

**Before the
UNITED STATES DEPARTMENT OF COMMERCE
Washington, DC 20230**

In the Matter of

Public Comment on Laws or)
Regulations)
Posing Barriers to)
Electronic Commerce)

**Comments of the
Rural Utilities Service**

Introduction

The Rural Utilities Service (RUS) is a rural development agency of the United States Department of Agriculture (USDA). The RUS finances basic infrastructure necessary for rural America to keep economic pace with the rest of the nation. Successor to the Rural Electrification Administration, the RUS has been assisting in the building of rural telecommunications infrastructure for over 50 years. Today the RUS Telecommunications Program is helping companies and cooperative organizations build telecommunications systems that are capable of supporting broadband data communications. These systems employ fiber optics, digital switching, and short copper loop technology that are necessary to provision Digital Subscriber Line (DSL) and other broadband services that are currently being deployed in urban centers. RUS-financed local exchange carriers (LECs) numbering about 825 serve about one-third of rural America, with the rest being served by Regional Bell Operating Companies (RBOCs), GTE, and others.

In addition to traditional utility financing, the RUS administers the Department of Agriculture's Distance Learning and Telemedicine Loan and Grant Program. This Program brings educational opportunity and better healthcare to rural America by tying small town classrooms to urban teachers, and connecting rural health clinics to major medical centers.

In keeping with USDA's role within the President's Cabinet as the Department responsible for the economic viability and quality of life in rural communities, these comments are offered on behalf of all rural Americans, not just those served by RUS-financed utilities.

General Comments on Barriers to E-Commerce

The principal barrier to the growth of E-Commerce in rural areas is the lack of rural access to adequate telecommunications infrastructure.

Since 1993, the Administration through the USDA has made significant strides towards bridging the digital divide for hundreds of thousands of rural businesses and households in areas served by RUS Telecommunications Program projects. However, since only about one-third of rural Americans are served by RUS-financed projects, the issue of adequate infrastructure in all rural areas must be addressed for rural America to be a full partner in the electronic marketplace.

E-Commerce is of great importance to rural America because it represents an opportunity to overcome barriers of distance, density and geography in the marketplace for goods and services and the distribution of knowledge and information. For all with access to this resource, location and distance become irrelevant. For example, rural businesses can market to a world of customers, farmers can find the most affordable inputs to reduce costs and kids and families can access the best educational and health care services. But location and distance are not irrelevant if not all have access.

Many rural Americans are being left behind in the E-Commerce revolution because they live where there is no or inadequate access to the Internet. It costs more to give rural customers telephone service in the first place, and enhancing those high cost voice lines to make them amenable to fast modem access or to be DSL-capable costs proportionally more again.

The Telecommunications Act of 1996 (the "Telecom Act") requires comparable access to voice and information services at comparable rates for rural and urban Americans. The mechanisms to accomplish this are still being designed. The Federal Communications Commission (FCC) is issuing regulations regarding universal service support, but it is already clear that many non-rural LECs serving rural households, and experiencing high costs to do so, will not receive support from the new federal universal service support mechanism. And the current definition of supported voice grade telephone service is so modest that it will not support even a 28.8 Kbps computer modem in rural areas. Even those non-rural LECs that are lucky enough to receive support are not currently supported to levels beyond which would provide late 1980's modem speeds.

Broadband Access Will Have to be Supported to Become Available

Section 254 of the Telecommunications Act of 1996 requires that broadband access to information services should be supported by universal service support so that it costs no more in rural areas than in urban areas. Support must be well targeted so that it goes to all high cost, and only high cost, areas. High cost customers should be supported whether they are served by a rural independent LEC or the largest RBOC. Current FCC rules

target high cost support to rural subscribers of rural LECs much more precisely than they target high cost support to rural subscribers of non-rural LECs. This is because support is averaged over the carrier's study area, which for a rural LEC will usually be small, but for a non-rural LEC will be large, perhaps statewide. This has encouraged non-rural LECs to sell rural exchanges to rural LECs but when they do, the basis for support remains the same as it would have been under the owner of record on May 8, 1997.¹ In this manner, rural subscribers of non-rural LECs not only receive support that is poorly targeted, but support for some rural subscribers is much more adequate than it is for others. Even if the subscribers are served by a telephone exchange that has been sold by a non-rural LEC to a rural LEC, that support may remain inadequate.

