

June 27, 2002

Roberta Purcell
Assistant Administrator
Telecommunications Program
Rural Utilities Service
Room 4056-S, Stop 1590
1400 Independence Avenue, S.W.
Washington, DC 20250-1500

RE: Aggregate Networks' comments on the rural broadband access loan and loan guarantee program under the Farm Security and Rural Investment Act of 2002 (P.L. 107-171).

Dear Ms. Purcell:

Aggregate Networks appreciates that the Rural Utilities Service (RUS) is soliciting comments on the Rural Broadband Access loan and loan guarantee program, which was established under the Farm Security and Rural Investment Act of 2002 (P.L. 107-171). While we are not able to attend the public meeting you are hosting today, we would like to submit some comments for your consideration as you develop the regulations to implement the broadband loan program.

BACKGROUND

Aggregate Networks is a company based in Naperville, Illinois that specializes in municipal finance. We assist communities, many of which are in rural areas, to plan, finance, deploy and offer broadband services. Our services include consulting on various financial options from public and private sources. We help communities aggregate their telecommunications demand and coordinate the community's economic, educational, health care, and public safety sectors as telecommunications users. In addition to our consulting services, we can also assist communities in gaining access to bond and lease financing. We also assist communities – and their educational, health care, and public safety institutions – evaluate opportunities related to government grants and loans.

Aggregate Networks can help municipal entities finance the construction and operation of broadband networks and service offerings. We can also assist private entities build or expand networks in collaboration with municipalities by using the governmental telecommunications requirements as a pathway to affordable financing. Our focus is to help communities identify needs and to finance the provisioning of the services to meet those needs. Government grants and loans can play an integral part in successful broadband deployments.

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Aggregate Networks is well positioned to provide a broad perspective on the new broadband loan program since we work with the whole range of service providers and communities and we believe we can contribute through this opportunity to respond to your public notice.

We believe that there is a strong demand for broadband services in rural communities. We are presently working with a number of communities that could meet the qualifying criteria for the RUS broadband program. In visiting with community and civic leaders across the country, we are witnesses to the demand for broadband. Many communities are dissatisfied with their present level of service and are seeking avenues to attract broadband investment in their communities. Rural communities, especially, see broadband as an essential tool for economic development. Community leaders, businesses, schools, hospitals, and emergency personnel require broadband access to stay competitive and growing.

In our experience, communities that aggregate their demand – usually under the leadership of local government or business leaders – can create a significant purchasing power, which can help launch a broadband deployment in their area. The largest areas of demand often come from the local government, the hospitals, and the educational institutions. Telecommuting increasingly is important to communities as workers seek an enhanced quality of life in rural communities. Broadband access is a means to enable work at home careers, and resort destination areas are increasingly being pressured by part-time residents and visitors to provide broadband communication that keep them connected with their home and business.

Few issues have united America's political leadership, as has the need to spur broadband deployment. There is Bipartisan agreement that broadband is central to the nation's economic future.

Earlier this month, President George W. Bush told a leading group of high tech executives at the White House that, "(t) his country must be aggressive about the expansion of broadband"

In San Jose, California, on February 21, Vice President Cheney told a group of Technology Industry Leaders that "We also recognize the great potential of high-speed broadband networks to increase productivity and add to growth. The possibilities are tremendous....As this technology progresses, we're committed to keeping America the world's leader in developing new broadband technology and applications."

Senator Daschle, the Democratic leader of the Senate has said that "the rate of broadband deployment will affect future productivity and economic development. Access to high-speed telecommunications technologies, especially for business, is becoming more important in terms of competitiveness and in determining business location and expansion decisions."

Senator Tom Harkin, the Chairman of the Senate Agriculture Committee said the new RUS broadband loan program "is intended to help rural citizens gain access to modern broadband information networks."

The RUS has an historic opportunity to open a new chapter of economic development in rural America through the deployment of broadband telecommunications infrastructure capable of carrying voice, video and data at very high speeds.

Reports by the Federal Communications Commission (FCC), the RUS, and the U.S. Department of Commerce demonstrate that there is a broadband digital divide. In its Third Report on Broadband Capability, issued in February 2002, the FCC found that there are no broadband subscribers at all in 22% of the nation's zip codes. A joint report by the RUS and the National Telecommunications and Information Administration (NTIA) entitled *Advanced Telecommunications in Rural America: The Challenge of Bringing Broadband Service to All Americans*, issued in April 2002, found that less than 5 percent of rural communities have access to either cable modem or DSL broadband services whereas more than half of the larger urban cities have such access.

Our experience in working with small rural communities tells us that access to broadband service outside of the large cities is seriously lacking. Telephone and cable providers are deploying DSL and cable modem on a limited basis. In some cases, an incumbent telephone or cable provider may provide broadband services to only a limited portion of a community. Where there is access we find that many small communities are concerned about the quality of service and affordability.

