

**BEFORE THE
RURAL UTILITIES SERVICE
DEPARTMENT OF AGRICULTURE
WASHINGTON, DC 20250-1560**

In the Matter of)	
)	
Request for Public Comment and Notice of Public Discussion Meetings On Implementing the Provisions of)	Public Law 106-553
)	
The Launching Our Communities' Access to Local Television Act of 2000)	
)	

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Rural Utilities Service
United States Department of Agriculture
1400 Independence Avenue, S.W.
Stop 1590, Room 4056-S
Washington, D.C. 20250-1560**

**Joint Comments of the National Rural Telecommunications Cooperative,
the National Rural Electric Cooperative Association and
the National Rural Utilities Cooperative Finance Corporation**

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April 13, 2001

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The National Rural Telecommunications Cooperative (“NRTC”), the National Rural Electric Cooperative Association (“NRECA”) and the National Rural Utilities Cooperative Finance Corporation (“CFC”) (together the “Rural Interests”) are pleased to submit these Joint Comments concerning the implementation of the Launching Our Communities’ Access to Local Television Act of 2000 (“the LOCAL Act” or “Act”)¹ by the Rural Utilities Service (“RUS”).²

1. Representing consumers located in more than 2,700 rural counties and more than 70% of the land area of the United States, the Rural Interests believe that the best manner in

¹ See, *The Launching Our Communities’ Access to Local Television Act of 2000*, Pub. L. No. 106.553 (2000).

² See, *Communities’ Access to Local Television: Request For Information*, (“Notice”), 66 Fed. Reg. 14,880 – 14,881 (Released March 14, 2001).

which to achieve the primary goal of the LOCAL Act (i.e. issuance of loan guarantees to facilitate the provision of local television service to households located in nonserved and underserved areas) is through the deployment of satellite based technology. Due to ubiquitous coverage, satellite technology provides the best, most cost-effective opportunity to serve less populated, rural, and remote areas. We urge the RUS to follow the clearly articulated Congressional intent and to use broad discretion to implement the Act in a manner designed to help facilitate the provision of local television service via satellite to all areas of the country.

2. The basic purpose of the LOCAL Act is to give all Americans the same access to their local television signals regardless of where they choose to live. The Rural Interests represent well over 1,000 local utilities that currently provide vital services including electricity, telephone, television, water, waste water, Internet, and other important services to rural consumers. Not for profits and other community oriented organizations are well positioned and motivated to bring this much needed service to rural America.

I. BACKGROUND.

A. The National Rural Telecommunications Cooperative.

3. NRTC is a not-for-profit cooperative comprised of 682 rural electric cooperatives, 122 rural telephone cooperatives, 183 independent rural telephone companies, and several non member affiliates located throughout 48 states. NRTC's mission is to meet the telecommunications needs of American consumers living in rural areas. Since 1986, NRTC has engaged in numerous endeavors to attain this goal. NRTC, its members and affiliates currently market and distribute DIRECTV programming to more than 1,700,000 rural households using

Direct Broadcast Satellite (“DBS”) technology.³ Additionally, NRTC recently entered into agreements with Hughes Network Systems and StarBand Communications, Inc. for the delivery of broadband Internet service by satellite to rural Americans. NRTC also provides 220 MHz wireless services, long distance telephone services, automated meter reading, and other telecommunications services to its members and affiliates who in turn provide these services to consumers located throughout rural America.

B. The National Rural Electric Cooperative Association.

4. NRECA is the national service organization dedicated to representing the interests of more than 900 consumer-owned cooperative electric utilities and the consumers they serve. As the national leader of rural electric cooperatives, the association provides member assistance through legislative representation before the United States Congress, the Executive Branch, and in legal and regulatory proceedings affecting electric service and the environment. NRECA also offers education and training programs for cooperative directors, managers, and employees. It offers insurance, employee benefits, financial services, technical research and advice, and electrification assistance in developing countries around the world. NRECA's electric cooperative and public power district members serve 34 million people in 46 states.⁴

C. The National Rural Utilities Cooperative Finance Corporation.

5. CFC is a not-for-profit cooperative whose mission is to provide its member utility systems with an assured source of low-cost private capital and state-of-the-art financial products. CFC meets its owners' financing needs through a variety of loan, investment, member service, and specialized financing programs. By maintaining high credit standards and credit ratings,

³ See, National Rural Telecommunications Web-Site (visited 4/13/2001) <<http://www.nrtc.org/navigate.cfm?page=DIRECTV>> (referencing current number of rural consumers served through the NRTC/DIRECTV relationship).

