencies responsible for granting rights-of-way and working to create a standard set of “best practices” for how such access to federal lands is granted across the federal government. In doing so, the Council would undoubtedly identify processes that produce unnecessary delays and/or fail to effectuate agencies’ goals while retaining those that protect and properly allocate access to federal land. The result would be a more uniform and expedited process that would reduce manpower and financial expenditures of carriers better spent on broadband deployment.

As an additional step, the Council should also encourage state, local, and tribal entities to use the Council-created best practices as a model for streamlining and potentially harmonizing their own processes in order to expedite providers’ interactions with such agencies while still ensuring that rights-of-way are properly allocated. The rights-of-way application process is further complicated by a multijurisdictional effort that requires carriers to navigate different processes at various different levels of government in addition to doing so across federal agencies, and a harmonization of such processes would undoubtedly encourage providers to invest in areas they might have otherwise chosen not to.

⁹ See, NTIA *Federal Rights-of-Way For Telecommunications Projects*, <http://www.ntia.doc.gov/legacy/FROWsite/rowagycontacts.htm> (as the rights-of-way contacts page shows, more than a dozen agencies and sub-agencies have some form of authority over rights-of-way necessary for the deployment of broadband facilities.).

In terms of rights-of-way and access to other critical inputs such as pole attachments and conduits, it is important that policies and procedures in these area enable providers of all types to operate on an equal footing. Policies should in this area should not favor one class of providers over another, and in particular should ensure that private operators are not unduly disadvantaged by an uneven playing field as it relates to government-owned broadband networks.

In addition, pole attachment rates can have a significant impact on broadband deployment. Section 224 of the Communications Act of 1934, as amended, provides the FCC with only limited jurisdiction over pole attachments, as that provision specifically states that it does not apply in states where pole attachments are regulated by states. As a result, Congressional action is necessary to ensure that in every case pole attachment rates are just, reasonable, and nondiscriminatory. In terms of FCC action, there is an open proceeding to clarify the pole attachment rates for providers of telecommunications services in states where the FCC has jurisdiction.¹⁰ While not specifically under the purview of the Council, it is important to stress herein that critical inputs such as pole attachments, much like rights-of-way, can impose unreasonable and discriminatory costs on RLECs and other broadband providers, and thereby exacerbate the difficulties these providers face operating in high cost areas. NTCA encourages the Council to work with the FCC to ensure that pole attachment rates are nondiscriminatory in all cases.

Broadband deployment also requires providers to coordinate with railroad crossings, and other facilities owned and operated by railroads and commuter transit operators. A number of

¹⁰ *Parties Asked to Refresh the Record Regarding Petition to Reconsider Cost Allocators Used to Calculate the Telecom Rate for Pole Attachments*, Federal Communications Public Notice, WC Docket No. 07-245 and GN Docket No. 09-51, DA 15-542 (rel. May 6, 2015) (“Public Notice”).

NTCA members have specifically reported a lack of uniformity in fees and significant delays in working to coordinate the deployment of broadband facilities with railroad crossings. This may be an item that requires Congressional action, however to the extent that the Department of Transportation can streamline this process and adopt a flat fee requirement, it could go a long way toward expedited broadband deployment.

Finally, as providers of all sizes will likely state in their comments to the Council, broadband providers need stability and predictability as well. The uncertainty surrounding constantly changing regulations and support mechanisms reduces the ability to obtain financing and slows and even prevents altogether broadband network investment. Successful programs may, on occasion, require modernization to account for changes in technology or business practices, but the changes should be surgical and build upon successful programs and regulatory constructs. Experimental ideas that put programs and investments at risk should not be considered or implemented to the detriment of well-established programs with proven track records.

7. What federal programs should allow the use of funding for the deployment of broadband infrastructure or promotion of broadband adoption but do not do so now?

As discussed above, a sufficient and predictable High Cost Program that creates the certainty necessary to incent broadband investment and enables consumer rates to remain affordable is the critical foundational element of any effort to extend the quality and reach of broadband networks in rural areas. It is not that this program does not achieve this purpose now, but rather the effects of relatively recent changes and the threat of more to come have made it harder to plan for investments than in years past. For “universal access” in the form of rural

broadband to be achieved, the High Cost Program should be “stabilized” and made sufficient and *predictable* enough to perform its intended purpose. Rather than throwing out existing mechanisms altogether or tinkering with the program in “experimental” ways that might or might not yield results, the High Cost program is so “foundational” with respect to broadband access in rural areas that any approach to reforming or revising it should start from what has demonstrably worked in the past to deliver fast, affordable broadband to consumers, and leverage that success by making only those changes necessary to ensure the program’s continuing success going forward.

In addition, as discussed elsewhere herein, streamlined access to rights-of-way and pole attachments, affordable access to video content and the limiting of unnecessary burdens on smaller carriers can remove barriers to deployment and promote adoption as well.

