

ONE HUNDRED ELEVENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM

April 19, 2010

To: Members of the Subcommittee on Communications, Technology, and the Internet

Fr: Democratic Committee Staff

Re: Hearing on The National Broadband Plan: Deploying Quality Broadband Services to the Last Mile

On Wednesday, April 21, 2010, at 10:00 a.m. in room 2322 of the Rayburn House Office Building, the Subcommittee on Communications, Technology, and the Internet will hold the second in a series of hearings addressing issues raised in the National Broadband Plan (NBP). The hearing, entitled “The National Broadband Plan: Deploying Quality Broadband Services to the Last Mile,” will examine assessments in the National Broadband Plan of the availability of broadband and how to best deploy it to areas that are unserved and underserved, so all Americans can benefit from quality broadband services.

I. BACKGROUND

As part of the American Recovery and Reinvestment Act (ARRA), Congress required the Federal Communications Commission (FCC) to submit to Congress a National Broadband Plan (NBP) to ensure that every American has “access to broadband capability.”¹ On March 16, 2010, the agency released the plan, which made numerous recommendations for action by the FCC, the executive branch, Congress, and state and local governments.² On March 25, 2010, the Subcommittee on Communications, Technology, and the Internet held its first oversight hearing to explore the NBP. This hearing is the first in a series of hearings on specific proposals in the NBP, and will explore certain recommendations contained in Chapters 4, 6, and 8 of the NBP relating to the broadband availability gap.³

¹ The American Recovery and Reinvestment Act, Pub. L. No. 111-5 §6001(k) (2009).

² Federal Communications Commission, *National Broadband Plan*, (2010).

³ *Id.*, at 49.

As the FCC states in the NBP, broadband is a foundation for economic growth, job creation, global competitiveness, and a better way of life.⁴ Additionally, broadband is transforming how we perform our work, educate our children, deliver health care, manage energy resources, and interact with government. Therefore, ensuring broadband availability to all Americans at a speed that provides an acceptable quality of service is crucial to remaining competitive in an increasingly connected world.⁵

II. NATIONAL BROADBAND PLAN POLICY RECOMMENDATIONS

A. Addressing Unserved Communities

To address deployment in unserved communities, the NBP recommends a variety of strategies that all levels of government should undertake to spur deployment. At the federal level, the recommendations are primarily focused on reform of the Universal Service Fund (USF), but also include expansion of the Community Connect program administered by the Rural Utilities Service of the Department of Agriculture, and adoption by Congress of a new Tribal Broadband Fund that would provide grants and annual funding. At the state, local, and tribal government level, the plan recommends increased funding, greater access to rights-of-way, and possible entry by municipalities in unserved areas. The NBP recommendations are designed to help achieve the goal of deployment of broadband facilities capable of actual download speeds of 4 Mbps and upload speeds of 1 Mbps to 99 percent of the unserved population by 2020.

1. *Connect America Fund and Mobility Fund*

The NBP contains 14 specific recommendations on how to repurpose universal service funding to promote broadband deployment to the seven million homes for which private investment will not provide access.⁶ The overarching recommendation is the transition of the USF to a new Connect America Fund (CAF) that would provide support for broadband deployment to only those areas where there is no economic incentive for private investment, and only to the extent necessary to induce private investment.⁷ Over the course of a ten-year transition period, the CAF would be funded with savings from other recommended reforms to the high-cost portion of the USF.⁸

Recognizing that access to mobile broadband is an “essential need,” the plan also

⁴ *Id.*, at xi.

⁵ *Id.*, at 135.

⁶ *Id.*, ch. 8.

⁷ *Id.*, at 145.

⁸ *Id.*, at 143.

recommends establishing a Mobility Fund, also funded with savings from USF reform, that would invest in the infrastructure necessary to ensure that all states have the facilities necessary to provide third generation (3G) wireless broadband access.⁹ The NBP notes that once the infrastructure is in place, the cost of future upgrades to fourth generation broadband (4G) would be substantially less, improving the business case for private investment.¹⁰

