

**Statement of Derrick B. Owens
Senior Vice President of Government & Industry Affairs
WTA – Advocates for Rural Broadband**

**Before the House Small Business Committee's
Subcommittee on Health and Technology
and Subcommittee on Agriculture, Energy and Trade**

Disconnected: Rural Broadband and the Business Case for Small Carriers

March 6, 2018

Chairwoman Radewagen, Chairman Blum, Ranking Member Lawson, Ranking Member Schneider, and Members of the Subcommittees, thank you for the opportunity to submit testimony on the important topic of improving broadband deployment in rural America.

I am the Senior Vice President of Government & Industry Affairs at WTA – Advocates for Rural Broadband. WTA represents more than 340 small telecommunications providers serving some of the most remote areas of the country, and they've been doing it for decades, bringing the latest telecommunications technology to the homes, businesses, farms, ranches, villages and Tribal areas beyond the reach of the providers who serve densely populated areas and urban population centers. Nearly all our member companies are defined as small businesses by the Small Business Administration, and most have fewer than 50 employees.

Universal Service Fund

Providing telecommunications services to the sparse populations, large expanses and rugged terrain of rural America is very costly, and it could not be done in the remote areas our member companies serve without the federal Universal Service Fund (USF). In June of last year, one of our member company representatives from southern Texas, Dave Osborn of VTX1 Companies, testified before the Subcommittee on Agriculture, Energy and Trade about broadband. He discussed the importance of USF in helping rural broadband providers build and maintain their networks and noted that USF support for small, independent companies has been capped at 2011 levels during a now seven-

year period during which access to high-speed broadband services has become more and more necessary for rural residents and businesses to participate in the 21st Century economy and society. A chart (Appendix 1) depicts how the portion of USF devoted to rural local exchange carriers (RLECs) has remained virtually flat since 2010. Many companies have seen their support drastically and unpredictably cut over the last year as a result of the Budget Control Mechanism (BCM) that was put in place to prevent USF High Cost support from exceeding the 2011 cap. For instance, in the last year alone one member company in Kansas has seen its USF support drop by \$420,000; a company in Illinois has seen a reduction of over \$800,000; another in Arkansas has experienced a \$309,000 loss; and another in Arizona has taken a \$350,000 hit. For small companies that have to obtain and repay 15-to-20 year loans in order to finance substantial broadband upgrades, these unpredictable year-to-year BCM support reductions are proving to disrupt and discourage investment as much as the discredited Quantile Regression Analysis.

Since 2011, with the help of advocates on this Committee and others in Congress, we have been making the case to the Federal Communications Commission (FCC) that these freezes, caps and cuts are the exact opposite of what we should be doing and will not increase broadband build-out in rural America. Thankfully, we have seen a change in direction recently.

FCC Chairman Ajit Pai has a proposal under consideration by his fellow Commissioners – one that we believe is a positive initial step in bringing some predictability and much needed relief for RLECs – that would reverse some of these cuts in support by providing additional support to carriers that were eligible to take model-based, or Alternative Connect America Model (ACAM), support but that are not receiving the full amounts that the ACAM model initially recommended. The proposal would also provide additional support to non-model carriers – the ones that are experiencing the largest cuts in support – to eliminate the effects of this year’s BCM reductions. In an effort to mitigate the BCM’s effect in the future years, Chairman Pai’s proposal also contains a Notice of

Proposed Rulemaking asking whether the current USF budget is adequate to encourage and enable the investment necessary to meet future broadband needs.

WTA believes that the High Cost Program, which supports rural broadband networks within USF, needs to be sufficiently funded so that the principles of reasonably comparable services at reasonably comparable prices enshrined in the Telecommunications Act of 1996 can be fulfilled. WTA notes that the High Cost Program supports the underlying networks used by all rural residents and businesses, and that it can both improve access to, and render more effective and efficient, the facilities and services supported by the Schools and Libraries, Lifeline, and Rural Health Care programs. *At the very least*, an inflationary adjustment to the High Cost Program is warranted so that current problems regarding the sufficiency and predictability of support are not exacerbated as prices and costs increase. WTA has made this case to lawmakers on Capitol Hill and we will continue making this case to the FCC in the NPRM process.