Broadband access is limited in many rural communities largely because of the lack of a last mile connection. The infrastructure problem for many small communities lies in insufficient access to broadband facilities that connect a home or business to a fiber backbone. As you know, DSL and cable modems have limited ability to provide broadband services because of the physical requirements of the central office location or cable head end. Local telephone companies that are offering DSL services are limited to provisioning such services within about 3 miles of their central office locations. People living or working outside of that range can not only not get broadband service but are not likely to ever get broadband service through DSL. The real broadband challenge in rural areas is solving the last mile problem.

We recognize the important role that universal service plays to deploy broadband services. Competition also plays an important role to stimulate broadband deployment. For larger communities, it is evident that competition between cable and local phone companies has helped to stimulate deployment of those services. This has been very beneficial to consumers.

For many small communities, carrier competition as a market force has not emerged as a driving force of deployment. In these communities, existing carriers either can not afford or do not intend to bring advanced services to the entire community. In our judgment, low-interest financing for broadband, such as the broadband loan program established under PL 107-171 -- as well as other RUS programs, such as distance learning and telemedicine -- can get projects started and universal service is needed to sustain them.

The benefits of broadband availability in rural areas are many. Most communities see broadband as a vital economic development tool. To some, it is needed to save a community from out migration and job loss. To others, it is a means to attract new jobs and residential projects. In all cases, broadband access is one of the most significant ways to improve the quality of life in rural areas.

Health care and emergency response applications that are made possible by broadband services help a rural community offer a safe environment for young people to build families and careers in rural America. High speed Internet access creates new business opportunities and generates efficiencies in agricultural and small manufacturing fields, and is essential to attract "high-tech" companies and call centers.

Today's economy is more global and more directly dependent upon telecommunications and information services than ever before. Access to broadband is not a luxury -- it is a matter of necessity and could help determine the future of rural America. If rural areas are allowed to fall on the wrong side of the digital divide, they may never catch up with the rest of the economy and hurt not only themselves but also the nation as a whole.

The broadband loan program is an opportunity for the RUS to stimulate a tremendous amount of economic activity in rural America and help to revitalize a struggling telecommunications market.

RECOMENDATIONS

Aggregate Networks has the following specific recommendations for the RUS as you develop the regulations to implement Section 6103 of the Farm Security and Rural Investment Act of 2002. The program should be large enough to meet the expected demand for broadband loans; municipalities, municipal utilities public utility districts, and public regional economic development organizations should be welcomed into the new program; commitments to deploy broadband used to block municipal eligibility must be real, enforceable and void if not executed within a limited time frame; the agency should encourage private sector partnership and leverage in the new broadband program; priorities, state allocations and

national reserves should be administered in a manner which minimizes delay and networks which meet electric or water utility needs should be eligible for finance.

Program Size – The success of the RUS broadband pilot program demonstrated that there is significant nation-wide demand for affordable broadband financing. The Congress was careful to observe the long-term record of risk management and prudence of the RUS. In over fifty years, the RUS telecommunications loan program has a perfect loan loss record. It is a record that is the envy of any financial institution in America. The Congress was also clear in expressing its expectation that most loans under the new program would be at treasury rates of interest. Taken together, these factors should produce a very low subsidy rate for RUS broadband loans. In a colloquy between Senators Harkin and Dorgan, the legislative architects of the new program, maintained that \$750 million of loans per year in the early years of the program at treasury rates of interest would not be unreasonable.

There is nothing inherently risky about broadband infrastructure. In fact, the RUS has been financing broadband infrastructure through its telecommunications program for more than a decade under RUS policy and legislative mandate. The broadband program expands RUS eligibility into larger communities, which are more likely to be capable of sustaining broadband demand. The broadband program also makes funds available at a time when the bursting of the internet bubble provides both lessons and opportunities to construct, acquire, assemble or design networks which are significantly more affordable than two years ago. Both expansion of market size and the affordability of broadband capacity and equipment reduce risk for a prudently run financial institution.

Municipalities – Municipalities, municipal utility districts and public sector borrowers should be welcomed into the new broadband program. Municipalities can and should play an important part in the effort to bring broadband to all corners of the nation. Municipalities have excellent credit records. They are generally low risk borrowers and are accountable to their communities. The RUS has had a positive experience working with municipal utilities in its water and electric programs. Municipal debt and debt backed by municipal leases should also be eligible for RUS loan guarantees. The new broadband program does not limit the availability of loan guarantees. An RUS guarantee of municipal debt can produce an effective interest rate which will stimulate the deployment of municipal broadband infrastructure as well as enhance the quality of education, health care and public safety by insuring that resources are devoted to infrastructure and services and not financing costs.