- 8. What inconsistencies exist in federal interpretation and application of procedures, requirements, and policies by Executive Branch agencies related to broadband deployment and/or adoption, and how could these be reconciled? One example is the variance in broadband speed definitions.**
- 9. Are there specific regulations within the agencies of the Executive Branch that impede or restrict competition for broadband service, where residents have either no option or just one option? If so, what modifications could agencies make to promote competition in the broadband marketplace?**
- 10. Are there federal policies or regulations within the Executive Branch that create barriers for communities or entities to share federally-funded broadband assets or networks with other non- federally funded networks?**
- 11. Should the federal government promote the implementation of federally-funded broadband projects to coincide with other federally-funded infrastructure projects? For example coordinating a broadband construction project funded by USDA with a road excavation funded by DOT?**

A central theme to the answers provided herein is the critical importance of informed coordination between and among federal agencies. Any federally funded project

should be considered with an eye toward broadband deployment. In any case where coordination can occur, it should. The Interagency Broadband Plan discussed above should require this coordination to help ensure that seemingly unrelated, but in fact very complementary, initiatives are being developed and deployed in a manner that promotes efficient broadband deployment, sustainable operation of those networks, and affordability and reasonable comparability of the services that ride atop them.

C. PROMOTING PUBLIC AND PRIVATE INVESTMENT IN BROADBAND

- 12. How can communities/regions incentivize service providers to offer broadband services, either wired or wireless, in rural and remote areas? What can the federal government do to help encourage providers to serve rural areas?**

See answers to questions #1 and #3.

- 13. What changes in Executive Branch agency regulations or program requirements could incentivize last mile investments in rural areas and sparsely populated, remote parts of the country?**

See answers to questions #1 and #3.

- 14. What changes in Executive Branch agency regulations or program requirements would improve coordination of federal programs that help communities leverage the economic benefits offered by broadband?**

See answers to questions #1 and #3.

- 15. How can Executive Branch agencies incentivize new entrants into the market by lowering regulatory or policy barriers?**

NTCA has noted at various points herein that rights-of-way, pole attachments, etc., can each serve in one way or another as a barrier to broadband deployment. It is likely that representatives of new entrants or non-traditional providers will espouse similar points of view. Any action to take on the impediments to broadband deployment should

ensure that all providers have equal opportunity in terms of access to rights-of-way, pole attachments, and other similar critical inputs.

Moreover, the Council should make clear as a guiding principle that *community-wide* access is the goal, rather than ensuring *access to the community*. Too often in recent years and debates, there has been a focus on connecting large users in a community – an important goal, to be sure – without careful consideration of whether and to what degree that will help or hinder access at home for those living in the surrounding community. It should be an explicit goal of the Interagency Broadband Plan to expect and achieve community-wide access as compared to connecting discrete categories of users within a community. Whether new entrant or existing provider, the Council and the FCC should look to – and demand – providers that offer community-wide solutions to broadband availability and affordability that can keep up over time with consumers’ rapidly changing demands and continuing thirst for bandwidth.

16. What federal programs within the Executive Branch should allow the use of funding for broadband adoption, but do not do so now?

See answers to question #1 and #3.

In addition to the discussion in response to questions 1 and 3 herein, it cannot be stressed enough that at its core the High Cost Universal Service Program is an affordability mechanism as much as it supports availability. By allowing consumers access to affordable services that might otherwise cost tens or hundreds of dollars more per month, the program has made investments in broadband deployment sustainable and enabled the procurement of necessary financing. As discussed throughout these comments, a return to that mission, a modernization of the program for the broadband

world, regulatory certainty, and the leveraging of this successful mechanism at each and every turn represent the most effective tools for promoting broadband adoption in rural areas.

17. Typical barriers to broadband adoption include cost, relevance, and training. How can these be addressed by regulatory changes by Executive Branch agencies?

The primary barriers to broadband adoption (in descending order) are perceived lack of relevance, usability (*i.e.*, lack of training), cost (of service as well as a computer) and lack of availability.¹¹ Results of the FCC’s recently-concluded Low Income Broadband Pilot Program, which repurposed funds from the Universal Service Fund’s Lifeline Program to subsidize broadband costs for low-income consumers for a fixed period of time, indicate that addressing the cost barrier alone will not make a significant impact in overall broadband adoption rates.¹² Instead, each of the individual barriers must be addressed if the goal of increasing broadband adoption is to be met.

Additional funding can help combat the cost and availability barriers. The recent stimulus program allocated \$7.2 billion specifically for broadband deployment, and the results achieved were overwhelmingly positive. Numerous NTCA member companies were able to leverage these funds to bring high-quality broadband service to more of their customers.

