

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

In the Matter of)
)
Identifying Regulatory Reform Initiatives)
) Docket: USDA-2017-0002-4127
ReConnect Program)
)

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

WTA – Advocates for Rural Broadband (WTA) submits these comments to the U.S. Department of Agriculture (USDA) and the Rural Utilities Service (RUS) in response to their request for comment on the ReConnect Program in conjunction with the Funding Opportunity Announcement (FOA) of December 12, 2019.¹

I. Introduction

WTA is a national trade association that represents more than 340 small rural telecommunications providers that offer broadband, voice, and video-related services in communities across rural America. The independent rural local exchange carriers (RLECs) represented by WTA have a long-standing relationship going back more than 75 years with 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 vested interest in making sure that the ReConnect Program is an effective tool for helping build broadband networks in rural America

¹ 84 FR, 67913, Docket: USDA-2017-0002-4127, December 12, 2019.

and that the limited taxpayer resources allocated by Congress to this goal are used efficiently to meet program objectives.

As RUS completes consideration of applications in the first round of the ReConnect Program, accepts applications for a second round, and contemplates a third round, it should permit applicants to request ReConnect funding to build networks in areas that do not have access to 25/3 Mbps broadband service. In addition, it should improve the process of ensuring that existing networks, or those soon to be built, are not overbuilt by prohibiting funding from going to certain areas in which the Federal Communications Commission (FCC) is funding networks and better surveying areas that were highlighted during the public comment period as having service. RUS should also treat fisheries similarly to how farms are treated in the application scoring system.

2. Areas With Less Than 25/3 Mbps Broadband Should Be Eligible for ReConnect Funding

When Congress adopted the Consolidated Appropriations Act, 2018,² which established and funded what USDA now calls the ReConnect Program, it restricted the use of grant and loan funding to areas where at least 90% of the households proposed to be served did not have sufficient access to broadband, defined as 10Mbps downstream and 1Mbps upstream (10/1Mbps). It also directed USDA to reevaluate this standard on an annual basis. RUS has chosen to continue using this standard for the second round of the ReConnect Program. It is understandable that Congress directed USDA to focus its attention on areas that did not have at least 10/1 Mbps broadband service initially and that RUS has chosen to continue this focus in the

² Public Law No: 115-141, signed into law March 23, 2018.

second round of the ReConnect Program, as those areas are probably the most costly or difficult to serve. However, for the third round, WTA recommends that RUS consider redefining “sufficient access to broadband” to mean any rural area in which households have fixed terrestrial broadband service delivering at least 25 Mbps download and 3 Mbps upload, with a limited exception that will be discussed below in Section 3. This would ensure that areas that have broadband service at speeds of 10/1 Mbps or greater but less than 25/3 Mbps will not be left behind.

In 2015, the FCC defined broadband as 25/3 Mbps, and most policymakers have coalesced around this standard as the bare minimum of sufficiency for rural areas, a recognition that anything less than 25/3 Mbps is inadequate. This is the standard the FCC uses to define broadband for the purposes of its broadband progress reports, and it is the standard to which most Universal Service Fund (USF) support is being directed. In addition, in the Agriculture Improvement Act of 2018 (Farm Bill), Congress permits RUS, for the purpose of the grant and loan program authorized in that legislation, to fund networks in areas that have broadband service at or greater than 10/1 Mbps.

It is also a vital policy goal that rural areas not fall too far behind more urban areas in broadband connectivity. According to the latest FCC Measuring Broadband America report, the median experienced download speed for cable and fiber providers varied between 78 Mbps and 120 Mbps, and when satellite and DSL were included it still was around 72 Mbps.³

In addition, presumably a future third round of funding would not take place until at least 2021, and those networks that would be funded by a third round would not get built until several

³ FCC (2018), *Eighth Measuring Broadband America Fixed Broadband Report*, available at www.fcc.gov/reports-research/reports/measuring-broadband-america/measuring-fixed-broadband-eighth-report.

years after that. This would mean that areas that fall in between 10/1 Mbps and 25/3 Mbps would have to wait several years for meaningful upgrades.

With 25/3 Mbps being the standard used by the FCC and the Farm Bill, and median speeds being much greater, we should not allow some rural areas to be excluded from the progress being made by the ReConnect Program simply because they have access to broadband speeds at or greater than a mere 10/1 Mbps. Allowing ReConnect funding to be directed to all areas that lack 25/3 Mbps service would help close the digital divide between urban and rural areas.

3. ReConnect Funded Networks Should Not Overbuild Existing Networks or Federally Supported Planned Networks

During the ReConnect applications process, members of the public are given the opportunity to comment on the availability of existing broadband services in the proposed funded service areas (PFSAs) of the applicants. In general, WTA member companies that were contacted by RUS in order to survey their existing service in PFSAs had few complaints about the process by which RUS verified whether sufficient broadband service existed. WTA members reported that RUS General Field Representatives (GFRs) did a good job of surveying existing networks. Unfortunately, in a few cases, it appears that contractors hired by RUS to do some of this work did not fulfill their responsibilities, which resulted in RUS not adhering to the requirements of the Consolidated Appropriations Act, 2018 to not fund networks where at least 10/1 Mbps service exists.

