

July 23, 2010

VIA US Mail and Electronic Mail

Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Dear Chairman Genachowski:

As former Administrators of the Rural Utilities Service (RUS), we are writing to you for two reasons: to express our admiration for your obvious dedication to improving broadband availability and adoption in rural America; and to express our concerns for some of the methods of achieving these goals as expressed in the National Broadband Plan (NBP).

We have been privileged to wield the incredible power of our agency's lending and grant programs to transform rural communities, create jobs and improve rural education and health care. This year, the RUS is celebrating the 75th year anniversary of its predecessor, the Rural Electrification Administration (REA). The programs of the REA and RUS have made it possible for thousands of rural communities, some in America's most remote areas, to secure modern water, electric and telecommunications services. They did so by providing reliable access to affordable credit for rural infrastructure. Bringing 21st Century technology to rural America is a core mission of the RUS.

We applaud your vision for ubiquitous broadband availability. As you know, since the early 1990s, the RUS has been pressing forward with efforts to spur investment in broadband-capable telecommunications plant. That is why when you visit an RUS financed service provider; you will see state-of-the-art facilities delivering advanced services. In 2002 and 2008, the Congress expanded that effort by adding Title VI to the Rural Electrification Act to specifically focus the agency on the challenge of financing rural broadband deployment.

Over the years, the FCC and RUS have worked closely together to share data, to coordinate planning and harmonize programs. Rural America is well served when the partnership between the RUS and the FCC is strong. The ability of the RUS to make loans to telecommunications and broadband service providers depends in large part on the availability of federal universal service support. The promise in the Telecommunications Act of 1996 that federal universal service support would be "specific, predictable and sufficient," gave the RUS and other lenders confidence to make long term lending commitments to rural service providers.

Now, we are concerned about the “predictability” of that support because of changes in the USF program being contemplated by the FCC. If broadly adopted, some of the universal service support proposals made in the National Broadband Plan and the FCC Notice of Inquiry may threaten the loan security of the existing RUS telecommunications and broadband loan portfolio as well as drive the cost of capital up and availability of credit down.

Typically, small telecommunications companies in rural America have build-out plans spanning successive time periods, designed to meet growing customer needs and to improve existing networks with technological advancements as they become available. Thus, these RUS borrowers often have multiple loans outstanding at any given time.

It appears to us proposals to shift universal service funding away from small rural telecommunications companies will jeopardize their ability to meet obligations on existing loans. Additionally, USF reform proposals in the NBP are likely to limit further loan availability. This will put taxpayer investments at risk and frustrate efforts to stimulate rural broadband investment, deployment and job creation – antithetical to the goals of the NBP and the American Recovery and Reinvestment Act, which mandated the Plan.

We also want to caution you with respect to the proposed wholesale changes in the regulatory regime governing many of these carriers. As we understand the NBP, rate of return regulated companies would be moved under some form of incentive regulation. Frankly, this is puzzling. Rate of return regulation has been a pillar of the rural telecommunications economic system for decades. Under this regime, some 1000 companies have experienced financial stability, enabling uninterrupted and constantly improving services to rural customers that otherwise would have been unserved or underserved.

This assurance of financial strength and stability has not been a ‘free lunch’ as some would seem to imply. The NBP describes this system as “inefficient” but provides no basis for this conclusion. The system requires carriers under rate of return to stand and serve all customers, with an expectation that rates and quality of service will be reasonably comparable to those in more urban areas. It is a system that works and has led to steady advancements in technology and broadband availability.

In stark contrast, incentive regulation, presently the “price cap” regime under which large companies operate, has not worked to improve the availability of advanced telecommunications in rural markets. In fact, by the FCC’s own estimates broadband availability in price-cap regulated rural territories is lagging far behind the areas served by rate of return companies.

The strengths of the RUS lending programs and the current rate of return and universal service regimes are that each program ensures through its very operation that loan dollars and USF dollars are in fact spent on rural service delivery. Together rate of return regulation and the USF programs have enabled creation of a telecommunications system

that is the envy of the world, reaching even the most remote places in this vast country of ours. We believe it makes sense to continue using those time-tested regimes, not to abandon them, in furthering our national broadband aspirations.

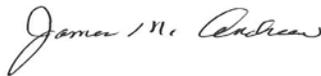
Similarly, we question the apparent renewed interest in employing models in determining network needs and associated universal service funding requirements. During our tenures, the RUS made significant efforts studying, evaluating and testing the usefulness of cost models. Some of that work was reflected in improvements in the models and also in the recommendations of the Rural Task Force (RTF). In 2000 the RTF recommended that rural carriers remain on a cost based universal service support system. While modeling has improved since that time, it is impossible to have any mathematical formula accurately represent the true diversity of rural America. A model also assumes the construction of new, modern plant when utility systems evolve and grow over time taking advantage of existing and depreciated plant. That is not to say that a cost model can not be useful in sizing, validating or quantifying elements of universal service support. The FCC should be careful in relying on the model to displace the current cost-based system for determining universal service support requirements. This system has worked well for rural America.

Now that the first parts of the NBP are out for public comment we strongly encourage the FCC to work closely with the RUS. Both agencies should explore ways to use the decades of experience and data that each agency has to steer USF reform in a direction that will encourage new investment without harming existing taxpayer and private sector investments in rural broadband services.

Sincerely,



Wally Beyer
Former RUS Administrator



James M. Andrew
Former RUS Administrator



Hilda Legg
Former RUS Administrator