⁴ See, National Rural Electric Cooperative Association Web-Site (visited 4/13/2001) <<http://www.nreca.org>>.

CFC provides its owners with competitively priced financing through its role as a conduit to the private capital markets.⁵ CFC primarily raises funds in three ways: through equity investments made by its cooperative utility owners, through securities issued to member-owners, and by raising funds in the capital markets.⁶ CFC serves electric cooperatives and their affiliated organizations with a total membership of 1,046.

II. COMMENTS.

6. In an effort to implement the provisions of the LOCAL Act, RUS released the subject Notice requesting information regarding all aspects of the proposed program, including financial, technological, and service issues. RUS also requested comment concerning any provisions of the LOCAL Act that may present practical problems in implementing the program. NRTC, NRECA, and CFC are pleased to submit the following Comments responsive to the questions raised in the Notice.

A. Rural America Deserves Local Television Service.

7. As those of us familiar with the needs of rural Americans know, implementation of the LOCAL Act is not just about the delivery of entertainment programming. To the contrary, it is an issue of critical importance to the safety, health, and economic viability of each and every local community in the country.

8. As Representative Bob Goodlatte (R-VA) observed, the implementation of local-into-local service will likely “contribute to protecting the lives of rural Americans,” by encouraging the delivery of critical information – such as weather and disaster broadcasting – to

⁵ CFC is specifically referenced in the LOCAL Act as an authorized lender (See, LOCAL Act, § 1004 (d)(2)(D)(i)(II)).

⁶ See, National Rural Utilities Cooperative Finance Corporation Web-Site (visited 4/13/2001) <<http://www.nrucfc.org>>.

Americans in rural as well as urban areas.⁷ In any natural disaster situation, local news provides vital information on safety procedures, emergency shelter location, and how to obtain much-needed assistance. This local information – whether a news broadcast, an emergency management announcement or weather update – helps to protect safety of life and to preserve property.

9. Additionally, the coverage of news, sports, community affairs and other local events is essential to the social and economic well being of any local community. Communities without effective local coverage of important events will be severely disadvantaged both in building a sense of community spirit and in attracting and maintaining residents and businesses. Without effective local coverage, communities will be viewed as less desirable places within which to live and do business.

B. Satellite Technology Is Ubiquitous and Best Able to Provide Local Service to Rural America in a Cost-Effective Manner.

10. Due to its ubiquitous nature, satellite technology represents the best option available to implement the goals and intentions of the LOCAL Act. Satellite distribution technology is uniquely situated for less populated, more remote areas with difficult geographic terrain. Unlike other technologies, satellite is not sensitive to long distances.

11. It is no coincidence that satellite TV penetration rates are higher in rural America than in urban parts of the country.⁸ NRTC's experience to date is symptomatic of the problem.

⁷ See, *Hearings on The Loan Guarantee Program to Promote The Delivery of Direct-To-Home Satellite Services to Rural America Before The Subcommittee on Department Operations, Oversight, Nutrition, And Forestry of The House Committee on Agriculture*, 106th Cong. 106-41, (2000) (“*Loan Guarantee Hearing*”) (Statement of Hon. Robert Goodlatte, Representative in Congress From The State of Virginia).

⁸ See, Skytrends Report, March 2000, p. 6-7.

Of the 1.7 million subscribers to NRTC's DBS satellite programming services, the vast majority do not have access to cable television services. At a fraction of the investment per subscriber, satellites can reach where cable and other terrestrial technologies are not likely to be available or cost-effective. Satellite technology can cover wide, remote spaces that ground-based technologies cannot cover. In fact, any technology other than satellite would likely offer only a piecemeal solution in limited geographic areas.

12. Ground-based alternatives that propose to use line-of-sight, wireless technology for providing retransmission of local television signals in the same frequency bands utilized by DBS licensees also face infrastructure hurdles. Aside from the obvious frequency interference concerns, which are still being evaluated by the Federal Communications Commission ("FCC"),⁹ these alternatives will still be required to build innumerable relay stations in the vicinity of each and every rural community where service is to be delivered. As such, this option also offers only limited terrestrial delivery of local broadcast signals to specific rural communities.

13. For ground-based technologies to provide service to small, rural areas, they must dedicate an inordinate amount of time, money and manpower. The economic incentive to justify that type of commitment throughout all nonserved and underserved areas of the country has not been demonstrated.

