



July 23, 2024

The Honorable Gina Raimondo
Secretary
United States Department of Commerce
1401 Constitution Ave. NW
Washington, DC 20230

Dear Secretary Raimondo,

It is with both a sense of alarm and urgency that we write to alert you to the reality that growing numbers of the hundreds of local and regional rural broadband providers we represent are increasingly concerned about their ability to participate in the Broadband, Equity, Access, and Deployment (BEAD) program, which your agency administers. Without significant and immediate changes of approach toward its implementation, we are concerned the program will fail to advance our collective goal of connectivity for all in America. We and our members sincerely want this program to work, but we believe that your agency's administration of the low-cost service option requirement in particular risks putting the overall success of BEAD in jeopardy. We urge you to immediately take several specific remedial steps as outlined below to help ensure the program will be able to fulfill the critical connectivity needs of the millions it is meant to serve.

While NTIA purports to give States the flexibility to choose a low-cost program that meets their particular needs, the reality is much different. According to NTIA's own program guidance, it has "**strongly encouraged**" States to set a fixed rate of \$30 per month for the low-cost service option.¹ For a broad cross-section of America's rural broadband providers, the \$30

¹ See BEAD Initial Proposal Guidance at p. 79 (July 2023) (emphasis in original), available at https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf.

rate is completely unmoored from the economic realities of deploying and operating networks in the highest cost, hardest-to-reach areas that BEAD funding is precisely designed to reach.

And while some States' proposed low-cost service option requirements have been approved at rates above \$30, such as Pennsylvania's at \$48.60,² those rates are also unrelated to the actual cost of deployment and approach operational impossibility. To make matters worse, our understanding is that those State broadband offices that have taken a measured approach and sought to base their proposed rate for the low-cost broadband service option in economic reality have been subsequently advised by NTIA to lower the proposed rate. We have also heard from stakeholders of specific instances in which certain State broadband offices have faced the prospect of political pressure unless they acceded to a \$30 rate for the low-cost service option. This contravenes the clear language of the Infrastructure Act, which states that “[n]othing in this title may be construed to authorize [NTIA] to regulate the rates charged for broadband service.”³

Allowing, and in fact mandating, unrealistically low rates can undermine our shared goal of providing affordable broadband to those who need it most by making participation economically infeasible for rural broadband providers. While the program provides funding for the capital expenses of broadband deployments, a provider match will be required in most cases and providers will be responsible for the expenses necessary for the ongoing operation and maintenance of these networks.⁴ A low-cost option at the unrealistically low rates NTIA has been approving means most providers will not be able to sustain these networks over the long term and so will lack a business case to participate in the program.

This is made all the more evident by the fact that NTIA requires providers to lock in this low-cost service option rate for the “useful life” of the network,⁵ which NTIA defines as ten years post-deployment,⁶ and likely at least fifteen years after providers actually submit their bids. This is unprecedented and economically unworkable. Some States have allowed for modest inflation adjustments, but these do little to alleviate the problem as providers' construction and operating costs typically outpace inflation. And as our collective experience with other funding programs, such as the FCC's Rural Digital Opportunity Fund, has shown, providers who commit to deploy at operationally unrealistic costs often cannot deliver. If experienced providers cannot participate because the math is unworkable, BEAD will not succeed.

² See Pennsylvania approved Volume II, at 73, available at https://www.broadband.pa.gov/wp-content/uploads/2024/05/BEAD-Volume-II_2024.pdf.

³ Infrastructure Act § 60102(h)(5)(D).

⁴ While NTIA has said that operational expenses can be included in BEAD bids, it is not plausible that there will be sufficient funds to support those requests or that a provider including those costs will be selected given that its bid will likely be higher than that of a competitor's which does not include such costs.

⁵ NOFO at 67.

⁶ See Policy Notice, Tailoring the Application of the *Uniform Guidance* to the BEAD Program, at 9 (Dec. 2023).

