

**Before the
Rural Utilities Service
Washington, D.C. 20250**

In the Matter of)	
)	
Rural Broadband Access Loans)	Docket No. RUS-15-Telecom-0001
and Loan Guarantees)	
)	

**COMMENTS of
WTA – ADVOCATES FOR RURAL BROADBAND**

WTA – Advocates for Rural Broadband (WTA) submits these comments to the Rural Utilities Service (RUS) on the subject of its Interim Rule for the Rural Broadband Access Loans and Loan Guarantees Program (Broadband Loan Program).¹

I. INTRODUCTION

WTA is a national trade association representing more than 280 rural telecommunications providers offering voice, broadband and video services in rural America. WTA members serve some of the most rural and hard-to-serve communities in the country and are providers of last resort to those communities. The rural, independent local exchange carriers (RLECs) represented by WTA have a long-standing relationship going back 75 years with the RUS and its predecessor agency, the Rural Electrification Administration (REA). The vast majority of WTA member companies were, at one time, RUS/REA borrowers and many of them continue to borrow from RUS today. WTA’s members have a stake in making sure that any RUS loan program is both an effective driver of broadband in rural America and an efficient, sustainable use of taxpayer resources. RUS

¹ 80 FR 45397, 7 CFR part 1738, Docket No. RUS-15-Telecom-0001, July 30, 2015. (Interim Rule).

has maintained a longstanding tradition of providing low-interest loans to bring state-of-the-art telecommunications infrastructure and services to rural America. A strong and stable RUS Broadband Loan Program can continue this tradition and assist service providers in ensuring that American consumers in rural areas have access to comparable communications services to those living in suburban and urban areas. It is in this spirit WTA offers these comments on the Broadband Loan Program Interim Rule. WTA believes speed standards must be updated regularly to ensure rural consumers and businesses have comparable broadband services as those in more populous areas, the Agricultural Act of 2014 (2014 Farm Bill)² requires equivalent Broadband Lending Speeds for mobile and fixed broadband, and RUS must remain diligent to ensure incumbent providers are identified prior to approval of applications to prevent overbuilding of exiting networks.

II. DISCUSSION

A. Speed Standards Must Keep Pace with Technology and Consumer Demand.

The Interim Rule requests comment on the standards that RUS should use for both the Broadband Service speed, the minimum speed at which an incumbent service provider should be providing service in order for an area to be eligible for a Broadband Loan Program loan, and the Broadband Lending Speed, the speed at which an applicant will have to provide service to every customer in a proposed funded service area. Congress, in the 2014 Farm Bill, required RUS to use 4 megabits per second (Mbps) download speed and 1 Mbps upload speed as the minimum for broadband service, but provided little else in the

² P.L. 113-79.

way of guidance other than to require a review of the standard every two years and provide authority to RUS to set different standards for fixed and mobile broadband.³

The contemplation in the Interim Rule of different speed benchmarks for determining whether an incumbent is present in a proposed funded service territory and build-out goals for applicants is a wise one. As the Interim Rule implicitly recognizes and the first Notice of Solicitation of Applications (NOSA)⁴ released on July 30, 2015, explicitly acknowledges, the minimum benchmark as set by the Farm Bill of 4 Mbps/1 Mbps service is inadequate for future broadband build-out goals. However, this standard *will* ensure that the limited resources available for Broadband Program loans are not used to over-build incumbent providers' networks. This minimum standard should only be used as an indicator merely to determine whether an incumbent provider is present and able and willing to invest in its network at a basic level.

However, a higher standard should be used when selecting applicants to receive a broadband loan. In fact, the Federal Communications Commission's (FCC's) 2015 Broadband Progress Report suggests this as well. It found that 25 Mbps/3 Mbps service best reflects consumer needs and that it is "neither futuristic nor attractive only to a narrow set of heavy broadband users or early adopters." The Broadband Progress Report also notes that "one-third of consumers adopt 25 Mbps/3 Mbps when they have the option to do so. These consumers are migrating to 25 Mbps/3 Mbps at a remarkable rate. Between 2011 and 2013, the adoption rate for those services increased from 7 percent to 30 percent

³ P.L. 113-79, 7 U.S.C. Sec. 950bb(e)(1).