Commitment – The RUS should also establish with clarity how municipalities can participate in the new broadband loan program. Congress specifically intended for

municipalities to participate in the new broadband loan program.¹ Under the new law, municipalities are eligible to participate in the broadband program when “no other eligible entity” is offering or willing to offer broadband services to an eligible community.

The RUS should set specific requirements, with high standards, upon the “other entity” that claims to be providing service or is committed providing service before acting to disqualify any municipality. The burden should be on the “other entity” to demonstrate to the Administrator that they are in fact providing or have a binding commitment to provide quality service at an affordable price for such a claim to be accepted as a disqualification from a municipal applicant.

The RUS should require documentation from the “other entity” that quality service at an affordable price is being offered. Further, the “other entity” needs to demonstrate where the service is being provided in the community and if the “other entity” is not providing service, but pledges to provide such service in the future, the RUS should accept only a specific time table for deployment and impose a build out requirement before disqualifying a municipal applicant.

The RUS must ensure that section (d)(2) of the new law is not used as barrier to forever prevent unserved and underserved communities from getting broadband services. If section (d)(2) is to be used to block a municipality from eligibility, that is, from even getting a chance to put forward a financially feasible plan to meet community broadband needs, the RUS must ensure that broadband services offered are offered to the entire community at rates which are reasonable and that commitments to service communities are real and enforceable. The mere assertion of service or a commitment of service should not be enough. The provision of service to a fraction of a community or market segment should not be enough. Service should also not be considered to be offered if it is offered at a price which is anything other than a reasonable and comparable rate. Unaffordable should equate with unavailable service.

If section (d)(2) is invoked to exclude municipal eligibility and service is abandoned in whole or in part or it becomes clear that a “commitment” to provide service is illusory or incomplete, the block on municipal eligibility should immediately and irrevocably become void.

¹The Rural Electrification Act of 1936 (7 U.S.C. 901), Sec. 601(d)(2) states that “A State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) shall be eligible for a loan or loan guarantee under this section to provide broadband services to an eligible rural community only if, not later than 90 days after the Administrator has promulgated regulations to carry out this section, no other eligible entity is already offering, or has committed to offer, broadband services to the eligible rural community.”

Where there are quality services offered broadly at affordable rates, there is little interest, or support for municipal provision of service. Much like their coop cousins, municipalities and municipal utilities offer telecommunications services because their customer owners demand it. Municipal projects are generally not designed as competitive alternatives. Rather, they are borne out of necessity because of inadequate service. The success or failure of a municipal application should rise or fall on financial feasibility and not on section (d)(2) gamesmanship.

Private Sector Partnership – The new rural broadband program offers an opportunity for RUS to create new partnerships with the private sector. Loan guarantees should be available on eligible private sector loans and municipal debt, bridge financing should be encouraged and broadband loan terms should facilitate concurrent lending from private lenders.

Historically, REA/RUS loan programs have had the power to attract private investment into rural infrastructure. The new broadband program should start with the premise of public/private partnership and leverage. One excellent opportunity to meet the needs of borrowers and to foster partnership is through bridge financing. Often, the private sector can finance feasible projects on a quicker timetable than a federal lending agency.

If properly structured, Aggregate Networks is convinced that private capital would be available for bridge financing while an RUS loan is being processed. We are aware the agency has used private sector bridge financing to speed the availability of funds to RUS electric borrowers. RUS should encourage the private sector to provide debt and lease financing for projects as they are being evaluated by RUS. Such partnership can enhance loan security as well, by putting an extra set of eyes on each partnership transaction. Lease financing provides municipalities an affordable way to deploy broadband infrastructure. It can also serve as the ideal bridge for RUS financing. Aggregate Networks would like to work with RUS to make bridge-financing opportunities a reality in the new broadband program.

Priorities, State Allocations and National Reserves – The new law's requirements for priorities, state allocations and national reserves creates functional challenges for the agency in meeting the need for speed in broadband deployment. The agency should adopt procedure which minimize delays and sets, as the Congress recommends, at least a quarterly clearing process, so that prospective borrowers have to wait no longer than a quarter to know where their application stands in the broadband queue. The availability of bridge financing and an appropriately large program loan level can help mitigate this difficulty.

Tailored Network Eligibility – Municipalities and utilities often have communications needs related to their unique role to provide essential government services to protect the life, health, safety and education of the community. The new broadband loan program should be open to these tailored applications. In addition, demand related to essential services should be permitted to be aggregated with private sector demand on municipally owned or leased systems.

CONCLUSION

The RUS Rural Broadband defines an exciting new mission for an agency that has kept rural America connected. Just as electric, telephone and water services before it, broadband availability will determine rural America's participation in the national economy. Aggregate Networks appreciates the opportunity to present its views on this important new program and stands ready to assist the RUS to make the program workable and successful in today's telecommunications and investment environment.

Thank you for the opportunity to share our views and we would be happy to answer any questions you may have for us and discuss this matter at any time.

Sincerely,

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