Rural Broadband Infrastructure

It is encouraging to see policymakers devote an increased level of attention to rural broadband over the past several years. The President's recently released *Legislative Outline for Rebuilding Infrastructure in America* is a good first step, though we think more direction should be given when it comes to broadband infrastructure. As currently proposed, the President's plan provides \$50 billion to the states to direct to rural infrastructure. However, there is no requirement that any of that money be used to upgrade broadband networks or expand broadband access. We believe Congress should directly allocate a portion of that money specifically for rural broadband infrastructure purposes. Ideally, this would be administered at the federal level by one of two agencies that have the expertise and experience in this area – namely the FCC or the Rural Utilities Service (RUS) at the U.S. Department of Agriculture (USDA). These agencies have the resources, experience and processes in place to ensure these finite dollars would be spent effectively where needed and not used inefficiently for potential overbuilding situations.

In addition, we were encouraged to see \$20 billion for infrastructure included in the February 8, 2018, Budget Agreement that was approved by Congress. WTA has sent letters (Appendix 2) to the House and Senate Appropriations Committees asking them to ensure that rural broadband infrastructure is included in any funding in the next two fiscal years. It is important that rural broadband infrastructure be made a priority among competing infrastructure needs.

Infrastructure needs in Tribal areas also must be addressed. If we wish to ensure that all people living in rural areas have access to the latest technologies, then more must be done to connect those who are living on Tribal lands. Over the past several years, WTA has been supportive of a proposal by the National Tribal Telecommunications Association (NTTA) that would incorporate a percentage increase, a Tribal Broadband Factor, in a carrier's High Cost support for serving Tribal areas. We understand a version of this proposal is being considered at the FCC and may be included in the NPRM mentioned above. In talking with our Tribal member companies and those that serve Tribal areas, the additional support would be helpful in their efforts to bring broadband services to their communities.

Reforming Regulatory and Reporting Requirements and Data Collection

When it comes to government regulation, there is no argument that government needs to keep track of where and how federally administered USF support is being used. At the same time, it should be clear that there is a trade-off between regulation and investment and that the more that regulatory monitoring and reporting obligations and costs can be reduced, the more net USF dollars will be available for broadband deployment and service upgrades.

The debate is not about "regulation and reporting vs. no regulation and reporting" but about how much, how often, and what kind, etc. To this point, several member companies of ours have analyzed how much time and money are spent completing filings for the FCC, RUS and other entities. The estimates run around \$80,000 to

\$90,000 annually. Environmental and historical preservation reviews are also costly and add significant costs for small businesses. Some rules, regulations, and reviews are necessary, while others can be eliminated or reduced without any significant adverse impact to the public.

There are clearly instances where regulation is needed to protect consumers and small businesses from the unfair practices of large businesses with much more market power. For instance, in the telephone marketplace, there has long been an interconnection requirement. This does not exist in the broadband world, but could become necessary to keep rural broadband services affordable if large backbone providers make good on suggestions in recent years that they may require small providers to bring traffic to distant peering points or charge exorbitant prices to reach the Internet backbone.

The area of call completion is another example. For too long, many calls to rural areas have been purposely dropped to reduce the costs and increase the profits of certain toll service providers, which has had damaging effects on small businesses and poses serious public safety concerns. Fortunately, we believe this practice is about to change with the President recently signing into law S. 96, the Improving Rural Call Quality and Reliability Act. This law more closely regulates the transfer of telephone calls to ensure they are being completed in rural areas by requiring intermediate providers of voice service – those that take the call from the originating carrier and transfer it to the terminating carrier or end-user – to register and comply with FCC service quality standards.