In one situation reported to WTA, contractors arrived without notice at a local telecommunications provider's exchange in response to the provider challenging an applicant's

proposed service area. The contractor asked to be shown to customer homes to determine, using speed tests, whether those customers received the required level of service. The company did not have anyone available at the site at that time to conduct this survey, but provided them with internal documents detailing the necessary network information. Even had they been available to accommodate the contractor, arriving at a customer residence unannounced to conduct network testing conflicts with company protocol. In the end, the ReConnect applicant was approved in this particular case despite broadband speeds greater than 10/1 Mbps existing in over 50% of the proposed funded service territory.

In another instance, USDA needed to verify whether a WTA member company's fixed wireless broadband met the 10/1 Mbps standard. The representative from USDA was told over the phone by the WTA member company that the only way to do this, because of the nature of fixed wireless, was to use a device provided by the broadband provider. The telecommunications provider learned later through correspondence with USDA that a contractor had visited the area, but had not obtained the necessary device. The contractor reported that fiber was being buried and was not yet operational and assumed the service did not exist at that time. All this, despite the incumbent provider telling the contractor that the 10/1 Mbps service was fixed wireless, not buried fiber. The application for this proposed funded service area was ultimately approved.

In light of these incidents, WTA recommends that RUS avoid using contractors, but if they must be used, better training is needed. In addition, RUS GFRs should work more closely with contractors to ensure that they properly fulfill their duties to accurately verify whether service exists.

To further protect against duplicative networks getting built, RUS should mimic what the FCC has set out to do in its Rural Digital Opportunity Fund (RDOF) proceeding. The FCC has

made any rural census block ineligible for RDOF funding if it substantially overlaps with an area that is the recipient of a ReConnect award.⁴ Similarly, RUS should make any area where the FCC is, at the time of application consideration, committing funding to build a *terrestrial* network ineligible for ReConnect awards. This should include funding from ACAM, CAF-BLS, Alaska Plan, CAF II Auction, and RDOF USF High Cost Program funding streams that is going toward terrestrial networks. This would better ensure that scarce federal broadband dollars are not being used to build duplicative networks. Furthermore, doing so would take into account obligated funding rather than merely existing networks. To this point, it does not make sense for ReConnect to fund a network where the FCC has funded a network to be built a year or two from that time. While that area may not have sufficient broadband today, it presumably will in the near future.

RUS should make one exception to the suggested prohibition above. Most of the areas being funded by the USF High Cost Program have 25/3 Mbps speed standards, while some have less. RUS should allow USF recipients to apply for ReConnect funding to bring higher speeds than the FCC has mandated to the areas they already serve. For example, a USF recipient that is supposed to build 25/3 Mbps to a majority of its service territory and 10/1 Mbps to another portion of it could apply for ReConnect funding to build a network capable of higher speeds, which will benefit those areas far into the future as minimum broadband speeds increase. This would “future-proof” more rural networks.

⁴ In the Matter of Rural Digital Opportunity Fund Connect America Fund, Report and Order, WC Docket No. 19-126, WC Docket No. 10-90, rel. Feb. 7, 2020.

4. USDA Should Provide Flexibility to Tribal Entities to Certify Fisheries

During round one of ReConnect, it was reported to WTA that some anchor institutions within or close to Tribal areas were not officially marked on the maps and other databases used by RUS in its scoring of applications. For the second round, the FOA amends the application evaluation criteria to allow Tribal leaders to certify the existence of health care, educational, and essential community facilities that might not appear on the GIS layer mapping tool. This is a good addition to the second round FOA.

In this vein, WTA recommends RUS allow applicants, working with Tribal entities, to certify fisheries in the same way ReConnect rules allow farms to be certified. In some parts of the country fisheries are key to economic development and broadband is just as important at sea for both safety and efficiency of production as it is on land. Placing fishing on equal footing with farming will provide additional geographical diversity to the applicant pool and ensure economically important coastal areas get the broadband they need.

5. Conclusion

WTA has long advocated that a significant grant component be added to RUS' portfolio of loan programs and was pleased to see Congress act. In general, WTA members report that the implementation of the program by RUS has been good, despite the particular problems identified in these comments. In future rounds, RUS should allow funding to be used in areas that don't have 25/3 Mbps and focus more closely on making sure that existing and soon-to-be-built networks are not subject to overbuilding. With some adjustments to policies and procedures, RUS can play an important part in ensuring rural America has reasonably comparable communications technology to urban America.

Respectfully submitted,

WTA –Advocates for Rural Broadband
400 7th Street, NW, Suite 406
Washington, D.C. 20004
202-548-0202

/s/ Derrick B. Owens
Derrick B. Owens
Senior Vice President of Government & Industry
Affairs

/s/ Eric Keber
Eric Keber
Vice President of Government Affairs

March 16, 2020