14. With satellite technology, by contrast, there is the opportunity to offer ubiquitous TV service as well as other advanced services. The Act calls for additional consideration to

⁹ See, *In The Matter of Amendment of Parts 2 And 25 of The Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency With GSO And Terrestrial Systems in The Ku-Band Frequency Range: Amendment of The Commission's Rules to Authorize Subsidiary Terrestrial Use of The 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees And Their Affiliates; And Application of Broadwave USA, PDC Broadband Corporation, And Satellite Receivers, Ltd to Provide a Fixed Service in The 12-2-12.7 GHz Band*, ET Docket No. 98-206, RM-9147, RM-9245; FCC 00-418, 66 Fed. Reg., 7607-7613, (Released January 24, 2001).

projects that will offer high-speed Internet.¹⁰ An additional benefit of employing satellite technology is that it now has the capability to offer high-speed Internet access to the same rural marketplaces receiving satellite video programming. NRTC members will shortly begin offering this combined video/Internet service to rural consumers.

15. DBS carriers potentially could bundle High-Definition Television (HDTV) services as well. Satellite signals currently utilize digital modulation techniques to transmit near-HDTV-quality programming.

C. Satellite Technology Is What the Proponents of the LOCAL Act Envisioned to Bring Local Service to Rural Areas.

16. When Congress first held hearings regarding the development of the LOCAL Act, the hearing itself was referred to as the “Loan Guarantee Program To Promote The Delivery Of Direct-To-Home Satellite Services To Rural America.”¹¹ More important than its title, however, was the content of the deliberations. Representative Rick Boucher (D-VA) referred to the delivery of local broadcast signals via satellite as nothing less than the extension of a “time-honored principle” that is equal to the importance of the initial delivery of telephone service to rural areas.¹²

17. Furthermore, it is clear from the Congressional testimony that the proponents of the LOCAL Act viewed satellite technology as the best solution to solving the local service problem. In fact, according to Representative Goodlatte, the \$1.25 billion loan figure was, “exactly what it would take to create enough satellite capacity and launch that capacity and then operate that capacity [in order] to provide the local-into-local service in all 211 television

¹⁰ See, LOCAL Act, § 1004 (e)(1)(B).

¹¹ See, *Loan Guarantee Hearing*.

¹² See, *Loan Guarantee Hearing* (Statement of Hon. Rick Boucher, Representative in Congress From The State of Virginia).

markets nationwide.”¹³ He also stated that upon Congressional passage of the legislation, satellite technology would “realize [the local-into-local] goal and extend [the] service nationwide.”¹⁴ Jim May, the Executive Vice President for Government Relations of the National Association of Broadcasters stated, “I think this is one of those grand occasions when no one at the witness table or on the dais has a disagreement as to the objective that we are seeking today, and that is the provision of local television signals on satellite.”¹⁵ While the exact nature of the program still needs to be developed, it is a clear indication that satellite technology is recognized as the cost-effective solution to the issue of providing all Americans the same access and quality of local TV service.

D. Local Service Currently Is Unavailable to Rural America Through Existing Providers.

18. In April of 2000, your agency and the National Telecommunications and Information Administration (“NTIA”) issued a Report entitled *Advanced Telecommunications in Rural America: the Challenge of Bringing Broadband Service to All Americans* (“RUS/NTIA Report”).¹⁶ The RUS/NTIA Report is important in the context of the current RUS inquiry because it provides a detailed analysis and discussion of the state of advanced telecommunications services in rural America.

¹³ See, *Loan Guarantee Hearing* (Statement of Hon. Robert Goodlatte; Representative in Congress From The State of Virginia).

¹⁴ Id.

¹⁵ See, *Loan Guarantee Hearing* (Statement of James C. May, Executive Vice President For Government Relations of The National Association of Broadcasters).

¹⁶ See, National Telecommunications and Information Administration and Rural Utilities Service, *Advanced Telecommunications In Rural America: The Challenge of Bringing Broadband Service to All Americans*, April 2000.

19. The report also highlights shortcomings in the commonly accepted percentage of “homes passed” by cable. The cable industry has long maintained that the percentage of homes passed, and subsequently cable’s availability to the population at large, is as high as 97 percent.¹⁷ As your report accurately states, the percentage of homes passed could be as low as 81 percent.¹⁸ Based on your report, 19 percent of homes in the country are not passed by cable and likely have little or no access to local television signals.