The RUS filed comments with the FCC on Universal Service Support for high cost areas in its filing of December 17, 1999² which cover these issues.

Rural Telephony Should Provide Internet Access at Urban Speeds

Rural telecommunications access should be comparable to that available in urban areas. Since most Americans access the Internet over voice grade phone lines, voice grade access needs to be redefined to provide for at least 28.8 Kbps information transfer speed. The RUS has recently filed comments with the FCC on voice grade access and computer modem speeds.³ Rural households need this level of modem access at a very minimum to participate in E-Commerce. As the January 19 filing shows, industry experts believe telephone modem access to the Internet will be the principal mode of access for most users for many years. While many residential and perhaps most business users will opt for broadband access over the coming years, a large percentage of households will continue to rely on the ordinary telephone for Internet access, largely because of cost. It is critical that universal service rules do not act to encourage the deployment of bandwidth narrowing technology.

State Laws Present Barriers to the E-Commerce Marketplace

State Medical Licensing Restricts Rural Telemedicine Applications

Telemedicine represents one of the most exciting E-Commerce opportunities. Rural telemedicine projects funded by the RUS since the 1993 inception of the Distance Learning and Telemedicine Grant and Loan Program have tied rural hospitals and clinics to urban medical resources with considerable success and efficiency, but almost all of the

¹ See FCC 97-157, Paragraph 308, Sale of Exchanges, May 8, 1997 First Report and Order on Universal Service. The FCC entertains requests for waivers from this ruling, but when it grants waivers, giving the transferred exchange support at the rural LEC's rate, this increase does not increase the total paid under the fund to all rural LECs.

² See Comments of the Rural Utilities Service, at www.usda.gov/rus/unisrv/12-17com.htm

³ See Comments of the Rural Utilities Service, January 19, 2000, at www.usda.gov/rus/unisrv/01-19com.htm

telemedicine connections have been within states. This is because most physicians are licensed to practice only in their home states. In rural areas, a large city in a neighboring state is often closer than the nearest large within-state city. Generally, rural people will drive to the nearest major medical center regardless of whether it is in-state or out-of-state. Telemedicine systems should at least be able to link patients to the same doctors they would visit. State licensing laws are preventing this.

Rural Americans, and all Americans, would benefit from the ability to receive medical consultations from the best available specialists regardless of location. This is the promise of telemedicine, but until states address cross-state licensing, this will remain only a promise.

State Laws Restricting Competitive Entry Into Telecommunications Should Be Examined

Some states have enacted laws that act as barriers to competition and E-Commerce, for the purpose of protecting certain incumbent businesses. For example, some states have laws limiting the authority of rural electric cooperatives or municipal power providers to enter the telecommunications and cable television businesses.⁴ The RUS believes the likelihood of healthy competition in most rural areas is small, but where it can occur it should be a positive force. Rural electric cooperatives are good rural community citizens, and they would do a good job of serving a new market. They can also be valuable partners with other local telecommunications providers. It is difficult to understand how a general ban on their entry into any telecommunications market could be good for rural America or sustainable under Section 253 of the Telecom Act. When rural electric cooperatives are barred from offering telecommunications and information access services that are crucial to E-Commerce, this becomes a significant barrier to the growth of E-Commerce.

Summary

Rural America needs E-Commerce as much as any other segment of the nation, but is likely to lag behind because of its unique characteristics. The cost of access is the greatest barrier, and it can only be overcome with properly calculated and targeted universal service support. Rural people will need comparable voice grade and broadband access to the Internet, but there are a series of deficiencies under the current universal service support mechanisms.

Cross-state licensure of medical practitioners is already causing strange coalitions of rural and urban medical centers to form. Barriers to the practice of medicine across state lines and via telecommunications should be reduced.

⁴ See for example Tennessee Code at Title 65, Chapter 25, Sections 202, 227, 231

States are enacting laws to restrict the ability of rural consumers to choose freely among telecommunications and information service providers. Such laws are contrary to the Telecommunications Act of 1996, and could prevent competition from occurring in some rural communities.

The Rural Utilities Service appreciates the opportunity to comment on this matter.

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