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Cc:	Devi Currin; Devi Currin
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Please accept our attached comments regarding the Broadband BOC Changes.

Thank you for taking comments on this topic.

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Member Organizations

Northeastern Colorado Association of Local Governments

Denver Regional Council of Governments

Pikes Peak Area Council of Governments

East Central Council of local Governments

San Luis Valley Development Resources Group, Inc. & San Luis Valley Council of Governments

Southwest Colorado Council of Governments

Southwest Economic Development District

Region 10 League for Economic Assistance & Planning, Inc.

Associated Governments of Northwest Colorado

Northwest Colorado Council of Governments

Upper Arkansas Area Council of Governments

South Central Council of Governments

Broadband BOC Questions
CARO conference call

A. Overarching Questions
1. How can the federal government promote best practices in broadband deployment and adoption? What resources are most useful to communities? What actions would be most helpful to communities seeking to improve broadband availability and use?

Resources most useful – funding and information

Assets that are developed as a result of federally funded broadband funding initiatives should be entered into a federal database. This information should be updated and maintained by the awardee, mandated by the federal funding award.

While the telecommunications industry will claim that network asset information is propriety, since this is federally funded it should be subject to open records.

Additionally, with respect to fiber and network interface locations, these assets should be subject to open access requirements to allow any provider to light and/or utilize these assets to provide commercial or government broadband services.

Cost vs availability of broadband service needs to be addressed – 1Gb service at $500 per month is not affordable for the average consumer and/or small business. Providers can assert that service is available even if unaffordable. There needs to be a look at affordability as well – usually occurs with competition but not always.

2. How can the federal government best promote the coordination and use of federally-funded broadband assets?

Remove any restriction or requirement that would prohibit open access require open access for any federally funded broadband project

3. What federal regulations and/or statutes could be modernized or adapted to promote broadband deployment and adoption?

Any regulation that prohibits partnership solutions and open access should be updated to instead encourage and support such initiatives.

4. As the federal government transitions to delivering more services online, what should government do to provide information and training to those who have not adopted broadband? What should the federal government do to make reasonable accommodations to those without access to broadband?

How does the federal government propose to provide on-line training for broadband if broadband isn't available? Provide the access and the training will take care of itself.

5. How can the federal government best collaborate with stakeholders (state, local, and tribal governments, philanthropic entities, industry, trade associations, consumer organizations, etc.) to promote broadband adoption and deployment?

It would be extremely beneficial to allow COGs (EDDs, RPCs) to apply for broadband grants to manage on behalf of local governments and to partner with local ISPs. It will be imperative to include a management charge for the COGs overseeing the process.

B. Addressing Regulatory Barriers to Broadband Deployment, Competition, and Adoption

6. What regulatory barriers exist within the agencies of the Executive Branch to the deployment of broadband infrastructure?

There is conflicting information on how CMAQ funding can used to help augment the deployment of Broadband. In some instances, local governments are told by state DOTs that it cannot be used to provide for access to broadband for any purpose other than for Intelligent Transportation System and/or signal synchronization operations. USDOT funding should explicitly encourage this adjunct public benefit.

Whenever federal funds are used to deploy broadband infrastructure by the private sector, those assets should be required to be made available for public use. ILECs refuse to provide information about location and capacity of infrastructure that has been paid for with public funds. This forces communities into overbuilding infrastructure, which is wasteful spending but necessary because the private sector will provide open access.

The FCC's level of "holdback" funding levels in support of a letter of credit for the Experimental Broadband Fund grant program requirement is onerous for small businesses and makes this funding effectively unavailable to these companies. Specifically, the agency requirement that 100% of the grant amount be held by the LOC issuing entity is unreasonable and in truth, if the small business had this capital available to them, they would not need to obtain the grant amount requested from the government. This requirement favors very large, well-capitalized businesses who may not be able to deliver the most technologically advanced or innovative solution for broadband deployment.