A third situation where regulation can be helpful to balance market power inequalities is in retransmission consent fee negotiations between small, rural video providers and large broadcasters. For WTA members that offer video-related services, retransmission consent negotiations are negotiations in name only. In reality, they are “take it or leave it” demands that must be met if rural customers are to receive the basic commercial network broadcast stations. Retransmission consent fees have increased by a factor of 30 over the last decade, even though network primetime audiences have fallen by more

than half and even though over-the-air broadcast signals often fail to reach some rural households. Small, rural video providers can do nothing about these fee increases other than drop the broadcast station from their channel line-up, which, in the end, hurts the video consumer's access to local content. Some of WTA's members have given up on providing video service altogether. For example, four small providers in Missouri quit offering video between 2016 and 2017. Another WTA member serving a Tribal area in Arizona was forced to terminate their video service at the end of last year, which left many of its less privileged residents without any option to watch local news because over-the-air broadcast station signals fail to reach many homes in that service territory and because they could not afford the luxury of satellite TV service.

However, there are various ways in which regulation and reporting can be streamlined or made more efficient. For example, all regulated telecommunications providers are required to complete the FCC's Local Competition and Broadband Report, known as FCC Form 477, twice a year (March and September). The FCC uses this data to produce an annual report to Congress and to update its National Broadband Map. The FCC estimates that the average company will spend 387 hours per semi-annual filing (or 774 hours per year) meeting this requirement. This is a significant amount of time for a small business, especially for one with a small staff that has to perform many functions within the company. WTA believes the Form 477 should be reduced to a once-a-year filing requirement, thereby at least halving the substantial time commitment. An annual 477 report on behalf of the provider should be sufficient to ensure that the FCC and Congress have reliable data on local competition and broadband deployment. This is but one of many suggestions WTA made to the FCC last year to reform reporting and regulatory burdens.¹

¹ Comments of WTA - Advocates for Rural Broadband, CB Docket No. BO 16-251, filed on May 4, 2017, available at <http://w-t-a.org/wp-content/uploads/2017/05/Rules-Elimination-Filing-5.4.17.pdf>; See also Comments of WTA - Advocates for Rural Broadband, WC Docket No. 17-84, filed on June 15, 2017, available at <http://w-t-a.org/wp-content/uploads/2017/06/WTA-Broadband-Infrastructure-Comments-J6.15.17.pdf>.

In addition, various bills have been introduced in the House of Representatives that would help small telecommunications providers deal with federal regulations. Bipartisan legislation introduced by Reps. Latta (OH) and Schrader (IL), H.R. 3787, the Small Entity Regulatory Relief Opportunity (SERRO) is one such proposal. Among other things, SERRO directs the FCC to establish streamlined, cost-saving procedures for small companies to obtain relief through case-by-case waivers of specific regulatory obligations and defers the imposition of new regulatory burdens on small companies for one year after the regulations first apply to larger entities.

Another bill that would provide some relief is H.R. 3523, which has been introduced by Rep. Young (AK) – a version has already passed the Senate. The legislation requires the Government Accountability Office to analyze the filing requirements for all recipients of USF support and provide recommendations on how to consolidate redundant filing requirements.

Small broadband providers also confront barriers to deployment in regards to permitting on federal lands and National Environmental Protection Act reviews for federally funded projects. As Mr. Osborn testified last year, his company received both a Broadband Initiatives Program (BIP) loan/grant combination from USDA and a Broadband Technology Opportunity Program (BTOP) grant from the Department of Commerce to construct fiber-optic infrastructure as part of the American Recovery and Reinvestment Act stimulus program. The intent of these programs was to be shovel ready, but his company had to wait nine months for environmental reviews to be completed in order to bore underground within 20 feet of the center line along a federal highway.

Another WTA member company in Idaho wanted to bury conduit along an existing road on Forest Service land. While the Forest Service regularly sprays the sides of the road to keep vegetation from encroaching on the road, the company had to pay for an environmental assessment to judge the potential for environmental harm. We have received estimates from our member companies that these types of reviews can add 18-24 months to the length and 10-20% to the cost of broadband projects.