20. The RUS/NTIA Report correctly demonstrates beyond doubt that rural areas have less access to cable services than more populated parts of the country. Contrary to cable, these rural areas are the territory served by the members of NRTC, NRECA, and CFC. These are the same areas that are the focus of Congressional and Executive Branch concern, as embodied in the LOCAL Act, regarding the unavailability of local television signals.¹⁹

21. Until the advent of DBS services, many rural viewers were unable to receive cable-equivalent services, and until local service is widely available via satellite these same viewers will continue to remain nonserved. Due to the difficult infrastructure issues present with the delivery of local television channels to rural America via any other means, satellite technology may be the only viable option for effective delivery of local broadcast signals to all of rural America.

¹⁷ See, *NCTA National Cable Television Developments*, (Summer, 1999); And See, NCTA Web-site at (visited April 13, 2001) <<http://www.ncta.com/glance.html>> (listing pass rate of 96.6%).

¹⁸ *Id.*

¹⁹ The RUS/NTIA Report further supports the FCC’s conclusion that market forces alone will not guarantee access to advanced services in rural and remote areas (See, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, FCC 01-1, CS Docket No. 00-132, Released January 8, 2001).

E. The Goal of the LOCAL Act Is to Provide the Impetus to Make Delivery of Local TV Signals Economically Viable. This Objective Is Made More Difficult by the “Must-Carry” Requirements.

22. DBS services currently available to American households operate in the Ku-Band.

It should come as no surprise that the two nationwide DBS providers in that band, DIRECTV and EchoStar, do not provide local television service to rural America. The provision of local signals in smaller markets is not likely to generate enough profit for publicly traded corporations. Without a sufficient return on their investment, current satellite providers are unwilling to devote sufficient satellite transponder capacity to the provision of local signals in smaller markets. Further, the available capacity of Ku-Band satellites now in service is insufficient to provide every local signal in every local market.²⁰

23. The authors of the LOCAL Act recognized this problem. Government support is necessary to serve the public purpose of delivering local television signals to rural markets. The LOCAL Act loan guarantee program provides assistance in the form of enhanced availability of private capital and a lower interest rate on that capital. This combined with the dedicated efforts of not-for-profit entities working in concert with other interested parties is the formula that will allow rural Americans to have television service on par with the rest of the country.

24. Due to satellite capacity constraints, the satellite “must-carry” rules create a serious disincentive for current satellite carriers to provide local signals in smaller markets.²¹

²⁰ See, *Hearings on Cable and Video: Competitive Choices. Before The Subcommittee on Antitrust, Business Rights, And Competition Senate Committee on The Judiciary, 107th Congress, (April 4, 2001)* (Statement of Eddy W. Hartenstein, Corporate Senior Executive Vice President, Consumer Sector, Hughes Electronics Corporation And Chairman, DIRECTV Global) (“*Hartenstein Testimony*”).

²¹ *Id.*

Specifically, section 338(a)(1) of the Communications Act, adopted as part of the Satellite Home Viewer Improvement Act of 1999 (“SHVIA”),²² provides that after December 31, 2001:

each satellite carrier providing [television broadcast signals under the compulsory copyright licensing system] to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b) [retransmission consent requirement].²³

This legislation requires satellite carriers, by January 1, 2002, to carry upon request all local broadcast stations’ signals in local markets in which at least one broadcast station signal is carried pursuant to Section 122 of title 17, United States Code.²⁴

25. For rural America there currently is not enough satellite capacity to provide all local signals in all local markets. The problem could grow deeper if the FCC decides to apply satellite must-carry provisions to local HDTV signals, as it is currently considering. If DBS carriers begin offering local broadcasters’ full-quality HDTV, we believe that rural viewers should have access to those signals. The quality of a satellite signal, however, is directly related to the amount of bandwidth necessary for the transmission. Improvement in the quality of a signal generally will consume additional bandwidth and will reduce the overall amount of transponder capacity remaining on the satellite. In order to provide the same number of channels, full-quality HDTV will require more bandwidth and spectrum than lower-quality signals.

²² See, Pub. Law 106-113, 113 Stat. 1501, Appendix I (1999).

²³ See, 47 U.S.C. §338(a)(1).

²⁴ Pursuant to the SHVIA, the FCC adopted rules implementing this carriage requirement by November 29, 2000.