2. *Tribal Broadband Fund, Community Connect, and Municipal Broadband*

The NBP also recognizes that tribal lands are among the most unserved areas in the country. As noted in the NBP, while there are no federal surveys that measure the rate of Internet subscribership on tribal lands, communities on tribal lands have historically had less access to telecommunications services than any other segment of the population.¹¹ The NBP notes the extremely high cost of building infrastructure, limited financial resources that deter commercial investors, and a shortage of technical training of tribal members who can undertake deployment planning.¹² In addition to increasing involvement by the more than 564 tribal governments in the selection of entities eligible to receive USF support to provide service on tribal lands, the NBP recommends that Congress establish a Tribal Broadband Fund to provide both grants and ongoing funding.¹³ The plan also recommends that federal facilities located on tribal lands seek to leverage “dig once” coordination opportunities when upgrading their limited broadband capabilities.¹⁴ This can save as much as three-quarters of a project’s cost.¹⁵

To further deployment in rural communities where private capital is insufficient, the NBP recommends expansion of the Community Connect program administered by the Rural Utilities Service of the Department of Agriculture.¹⁶ This program had \$13.4 million in funding available in 2009, but demand for the program was in the hundreds of millions.¹⁷ In addition to increasing the funding available under the Community Connect program, the plan also recommends expanding the scope of the eligibility criteria so that the program is more inclusive in providing

⁹ *Id.*, at 146.

¹⁰ *Id.*

¹¹ *Id.*, at 152, Box 8-4.

¹² *Id.*

¹³ *Id.*, at 152.

¹⁴ *Id.* The NBP recommends that Congress should enact “dig once” legislation to apply to all federally funded projects along rights-of-way. This would provide for coordination of fiber deployment when rights-of-way are being dug for water, sewer, gas, electric or other purposes. *Id.*, at 114.

¹⁵ *Id.*

¹⁶ *Id.*, at 152.

¹⁷ *Id.*

opportunities for unserved communities.¹⁸

Additionally, the plan recommends that municipalities that lack broadband should consider whether they might fill that void through a municipally-owned operator or a community-based cooperative. The NBP notes that during the 20th century more than 2,800 public and co-op operators arose to bring broadband to unserved communities. Accordingly, the NBP recommends that local governments in unserved areas should consider providing services to their citizens if it becomes clear that a private investor is not willing to serve that community.¹⁹

B. Addressing Underserved Communities

In addition to areas and homes that have no access to broadband services, there are also large areas of the country where the broadband is only available at low speeds, comes at a high price, or is available from only a single provider.²⁰ To achieve the goals of the NBP, including access to broadband with actual download speeds of 100 Mbps and upload speeds of at least 50 Mbps to 100 million households, the NBP contains a wide range of recommendations, including:

- Ensuring efficient allocation of resources to encourage network investment and upgrades to promote faster service speeds.
- Establishing competition policies to ensure competitive entry and price constraint.

Among the recommendations for ensuring more efficient allocation of resources, the NBP suggests new rules to provide access to poles and rights-of-ways at lower and more uniform rates, promotion of the use of federal facilities, and “dig once” infrastructure projects.²¹ These recommendations are motivated by the understanding that public resources should be leveraged in a way that improves their utilization.²² Ideally, the result of these policy changes would be significant cost reductions that would incentivize private investors to deploy the facilities necessary to achieve higher broadband speeds in more areas of the country. More uniform access and streamlined procedures can also promote competitive entry, which would help constrain pricing of these services.²³

The NBP concludes that when faced with competition, broadband providers appear to invest more heavily in network upgrades, resulting in higher speeds of service.²⁴ To promote

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*, at 20.

²¹ *Id.*, ch. 6.

²² *Id.*, at 109.

²³ *Id.*

²⁴ *Id.*, at 38.

competition, the NBP recommends greater collection and analysis of competition data, which can lead to fact-driven policies. As the NBP emphasizes, the current regulatory approach was “developed without the benefit of a consistent, rigorous analytic framework.”²⁵ Such a framework would help the FCC better target the data necessary for its policy determinations.²⁶ Finally, the NBP also recommends the collection of information about retail services, including availability, penetration, pricing, actual speeds, churn, and bundled offerings.²⁷ By developing an effective analytical framework and gathering the necessary data, the FCC can adjust its policies to promote robust competition in business and consumer markets.²⁸

IV. WITNESSES

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²⁵ *Id.*, at 48.

²⁶ *Id.*

²⁷ *Id.*, at 43.

²⁸ *Id.*

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