¹¹ NTCA, *Conquering the Challenges of Broadband Adoption*, April 2014, pp. 7-8, (“NTCA Broadband Adoption White Paper.”)
http://www.ntca.org/images/stories/Documents/Advocacy/CCBA_Whitepaper.pdf

¹² FCC, Wireline Competition Bureau, *Low-Income Broadband Pilot Program Staff Report*, WC Docket No. 11-42, released May 22, 2015.
http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0522/DA-15-624A1.pdf

Any programs that make additional funds available for these purposes will help increase broadband adoption. While additional funding is unquestionably hard to come by, dollars dedicated to expanding broadband deployment will undoubtedly benefit the U.S. economy as a whole.

E. ISSUES RELATED TO STATE, LOCAL, AND TRIBAL GOVERNMENTS

18. What barriers exist at the state, local, and/or tribal level to broadband deployment and adoption? How can the federal government work with and incentivize state, local, and tribal governments to remove these barriers?

From the consumer's standpoint, it makes little difference which entity helps to overcome barriers preventing adoption, just as long as they are ultimately overcome. Agencies and other organizations outside of the Executive Branch might be well equipped to take on the remaining barriers, and even better positioned to do so if they are closer to the consumer and more familiar with localized challenges. Removing the relevance and usability barriers can be accomplished through customer education and training. This training can be undertaken by the service provider, who would, in turn, ultimately reap the benefit of a new customer. Similarly, educational campaigns—comprised of bill inserts, ads in local newspapers, and television and radio spots—can inform non-adopters of the benefits to be gained from a broadband connection.¹³ To the extent that state, local, and/or tribal governments can contribute to these efforts, the more effective they ultimately will be.

¹³ NTCA Broadband Adoption White Paper, p. 9.

- 19. What federal barriers do state, local, and tribal governments confront as they seek to promote broadband deployment and adoption in their communities?**
- 20. What can the federal government do to make it easier for state, local, and tribal governments or organizations to access funding for broadband?**
- 21. How can the federal government support state, local, and tribal efforts to promote and/or invest in broadband networks and promote broadband adoption? For example, what type of capacity- building or technical assistance is needed?**

F. ISSUE RELATED TO VULNERABLE COMMUNITIES AND COMMUNITIES WITH LIMITED OR NO BROADBAND

- 22. How can specific regulatory policies within the Executive Branch agencies be altered to remove or reduce barriers that prevent vulnerable populations from accessing and using broadband technologies? Vulnerable populations might include, but are not limited to, veterans, seniors, minorities, people with disabilities, at-risk youth, low-income individuals and families, and the unemployed.**
- 23. How can the federal government make broadband technologies more available and relevant for vulnerable populations?**

G. ISSUES SPECIFIC TO RURAL AREAS

- 24. What federal regulatory barriers can Executive Branch agencies alter to improve broadband access and adoption in rural areas?**

In addition to addressing concerns outlined above, the Executive Branch agencies should recognize that video provision is at its core a broadband issue, as many operators, large and small, frequently use the same infrastructure to deliver both video and broadband services. Desirable content drives broadband adoption and the cost of content is a stumbling block for providers of combined broadband and video services and consumers. Executive Branch agencies should look for ways to help level the playing field in content negotiations and ensure that content providers are not engaging in predatory practices. Current law and rules require that most video providers only carry the local commercial broadcast television stations located in

their specified Designated Market Areas. Video providers may not look to neighboring areas for programming and thus have no negotiating power. Retransmission consent rules that are now over twenty years old – and thus reflect a very different video marketplace - give programmers a stranglehold over video content and prevent small providers from negotiating market-based rates for programming. Evidence suggests that small and medium video providers pay up to twice the rates that large companies do for the same programming, deterring broadband adoption in the areas served by smaller providers. The rules must be updated.

The Executive Branch should also examine the program distributor practice of forced tying of undesired content with desired content which forces a video provider to pay for and distribute tens of dozens of channels for access to the most desired programming. This “forced tying” prevents small providers from offering more affordable packages of channels, and is raising prices to unsustainable levels.

Overall, the costs of regulation are substantial for small, rural companies and every penny spent complying with regulation and completing forms is a penny that is not spent on broadband deployment. The Executive Branch, specifically the Office of Advocacy, should exercise its oversight of the FCC and ensure that regulation is not overly burdensome to small providers and should seek to actively encourage small business participation in the provision of wired and wireless broadband services.

25. Would spurring competition to offer broadband service in rural areas expand availability and, if so, what specific actions could Executive Branch agencies take in furtherance of this goal?

The areas in which RLEC members operate have for decades been ignored by other providers. The challenges of density and distance and rugged terrain make deployment in these

rural areas a risky and expensive proposition. As such, it is often difficult for even a single provider to make a “business case” for deploying in such areas. However, a “virtuous” combination of local community focus, high cost support, and private capital and/or and government loan programs has enabled RLECs to rise to the challenge.