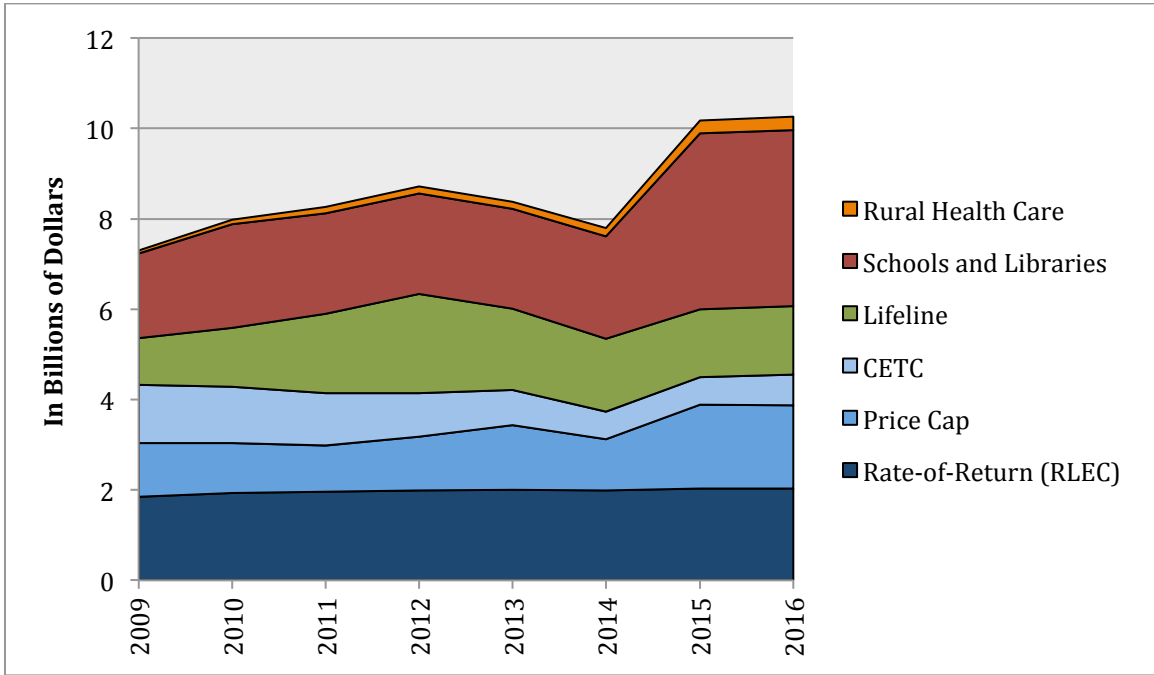
We are pleased to see legislation, H.R. 4824, the Rural Broadband Permitting Efficiency Act, introduced earlier this year by a member of this Committee, Rep. Curtis (UT), that would expedite environmental reviews for broadband projects on existing, operational rights-of-way on federal lands. Various other Committees are considering permitting legislation, and WTA is glad to see this topic receive so much attention.

Conclusion

In conclusion, the members of WTA provide a lifeline to their communities. These small businesses are hard at work, under tough circumstances, bringing advanced communications services to areas where there are few people and little financial reward. They do this so their communities don't fall on the wrong side of the digital divide; they want them to be active participants in this digital era and global economy. Programs like USF help to make this possible and are invaluable in spurring the deployment of broadband networks in rural America. I have no doubt that with smarter rules and regulations, WTA members and other small rural telcos can put their limited resources to work in continuing to meet the needs of their customers.