Fiber should be viewed as a utility, much like electricity, water and sewer. Regulations or practices

7. What federal programs should allow the use of funding for the deployment of broadband infrastructure or promotion of broadband adoption but do not do so now?
1. USDOT
2. EDA
3. SBA – the SBA could provide LOC's or guaranteed loans for small rural providers
4. HHS
5. EPA - the water and sewer programs in particular should allow for use of a portion of funding to lay fiber and conduit.
6. HUD

8. What inconsistencies exist in federal interpretation and application of procedures, requirements, and policies by Executive Branch agencies related to broadband deployment and/or adoption, and how could these be reconciled? One example is the variance in broadband speed definitions.[5]

1. *All federal agencies should use the FCC definition of speed and underserved/unserved. USDA's definition of underserved and unserved is ridiculously low and the USDA speed is still in kilobytes.*
2. *The threshold should be raised or at least provide for an escalation level as technology increases.*
3. *Speed definitions should be uniformly accessible to the entire community not just one address.*
4. *Census block is too large to consider when frontier areas may have 6 households per square mile. Smaller unit of measurement for service area should be set.*

9. Are there specific regulations within the agencies of the Executive Branch that impede or restrict competition for broadband service, where residents have either no option or just one option? If so, what modifications could agencies make to promote competition in the broadband marketplace?

The FCC CAF funding program directly restricts competition by only allowing awardees to have either ILEC status to apply for initial funding rounds. Government organizations, energy companies, and other organizations that have an interest in providing broadband services should be eligible to apply for funding through this program. In Colorado, currently the ILEC has the opportunity to "take it or leave it" in the initial round of funding. The ILEC may not be in the best position to deliver innovative, leading edge, and high value broadband services, but they are deemed eminently qualified and eligible for first round funding based solely on their incumbency.

Broadband capabilities disclosure and providing GIS data for State, local and Tribal network assets and capabilities mapping should be required for providers requesting federal grant funding. This allows communities and non-ILEC

providers to understand the location of existing infrastructure and capacity to leverage these investments in State, regional, local, community, and Tribal broadband plans and deployments.

10. Are there federal policies or regulations within the Executive Branch that create barriers for communities or entities to share federally-funded broadband assets or networks with other non-federally funded networks?

CMAQ funded fiber can and should be used for beneficial public purposes other than traffic congestion mitigation and air quality improvement. Telecommuting accomplishes both objectives.

11. Should the federal government promote the implementation of federally-funded broadband projects to coincide with other federally-funded infrastructure projects? For example, coordinating a broadband construction project funded by USDA with a road excavation funded by DOT?

Absolutely yes – every time there is a transportation project, including highways, transit lines or railroads, fiber and fiber conduit with significant capacity should be placed in the ROW. This should be a requirement at the state and local level as well. Anytime a trench is open, fiber should be laid irrespective of who is funding, sponsoring, building or otherwise controlling the project and there should be federal funding available to help with the cost.

C. Promoting Public and Private Investment in Broadband

12. How can communities/regions incentivize service providers to offer broadband services, either wired or wireless, in rural and remote areas? What can the federal government do to help encourage providers to serve rural areas?

Communities and regional entities can do a number of things to incentivize providers to deploy broadband services in their areas –
   1. *Create a strategic plan that includes; current broadband service levels, needed broadband levels, gap analysis of existing infrastructure vs need, documentation of anchor institutions, potential public private partners, service providers and consulting resources, funding sources and business modeling.*
   2. *Initiate relationships with current and potential providers to understand how they can assist in achieving community objectives.*
   3. *Create alliances to aggregate bandwidth and understand how a "network meet me point" might be beneficial.*
   4. *Undertake initiatives to ensure that federal, state or local regulations do not limit a community's ability to enter into public private partnerships, use of public infrastructure for service provision or limit a governmental entities ability to provide middle mile or last mile services, or build out infrastructure to support broadband deployment.*
   5. *Streamline zoning and construction requirements for broadband infrastructure projects.*
   6. *Make public facilities including buildings and water towers and communications towers, available for lease/partnership to broadband providers.*

13. What changes in Executive Branch agency regulations or program requirements could incentivize last mile investments in rural areas and sparsely populated, remote parts of the country?