With this in mind, policymakers should take caution in artificially injecting competition into such areas. In particular, it is critical that existing networks are not “cannibalized” by the artificial injection of competition. It would be particularly troublesome and wasteful, for example, if agency initiatives result in “overbuilding” of existing network facilities built in part through the use of RUS loans, High Cost Program distributions, and/or via Broadband Technology Opportunities Program (“BTOP”) awards. Leveraging existing facilities and ensuring that at each turn agency and FCC initiatives are thoroughly coordinated can address gaps where they exist and promote the community-wide availability of high quality and robust broadband networks. The Council and individual agencies should look first to leverage existing programs, existing networks, and existing providers as a launching pad for expansion.

26. Because the predominant areas with limited or no broadband service tend to be rural, what specific provisions should Executive Branch agencies consider to facilitate broadband deployment and adoption in such rural areas?

As discussed in detail above, sufficient and predictable USF support mechanisms that are carefully coordinated with other federal agency initiatives, regulatory certainty, harmonized rights-of-way processes, and updated video statutes and regulations would all facilitate rural broadband and adoption. NTCA’s members are dedicated to providing (and do provide) cutting edge broadband services to their rural communities, but targeted, specific changes to existing statutes and policies will enable additional focus on this important policy objective. The

executive branch should not duplicate efforts of other agencies and introduce additional, untested and unnecessary programs and policies in furtherance of this goal.

Beyond those issues listed above and already discussed at length elsewhere in these comments, the Executive Branch should help ensure that all consumers, no matter where they live, have access to mobile data. Rural consumers require access to a strong and reliable wireless network, and rural carriers are attempting to meet that demand despite monumental challenges. Data roaming agreements are controlled by the nation's largest wireless providers and difficult to obtain. Access to data roaming according to reasonable terms and conditions is essential to ensure that competition thrives and rural consumers have access to the same services as their urban counterparts, no matter where they work or travel. Also, rural telecommunications providers require access to additional low-band spectrum to serve rural communities. The propagation characteristics of low-band spectrum make it especially well-suited to rural applications. Large carriers tend to focus their wireless build out in more profitable densely populated areas so to further mobile broadband deployment in rural areas, policies must ensure that small providers interested in serving rural communities and businesses have a realistic opportunity to obtain low-band spectrum at auction.

H. MEASURING BROADBAND AVAILABILITY, ADOPTION, AND SPEEDS

27. What information about existing broadband services should the Executive Branch collect to inform decisions about broadband investment, deployment, and adoption? How often should this information be updated?

The Executive Branch should collect reliable and verifiable data that all interested parties may use and rely on for planning efforts. Previous efforts to create a broadband deployment map may have been informative and may have improved over time, but they

have also resulted in maps that are unreliable at best, and flat out wrong at worst. Reliance on company or state marketing tools or data collected for other purposes has not yielded (and will not yield) useful tools. The country needs a dedicated, federally-funded effort to collect verifiable information to create a reliable broadband map that is continually updated. Used properly, and if accurate in terms of multiple data points, broadband availability maps can provide significant value to policymakers and other stakeholders.

First and foremost, any broadband map must be accurate as to multiple data points that go beyond mere presence of a provider. For example, maps must also enable the identification of the speed and other performance metrics (such as latency) at which that provider can offer customers within a defined geographic areas broadband service. “Offer” in this context must mean the ability to actually provide the advertised service within a reasonable time frame with existing facilities, and not at some distant or undefined point in the future.

In addition, broadband availability maps must also identify with specificity the technology that will be used to serve consumers (fixed wireline or wireless, mobile, fiber, etc.), so that policymakers can have a truly accurate picture of the current and *future* capability of the identified provider and can make a truly informed decision as to whether such service will be reasonably comparable to that available to consumers in other parts of the nation, both now and in the foreseeable future.

As discussed in more detail above, NTCA also supports the creation of a “broadband clearinghouse” that will help pair unserved communities with experienced and proven providers looking to expand their reach. Under such an approach, unserved communities could publicly

post a RFP signaling its need for broadband service. Nearby providers would have the opportunity to bid for the opportunity to provide service. A “broadband clearinghouse” can enhance community and provider connections and make possible efficient and effective public/private partnership under which each entity brings its strengths and experiences to the equation. A map could and should be a useful exercise in determining the extent to which a RFP is really needed, or whether the community in fact already has resources available to it.

28. Are there gaps in the level or reliability of broadband-related information gathered by other entities that need to be filled by Executive Branch data collection efforts?

See answer to question #27.

29. What additional research should the government conduct to promote broadband deployment, adoption, and competition?

N/A/

30. How might the federal government encourage innovation in broadband deployment, adoption, and competition?

Respectfully submitted,

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