Accordingly, NTIA must take the following actions:

- Require each State to revise the low-cost service option rate proposed or approved in its Initial Proposal so that the rate is more reasonably tied to providers' realistic costs, such as by using the FCC's Urban Rate Survey benchmark.
- Clarify that for purposes of the Part 200 federal interest period, the rate approved in the State's Initial Proposal for the low-cost service option requirement lasts for two years. Thereafter for the remainder of the federal interest period, States must adjust the low-cost service option rate threshold annually based on either (1) a rate consistent with the FCC's Urban Rate Survey benchmark, or (2) a rate consistent with the provider's most competitive promotional offering for that tier of service in their entire footprint (not to exceed the Urban Rate Survey benchmark).
- Adjust the BEAD low-cost service option eligibility criteria to mirror that of the Lifeline program, so that providers can confirm consumers' eligibility for the low-cost service option using the existing National Lifeline Eligibility Verifier.
- Issue a blanket waiver of the rate approved in each State's Initial Proposal for the low-cost service option requirement, so long as it does not exceed the Urban Rate Survey benchmark. Alternate approaches, such as case-by-case waivers, will be unwieldy and impractical and disincentivize participation.
- Issue guidance that the low-cost service option rate is the effective rate after applying any applicable federal or State subsidies.⁷

We urge you to take these steps now to ensure that the BEAD program can succeed for the many communities and families it is meant to serve. We must not risk undermining this critical program by making it economically impossible for the many experienced providers we need most to participate, or by awarding funds to less experienced providers who promise rock-bottom rates but cannot deliver over the long haul. We remain committed to working with you, your team, and the Administration to ensure the success of the BEAD program and delivering the power and promise of broadband for all.

Sincerely,

Grant Spellmeyer, President & CEO – ACA Connects
Christine O'Connor, Executive Director – Alaska Telecom Association
Jim Meade, Executive Director – Broadband Association of Alabama & Mississippi
Carissa Swenson, Executive Director – Broadband Association of North Dakota
Bridger Mahlum, General Manager – BroadbandMT
Brady Allen, Attorney – CarolinaLink – North Carolina Broadband Cooperative Coalition
Erik Sartorius, Executive Director – Communications Coalition of Kansas
Gary Bolton, President and CEO – Fiber Broadband Association

⁷ Of course, these solutions will require further details for implementation and we welcome the opportunity to work with you to shape them.

Rhonda F. Chatham, Executive Director – GTBA-Georgia’s Rural Telephone and Broadband Association
Randy Nehrt, President – Illinois Broadband & Telecommunications Association
Rick Holzmacher, President – Illinois Rural Broadband Association
Alan Terrell, President – Indiana Rural Broadband Association
Dave Duncan, CEO – Iowa Communications Alliance
Scott Stevenson, President – Broadband Association of Michigan
Brent J. Christensen, President/CEO – Minnesota Telecom Alliance
Godfrey Enjady, President – National Tribal Telecommunications Association
Tip O’Neill, President – Nebraska Telecommunications Association
Rusty Shaffer, Executive Director – Nevada Telecommunications Association
Craig J. Miller, President – NYSTA – New York State Telecommunications Association
Shirley Bloomfield, CEO – NTCA – The Rural Broadband Association
Charles R. Moses, President – Ohio Telecom Association
Brant Wolf, Executive Vice President – Oregon Broadband Association
Tom Karalis, Executive Vice President – OTA-The Oklahoma Rural Broadband Association
Steve Samara, President – Pennsylvania Telephone Association
Nola Armstrong, Executive Director – South Carolina Telecommunications and Broadband Association
Kara Semmler, Executive Director – South Dakota Telecommunications Association
Mark Seale, Executive Director – Texas Telephone Association
Jonathan Spalter, President & CEO – USTelecom – The Broadband Association
Kira M. Slawson, Legal Counsel – Utah Rural Telecom Association
Kelly Worthington, Executive Vice President – WTA – Advocates for Rural Broadband
Betty Buckley, Executive Director – Washington Independent Telecommunications Association
William C. Esbeck, Executive Director – Wisconsin State Telecommunications Association

cc: Lael Brainard
Alan Davidson