14. What changes in Executive Branch agency regulations or program requirements would improve coordination of federal programs that help communities leverage the economic benefits offered by broadband?

15. How can Executive Branch agencies incentivize new entrants into the market by lowering regulatory or policy barriers?

Need to eliminate barriers to entry or application for federal awards, particularly for small rural CLECs and ISPs – requirements for letters of credit from top 100 banks doesn't work in rural Colorado or for rural small providers. Need to level playing field with the big ILECs. If those small companies had that much money lying around they wouldn't need the grant and small rural banks that would help out aren't on the list. These sorts of requirements make it extremely difficult to submit a successful application for projects in rural areas.

Experience in rural Colorado has largely been that the ILEC (first guy in with legacy copper) gets the access to CAF funding and is able to play gatekeeper and keep out the smaller, more local aspiring providers sitting on the funding and refusing to use it for the benefit of rural communities because the amount is inadequate. Need to open access to support funding to new entrants into the market. Monopolies should be antithetical in a free market economy, especially when public monies are being used to subsidize them.

D. Promoting Broadband Adoption

16. What federal programs within the Executive Branch should allow the use of funding for broadband adoption, but do not do so now?
17. Typical barriers to broadband adoption include cost, relevance, and training. How can these be addressed by regulatory changes by Executive Branch agencies?

Cost – yes. Relevance – NO. Training – we are well past that phase – rural areas are waiting for the service to arrive, just as they have been for the past 20 years. In the meantime, we have grown an entire generation of rural users who understand the technology, they just can't access it because of their zip code.

E. Issues Related to State, Local, and Tribal Governments

18. What barriers exist at the state, local, and/or tribal level to broadband deployment and adoption? How can the federal government work with and incentivize state, local, and tribal governments to remove these barriers?
There are anti-competition laws in 19 states, including Colorado. Those should be struck down.
If there was a federal requirement that funding of projects shall require cooperation and collaboration with multiple interests – federal, state, local and private sector – getting broadband service to rural locations might actually happen. There is a great example in very rural Jackson County in Colorado - Walden, Colorado is going to require three separate companies to partner together to deliver broadband services to an extremely remote location in the Colorado Mountains. It can be done and there should be special incentives to encourage such collective impact projects.

19. What federal barriers do state, local, and tribal governments confront as they seek to promote broadband deployment and adoption in their communities?

20. What can the federal government do to make it easier for state, local, and tribal governments or organizations to access funding for broadband?

1. *Include input process for state, local and tribal governments to comment, endorse, or deny provider applications for federal funding awards in their jurisdictions.*
2. *Awards directly to providers should allow for oversight by state, local, and tribal governments.*
3. *Allow NGOs to apply for funding on behalf of state, tribal, regional, and community jurisdictions and provide the ability for them to include a management charge for overseeing the project.*
4. *Provide the ability for multiple telecommunication providers to apply for available funding.*
5. *Allow and consider proposals from multiple communities and telecommunications organizations for solutions that can only be cost effectively delivered through partnering across commercial and government organizations.*
6. *Eliminate ILEC right of first refusal provision.*

21. How can the federal government support state, local, and tribal efforts to promote and/or invest in broadband networks and promote broadband adoption? For example, what type of capacity-building or technical assistance is needed?

This is not an issue – everyone is waiting for it to occur. Training in Use of broadband is not the issue – its development and build-out of the network that is the problem. Many rural areas have already gone through the development of a Broadband Network Plan. The obstacles continue to be the lack of ability to access funds to actually build out the network (local governments and small local providers are locked out of the process due to burdensome requirements) and lack of cooperation from incumbent providers.