Appendix 1

USF Expenditures by Program 2009-2016



Source: Universal Service Administrative Company Annual Reports



March 2, 2018

The Honorable Thad Cochran
Chairman
Senate Committee on Appropriations
Washington, D.C. 20510

The Honorable Patrick Leahy
Vice Chairman
Senate Committee on Appropriations
Washington, D.C. 20510

The Honorable Rodney Frelinghuysen
Chairman
House Committee on Appropriations
Washington, D.C. 20515

The Honorable Nita Lowey
Ranking Minority Member
House Committee on Appropriations
Washington, D.C. 20515

Dear Chairman Cochran, Vice Chairman Leahy, Chairman Frelinghuysen, and Ranking Member Lowey:

As you are aware, Congress recently reached a two-year budget agreement deal that calls for the allocation of \$20 billion in spending for rural infrastructure. As you are also aware, the President released his Infrastructure Outline for Congress, which calls for \$200 billion in direct federal spending for infrastructure, of which \$50 billion would be for rural infrastructure projects specifically. Unfortunately, neither proposal actually specifies any of the dollars be designated/allocated solely for “rural broadband infrastructure.” Therefore, I am writing on behalf of the members of WTA – Advocates for Rural Broadband to request that as you consider funding priorities for the next several fiscal years, that allocating dollars for this specific purpose will go a long way in helping to achieve the important goal of ensuring Americans who live in rural areas have access to affordable, robust broadband networks.

WTA represents more than 340 small, rural telecommunications carriers that are providing broadband and voice services to some of the most remote and hardest to reach parts of the country. The members of your Committees are well aware of the benefits that broadband has on communications, civics, education, health care, and commerce. However, vast swaths of the country risk being left behind in this area. Ensuring that *all* Americans benefit from modern communications technology was one of the goals of the Telecommunications Act of 1996, and your Committees can play a significant role in helping to meet this goal by ensuring any direct appropriated funds for infrastructure are specifically designated for “rural broadband infrastructure” projects.

Last February, WTA along with several other major trade associations representing many of the telecommunications providers serving rural America sent a letter to the Chairmen of the authorizing committees laying out principles for any broadband infrastructure spending. I have attached this letter and the principles for your review. Various worthy Congressional proposals

have been introduced to reduce bureaucratic inefficiencies and streamline permitting processes. Many of these bills, if enacted into law, would be helpful in ensuring small rural telco providers are able to more effectively, efficiently and quickly deploy broadband infrastructure in rural America. Most importantly however, direct federal funding is needed, which will help support the private sector resources already being deployed.

As your Committees consider both the FY2019 Budget Agreement and the President's Infrastructure proposals, I respectfully request that you consider including specifically designated and federally administered resources for broadband infrastructure. This concept has support of numerous Members of Congress in both parties who have communicated this through public letters and statements. WTA encourages your Committees to help ensure rural Americans have access to reasonably comparable communications services as those living in urban America.

Thank you for considering our request.

Sincerely,



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

Attachments (2)



February 27, 2017

The Honorable John Thune
Chairman, Senate Committee on Commerce,
Science, & Transportation
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Bill Nelson
Ranking Member, Senate Committee on
Commerce, Science, & Transportation
716 Hart Senate Office Building
Washington, DC 20510

The Honorable Greg Walden
Chairman, House Committee on Energy and
Commerce
2185 Rayburn House Office Building
Washington, DC 20515

The Honorable Frank Pallone, Jr.
Ranking Member, House Committee on
Energy and Commerce
237 Cannon House Office Building
Washington, DC 20515

Dear Chairman Thune, Ranking Member Nelson, Chairman Walden, Ranking Member Pallone:

Our associations are composed of well over a thousand companies and cooperatives that today offer robust broadband over networks spanning thousands of miles and reaching millions of rural consumers and businesses. Yet, extending these networks into parts of rural America still lacking access, delivering affordable services, and upgrading existing networks to allow rural consumers to benefit from the capabilities of broadband all remain formidable challenges. Just over a year ago, the FCC found that over 39 percent of Americans living in rural areas still lack access to advanced telecommunications capability. It was nearly seven years ago that the very first sentence of the FCC's National Broadband Plan declared that "[b]roadband is the great infrastructure challenge of the early 21st century." Indeed, that remains the case.

We are encouraged that one of the foremost priorities of the new Administration is to improve the infrastructure supporting the lives and livelihoods of all Americans. We are heartened by the recognition of how critical broadband infrastructure has been and will continue to be in improving Americans' collective well-being. Broadband has unleashed new capabilities in delivering health care, educating children, promoting public safety, and managing energy. It has enabled, and holds the promise of continuing to enable, the birth of entire new industries, in the process creating new jobs while also offering job seekers unprecedented access to employment opportunities presented in established industries. It facilitates the vast sharing of

knowledge and has spawned a “sharing economy.” Its position as an engine of economic growth is manifest.