26. Although the Rural Interests do not question the underlying purpose of the must-carry rules, we believe that current satellite carriers will not provide any local signals in lower-population, lower-profit markets if they are statutorily required to carry all signals in these markets. As a result, “must-carry” could mean “no carry” in rural America.²⁵

27. DIRECTV and EchoStar – the only two companies providing high-powered DBS service nationwide – offer local-into-local service only in the top metropolitan areas. In combination, DIRECTV and EchoStar have announced plans to serve only the top 44 markets. Up to one-third of the states including Alaska, Hawaii, Idaho, Iowa, Maine, Montana, Nebraska, North Dakota, South Dakota, Vermont and Wyoming – will be excluded from receiving any local satellite service originating from within their states.

28. This continued disenfranchisement of rural America comes at a particularly inopportune time. Recent court decisions applying restrictions contained in the copyright laws have caused many rural consumers to lose access to their distant network signals at the same time they are being denied access to local signals by satellite.²⁶ The loss of distant network signals in combination with the unavailability of local signals will severely restrict programming choices in rural America.

29. In light of the technological capabilities and the ubiquitous coverage of satellite technology, there is no reason that a rural family living in a nonserved region of Montana or any other state should not receive the same high quality service available to an urban family living in

²⁵ See, *Hartenstein Testimony*.

²⁶ See, NRTC Emergency Petition for Rulemaking, *In The Matter of Definition of Over-The-Air Signal of Grade B Intensity For Purposes of The Satellite Home Viewer Act*, Rm. No. 9335, pp. ii, 9 (July 8, 1998); See e.g., *CBS Inc., et al. v. PrimeTime24 Joint Venture*, 9 F.Supp. 2d 1333 (S.D. FL. May 13, 1998).

Los Angeles or New York City. All Americans should be entitled to receive the full benefits of the modern Information Age, regardless of their geographic location.

30. The current capacity issues are based on the capabilities of today's Ku-Band carriers. The FCC also has allocated Ka-Band spectrum for home satellite service, and some Ka-Band licensees and applicants propose to provide local television signals in rural areas. Also, in June 2000, the FCC allocated 400 MHz in the 17.3-17.7 GHz band for satellite transmissions to the home, effective on April 1, 2007.²⁷ Although this spectrum will not be available until far in the future, it too may be a candidate for a rural local satellite service. The cost to access any of this spectrum is unknown at this point.

F. When Granting Applications for Loan Guarantees, RUS Should Consider the Not-for-Profit Status of Applicants, as Well as Their Existing Ties to the Local Communities They Propose to Serve.

31. The entities best able to bring local service to rural America are those with a not-for-profit orientation, ties to the local communities and motivation to serve those communities. They need not demand high returns on their investments to satisfy shareholders. Additionally, a not-for-profit national organization comprised of members actively involved in their local communities is especially well positioned to satisfy the broad goals of the LOCAL Act. Accordingly, when granting applications for loan guarantees, we urge the RUS to consider the not-for-profit status of applicants, as well as their existing ties to the local communities.

32. The goals of the LOCAL Act are remarkably similar to the goals of the rural electrification and telephone programs of the 1930's: delivery of a critical service – taken for

²⁷ See, Report And Order, *Redesignation of The 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in The 17.7-20.2 GHz And 27.5-30.0 GHz Frequency Bands, And The Allocation of Additional Spectrum in The 17.3-17.8 GHz And 24.75-25.25 GHz Frequency Bands For Broadcast Satellite-Service Use*, IB Docket No. 98-172, FCC 00-212, at Paragraph 96 (Released June 22, 2000).

granted by most Americans – to America’s rural communities. The success of these rural programs was largely attributable to the rural utility cooperatives organized in response to the establishment of the Rural Electrification Administration (“REA”) and related government programs.

33. While the establishment of the REA acknowledged that there was a need for government involvement for rural America to become electrified and later to have access to telephone services, the true catalyst of rural utilities was the direct involvement of the rural communities and their associated rural cooperatives. Then – as now – large for-profit, private sector providers were hesitant to construct the necessary infrastructure due to the maximum costs associated with the build-out coupled with its limited financial return. As a result, the ultimate solution for rural utilities was the member-owned cooperatives and small locally owned businesses which were newly organized and established for the sole purpose of providing essential services otherwise not available in rural areas. The success of this effort would not have been possible without the assistance of REA.

34. We are justifiably proud of what we and our members have achieved in partnership with the REA and now the RUS. This partnership has brought affordable and reliable electric and telecommunications services to the most remote reaches of our nation – and in many cases to people living in areas where no other utilities were willing to serve. NRTC, NRECA, and CFC stand poised to expand the partnership with other like minded companies within the satellite industry to begin providing local television service to rural America.