⁴ 80 FR 45504, July 30, 2015 (NOSA).

in urban areas; 197 from 7 percent to 28 percent in non-urban areas; 198 and from 1 percent to 33 percent on Tribal lands.”⁵

WTA believes that the higher 10 Mbps/1 Mbps standard set in the NOSA for Broadband Loan Program applicants is adequate for this Interim Rule, but the effectiveness of the Broadband Loan Program will only be as good as the frequency with which RUS reviews and updates the Lending Speed to reflect changing technology and the needs of rural broadband consumers. There is no evidence that demand for bandwidth will plateau. It is vital to rural economic development that rural residents and businesses have access to comparable broadband service as those living urban areas. RUS should continue to push borrowers to provide speeds that will meet the future demands the FCC reports will be needed and as RUS has done in the Interim Rule.⁶

B. Broadband Lending Speed Standards For Mobile and Fixed Broadband Should be Equivalent.

The 2014 Farm Bill states that, for the purposes of making a loan under the Broadband Loan Program, RUS “shall use criteria that are technologically neutral.”⁷ This mandate of technological neutrality requires that it would be inappropriate for RUS to set different Broadband Lending Speed benchmarks for fixed and mobile broadband. Thus, as in the NOSA for the current application window, which applies 10 Mbps/1 Mbps to both delivery methods, any future NOSA updating Broadband Lending Speeds should continue

⁵ *2015 Broadband Progress Report and Notice of Inquiry on Immediate Action to Accelerate Deployment*, GN Docket No. 14-126, February 4, 2015, at ¶ 42.

⁶ Interim Rule, p. 45399. “...the Agency strongly suggests that applicants applying for funding under this program consider system designs that will allow for 25 megabits downstream and 3 megabits upstream.”

⁷ P.L. 113-79, 7 U.S.C. Sec. 950bb(f).

to apply the same speed benchmarks for applicants proposing to build fixed and mobile broadband networks.

C. RUS Should Safeguard Against Undermining the Previous Investment of Taxpayer Dollars and other Investment.

RUS has a duty to use taxpayer dollars as efficiently as possible and to protect investments it has already made in rural America. WTA therefore supports the provision in Section 1738.102(a)(4) of the Interim Rule that prohibits funds from being used to build networks in areas being served by current RUS borrowers or grantees. It would be a waste, and an inappropriate use, of scarce funds for RUS to make a loan to any entity that would directly compete with another RUS borrower. WTA also supports the intention of RUS in Section 1738.104(a)(2) of the Interim Rule to notify potential borrowers in the preliminary assessment of service area eligibility about “whether the proposed service territory overlaps with any part of a borrower’s or grantee’s service area.”

Furthermore, WTA appreciates that RUS, in the Interim Rule, has gone beyond merely posting a public notice on its website for 30 days to determine whether an incumbent is already providing service at the designated Broadband Service speed. In prior comments to RUS,⁸ WTA expressed concerns that the posting of a public notice on a website for a 30-day period provided insufficient opportunity for incumbents to notice that an application had been submitted and provide feedback on applications. However, the additional protections provided in the Interim Rule (e.g., use of the latest National Broadband Map and other available data, as well as contacting individual incumbent

⁸ See Comments of WTA, OPASTCO and NTCA, Docket No. RUS-06-Agency-0052 (filed May 13, 2011).

providers)⁹ will help ensure that incumbent networks are protected from being over-built using RUS loan funds and that RUS resources are used most efficiently.

III. CONCLUSION

WTA supports the goals and objectives of the RUS Broadband Loan Program. There is substantial need for an effective low-interest loan program that meets the needs of rural telecommunications providers that have dedicated themselves to serving rural, remote, high-cost portions of the country. WTA looks forward to continuing to work with RUS to make sure that this and other rural loan programs are as effective and efficient as possible in meeting the needs and demands of rural America.

Respectfully submitted,

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⁹ See Section 1738.102(c) of the Interim Rule.