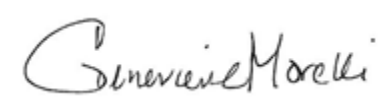
All of these benefits of broadband, however, are only available to those who have access. In light of the benefits of universal broadband access coupled with its currently remaining an unrealized national ambition, we urge you to ensure that broadband infrastructure is a key priority in any new, comprehensive federal infrastructure investment program. And in making it so, we recommend several foundational principles to ensure that such broadband investment maximizes consumer benefits, ensures efficiency, produces results quickly, and is subject to accountability.

Any new broadband investment program must ensure sufficient resources to meet the challenges of delivering broadband to rural America. In order to truly realize universal broadband access by all Americans, in all regions of the nation, any funding should flow to areas currently lacking meaningful access to broadband services in order to establish and sustain such services. Adequate broadband services must meet reasonable and realistic service parameters – e.g., with respect to speed, latency, and price – and funding should flow to broadband investment that best meets national broadband goals regardless of the technology or technologies employed. To promote fiscal responsibility, funding should not be made available for duplicative networks that overbuild another provider’s existing broadband infrastructure.

In addition, leveraging existing federal expertise, gained through programs such as the Federal Communications Commission’s Connect America Fund, in promoting and sustaining broadband access will maximize speed-to-market and efficiency of distribution mechanisms, and minimize administrative burdens and costs. Strict yet reasonable accountability for broadband program investments is essential, and requirements should include build-out and performance targets. Federal and state tax regulatory, permitting, and other requirements should be coordinated and reconciled to maximize the benefits of the broadband investment program.

We are at the beginning of an exciting new process to address our nation's critical infrastructure needs and to contribute to an improved way of life for all Americans. There is much work to be done in the coming months. We look forward to engaging with you on how to ensure that this work results in all Americans reaping the myriad benefits that new broadband infrastructure investment will foster.

Sincerely,



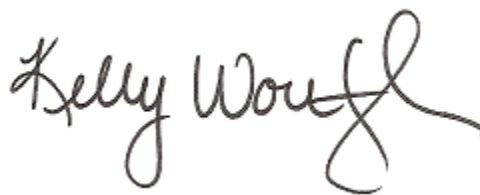
Genevieve Morelli
President
ITTA – The Voice of Mid-Sized
Communications Companies



Shirley Bloomfield
CEO
NTCA – The Rural Broadband Association



Jonathan Spalter
CEO and President
USTelecom – The Broadband Association



Kelly Worthington
Executive Vice President
WTA – Advocates for Rural Broadband



The voice of mid-size communications companies



The principles below are designed to ensure that any new federal infrastructure investment program supports broadband by maximizing consumer benefits, minimizing cost, producing results quickly, and including accountability.

Broadband a Priority – Any new federal investment program must prioritize broadband deployment.

Funding – Any new broadband investment program must ensure sufficient resources to meet the challenges of delivering broadband in rural America.

Targeted Support – Funding should flow to areas where it is needed to establish and sustain robust broadband services.

No Duplication – Funding should not be made available for duplicative networks to overbuild another provider's existing broadband infrastructure.

Service Standards – Broadband services must meet reasonable and realistic service parameters (e.g. speed, latency, price).

Balanced Approach – Funding should flow to whatever broadband investment best meets the program goals and requirements regardless of the technology or technologies employed.

"Speed-to-Market" – Leveraging existing federal expertise in promoting and sustaining broadband access will maximize speed-to-market and efficiency of distribution mechanisms.

Accountability – Strict accountability for broadband program funds is essential.

Governmental Support and Coordination – Federal and state tax, regulatory, permitting, and other requirements should be coordinated and reconciled to maximize the benefits of any broadband investment program.