G. Whenever Permitted, We Urge the RUS to Exercise its Broad Discretion in Implementing the LOCAL Act.

35. The Rural Interests are concerned that the LOCAL Act, if implemented without some much needed flexibility, could diminish participation in the loan guarantee program. For instance, under the statute, all of the assets not only of an applicant for a loan guarantee but any affiliate of the applicant are placed at risk in the event that the loan guarantee is issued.²⁸ This requirement is especially burdensome for a satellite project, which will require large expenditures of funds and interrelated partnerships in order to increase the likelihood of a successful venture. Further, upon approval of a loan guarantee, the RUS's liens on such assets shall be superior to all other liens.²⁹ This provision also is troublesome in the satellite context, since lenders may well be reluctant to become involved in any project subject to a superior lien. Last, an applicant for a loan guarantee may not transfer any part of the proceeds to an affiliate³⁰ or "strip" the not-guaranteed portion of the loan,³¹ which also may increase an applicant's difficulties in obtaining financing.

36. Although the LOCAL Act may be interpreted to be restrictive in certain key respects, we urge RUS to interpret the Act broadly with an appropriate focus on providing local television signals throughout the country in an economically feasible manner. By exercising broad discretion in its interpretation of the LOCAL Act, RUS will encourage the widest possible participation in the loan guarantee program and thereby achieve the purposes of the LOCAL Act.

²⁸ See, LOCAL Act. § § 1004 (h)(2)(D); 1005 (b)(2)(B).

²⁹ Id., § 1005 (b)(3).

³⁰ Id., § 1005 (o)(2).

³¹ Id., § 1005 (d).

37. For example, the Act allows (but does not require) the Loan Guarantee Board established by the Act to adjust downward the value of any collateral securing the loan.³² The Rural Interests maintain that a downward adjustment be used with the greatest amount of caution. If such ‘after-the-fact’ modifications are employed, it will likely have a substantial impact on the willingness of potential applicants to request loan applications. We respectfully recommend that RUS adopt rules urging the Board not to downgrade the value of the collateral absent extreme and compelling circumstances.

38. The Act grants the RUS Administrator the authority to assess and collect penalties from any applicant.³³ The penalties are not to exceed three times the interest due on the guaranteed loan and are to be imposed if the applicant fails to meet a stipulated performance schedule. Due to the significant hurdles and uncertainties already present in this endeavor, we feel the RUS should consider foregoing any penalty provision and work cooperatively with applicants attempting in good faith to provide service to rural America.³⁴ If appropriate, the performance schedule could then be adjusted to reflect any changed circumstances.³⁵

39. Finally, the Act states that while the Board shall charge a loan guarantee origination fee, its collection by the Administrator is entirely discretionary.³⁶ An origination fee, however, could serve as yet another deterrent to entities interested in participating in the loan guarantee program. The Rural Interests suggest that the RUS consider waiving all origination fees in their entirety, due to the substantial challenges associated with the delivery of local

³² Id., § 1005 (b)(2)(C).

³³ Id., § 1005 (f)(2).

³⁴ Within the mandates of the Small Business Regulatory Enforcement Act of 1996, the RUS may reduce or waive penalties for small businesses (See, 5 U.S.C. § 601 note (2000)).

³⁵ See, LOCAL Act, § 1005 (e).

³⁶ Id., § 1005 (n)(2).

television service to nonserved and underserved areas. The application of this fee would serve little useful purpose other than erecting another potential barrier on entities who are attempting to deliver an important public service to rural Americans.

III. CONCLUSION.

40. Satellite technology represents the most cost-effective opportunity for the RUS to promote the goals of the LOCAL Act. Compared with other program distribution technologies, satellite is the best available technology for serving the largest number of nonserved and underserved areas in the most cost-effective manner possible.

41. The Rural Interests urge the RUS to exercise its broad discretion and to adopt practical rules implementing the loan guarantee program. We believe that a national, not-for-profit entity comprised of members with a strong presence in their local communities, partnering with other like minded entities, is best positioned to make local television service a reality across the country. We urge the RUS, when granting applications for loan guarantees, to consider the not-for-profit status of applicants, as well as their existing ties to the local communities they propose to serve.

42. It is our hope that RUS can issue the proposed and final rules in the most expeditious manner possible. Due to the significant project time needed for satellite deployment, any delay in implementing the loan guarantee program would further deprive rural America of this much needed service. In that manner, the RUS will best ensure the successful implementation of the loan guarantee program.

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