F. Issues Related to Vulnerable Communities and Communities With Limited or No Broadband

22. How can specific regulatory policies within the Executive Branch agencies be altered to remove or reduce barriers that prevent vulnerable populations from accessing and using broadband technologies? Vulnerable populations might include, but are not limited to, veterans, seniors, minorities, people with disabilities, at-risk youth, low-income individuals and families, and the unemployed.

23. How can the federal government make broadband technologies more available and relevant for vulnerable populations?

G. Issues Specific to Rural Areas

24. What federal regulatory barriers can Executive Branch agencies alter to improve broadband access and adoption in rural areas?

Stop trying to force competition where it doesn't exist and incentivize partnerships instead.

High Cost Fund/Universal Service Fund should only support projects that provide for open access.

Instead of making it almost impossible to develop innovative partnerships like the model in Walden, Colorado it should be a requirement in order for the larger ILECs to access the Universal Service/High Cost fund.

25. Would spurring competition to offer broadband service in rural areas expand availability and, if so, what specific actions could Executive Branch agencies take in furtherance of this goal?

NO - competition isn't feasible in many rural areas – why require it, why not support the small local upstart (or local community) that is willing to deliver the service? The original reason for the existence of the Universal Service Fund at the federal level and the High Cost Fund at the state level was to support delivery in places that did not provide a ROI for providers. Why is broadband viewed differently from historic phone service? Even in some metro areas there is not adequate competition.

26. Because the predominant areas with limited or no broadband service tend to be rural, what specific provisions should Executive Branch agencies consider to facilitate broadband deployment and adoption in such rural areas?

1. *Support small local companies or small local governments that are willing to step up and provide service.*
2. *Provide monetary incentives to public private partnerships to ensure a greater rate of success.*
3. *Require ILECs to open their networks in rural areas and partner with local governments when asked, otherwise they should forfeit their CPCN.*

There is a significant amount of fiber in rural areas already, it just isn't available to rural communities/customers. An open access provision would allow for local partners to provide middle mile/final mile access.

Should be requirement for access to ROW (public and/or historic – railroads for example) that service is provided to communities that it passes by.

H. Measuring Broadband Availability, Adoption, and Speeds

27. What information about existing broadband services should the Executive Branch collect to inform decisions about broadband investment, deployment, and adoption? How often should this information be updated?

Eliminate the ability for ILECs (and even CLECs) to designate location, size and capacity of broadband infrastructure as proprietary. Maps of existing infrastructure should be publicly available, especially if the infrastructure if placed in public ROW and/or constructed with public funding support.

In Colorado, a major problem is in how it is actually mapped – use of census block is too large an area and the policy that determines that a single ping at the highest speed is used to determine availability and speed is counterproductive. This policy leads to an ILEC being able to claim that service is available in a large, remote geographic area when in reality there is very limited service availability. A better approach would be to require a high

percentage rate of the highest speed being available to residents, consumers across the entire target measurement area.

Information should be updated every five years minimum!

28. Are there gaps in the level or reliability of broadband-related information gathered by other entities that need to be filled by Executive Branch data collection efforts?

There is a difference between what providers report is available in area and what people can actually get, even when they sign up for a certain speed they rarely get it – providers will routinely advertise "up to" 10 mg (or more) but oversubscription and peak period usage bottlenecks result in speeds that are not even close to the advertised levels. This phenomenon is not just a rural issue – it happens in across the map.

29. What additional research should the government conduct to promote broadband deployment, adoption, and competition?

30. How might the federal government encourage innovation in broadband deployment, adoption, and competition?

Offer funding to companies if they serve rural areas with partnerships at affordable levels. Make a better business case for ROI for private providers in order to make rural areas more attractive to serve.

Contest on most innovative way to serve rural communities

Highlight innovations and best practices that can be replicated.

Requirement for any federally funded project that anytime there is a road or street project that the government lays fiber and pipe.