



May 11, 2020

**Submitted via Portal**

*(<https://www.regulations.gov>)*

Chad Rupe, Administrator  
Rural Utilities Service  
Rural Development  
U.S. Department of Agriculture  
1400 Independent Ave. SW, STOP 1510, Room 5135  
Washington, DC 20250-1510

Laurel Leverrier  
Acting Assistant Administrator  
Telecommunications Program  
Rural Development  
U.S. Department of Agriculture  
1400 Independence Ave. SW, Room 5153-S  
Washington, DC 20250

**Re:** Request for Comments on the Rural Utilities Service (“RUS”) Interim Final Rule and request for comments on the Rural Broadband Loans, Loan/Grant Combinations, and Loan Guarantees; 85 *Fed. Reg.* 14393 (RUS-19-Telecom-0003) (RIN number 0572-AC46) (March 12, 2020).

To Administrator Rupe and Acting Assistant Administrator Leverrier:

The National Rural Electric Cooperative Association (“NRECA”) submits these comments in response to the RUS Interim Final Rule and request for comments on the Rural Broadband Program and Community Connect Grant Program.

**INTRODUCTION AND SUMMARY**

Pursuant to the 2018 Farm Bill (The Agricultural Improvement Act of 2018, Public Law 115-334), Congress adopted changes to the broadband loan and grant programs administered by RUS with the avowed intent to expand the reach of broadband access to rural areas currently lacking broadband access. The recent coronavirus pandemic has further shown all Americans how important broadband service is to the education of our children, commerce, and the economy generally.

On March 12, 2020, the Rural Utilities Service (“RUS”) issued an Interim Final Rule and request for comments (“IFR”) for the Rural Broadband Program and Community Connect Grant Program. 85 Fed. Reg. 14,393 (March 12, 2020). The IFR set a deadline for comment of May 11, 2020.

The members of NRECA are dedicated to improving the communities in which they serve and are active in rural economic development efforts. More than 100 electric co-ops are working toward meaningful and diverse solutions to provide broadband services, which can help bridge the digital divide and jumpstart local economies. Another 100 to 200 are exploring the feasibility of providing broadband, either on their own or through partnerships. This cooperative commitment is vital for some 30% of rural Americans that still lack access to broadband, compared to about 2% in urban areas.

The ongoing COVID-19 crisis has put the spotlight on the absolute and outright necessity for ubiquitous high-performing broadband for all Americans. The pandemic has forced us to rethink the practice and delivery of healthcare, education, and professional services, among many other things. We move forward in the midst, and wake, of the pandemic both on the local and national levels, but a realistic picture is being painted in rural America. In several of our communities, the impacts will be challenging and enduring. Simply stated, numerous people and businesses in rural America will struggle to emerge into a changed world that depends more each day on remote healthcare (telehealth), remote education (distance learning), and remote work (virtual offices).

NRECA, on behalf of its members, strongly supports the efforts of Congress and the RUS to address the widely recognized digital divide between rural and urban areas of the country. As stated, there are many rural areas that still lack adequate access to broadband, which drives local, regional, national, and international communications. NRECA also recognizes that there are differences among electric cooperatives, among the laws of the states in which they are organized, and among the communities they serve and thus a single approach or model rarely fits all of the situations they collectively address. For that reason, flexibility in administering the broadband programs is vitally important in order to serve the Congressional intent behind these programs. The modifications NRECA recommends here will improve program flexibility and efficiency. This will not just benefit electric cooperatives but all applicants and the rural communities they plan to supply with vital high-speed broadband. The following are some of the other specific recommendations that NRECA asks RUS to consider:

- Consistent with the intent of the 2018 Farm Bill, section 1738.101(a)(1) should make it clear that applicants are eligible for grant funding if they are pairing the grant with a loan from a third-party, not just a loan from RUS. Similarly, the discussion of grants for

development costs in section 1738.101(d) should include broadband loans from third parties, not just RUS broadband loans.

- The definition and discussion of the “Broadband lending speed” should be modified to clarify that the *initial* Broadband lending speed under these programs is “25/3 Mbps fixed terrestrial” and clarify the discussion of eligible service area to make it clear that *initially* any area with anything less than “25/3 Mbps fixed terrestrial” is eligible while prioritizing areas that lack access to at least 10/1.
- RUS should emphasize that mobile and satellite service will not be considered in determining eligibility, that RUS funding will not be provided to mobile service, but rather for high-capacity backbone to connect households and premises, and also to support wireless sites.
- RUS should clarify that, if there are applications for low density areas, RUS will exercise its discretion in determining the mix of grants and loans by using more of the designated funds in the form of grants and targeting such grant funding to lower density areas
- The standards set forth in section 1738.101(b) for determining density should be based upon household density, not population density.
- RUS should allow matching funding, whether in the form of cash or loan funds, to be spread over the built-out period, rather than fully expended upfront before grant funding can be used. And loan/grant combo awardees should be allowed to draw equally from loan and grant funds rather than expend loan funds before accessing grant funds.
- For these programs, RUS should continue with the competitive market analysis used in ReConnect program, rather than the heightened requirements contained in the IFR.
- RUS should modify the treatment of challenges to applications by providing the applicant with access to the challenge and given a chance to respond within 30 days.
- In cases where issues raised in a challenge can be addressed by minor modifications to the application, RUS should allow applicants to do so.
- We encourage RUS to clearly state in the Application what the applicant must report and provide regarding its structure to increase its flexibility regarding partnerships (for example, not requiring one partner to be designated “lead applicant”).

- Regarding fidelity bond coverage of 15% of the loan or loan/grant amount, RUS should permit a letter of credit in lieu of a fidelity bond and should allow either mechanism to be reduced as the awardee meets or exceeds build-out milestones or obligations.
- We also ask RUS to clarify the effective date of IFR and clarify that the RUS letter to the applicant on fund availability is the event that marks the beginning of the five-year build-out period.
- Finally, we ask RUS to explain how lender fees for loan guarantees would be calculated and how RUS would use the proceeds from those fees.

## COMMENTS

### I. Loan Required to Be Paired with Grant

The intent of the Farm Bill was to allow applicants seeking grants from RUS to pair the grant with a loan from someone other than RUS, such as the National Rural Utilities Cooperative Finance Corporation or CoBank. The statute also requires the use of non-RUS funding as part of the broadband grant program. Section 604(e) of Title VI (7 USC § 950bb-3)(grant applicants must provide cash contributions of 15% of the grant amount from non-federal sources (with a limited exception that does not apply in this case).

The IFR implicitly recognizes and encourages the involvement of private funding<sup>1</sup> but does not explicitly recognize the pairing of grant funding with third party loans. Section 1738.101(a)(1) says to be eligible for grant funding, the Applicant must “[s]ubmit an application for an associated loan component” under RE Act Title I (Electric), Title II (Telephone), or Title VI (Broadband). This language suggests that applicants seeking third party loans in lieu of a new RUS loan would be ineligible for a grant. The regulations should explain that applicants are eligible for grant funding if they are pairing the grant with a loan from a third-party. This could be accomplished by simply revising the language to state instead “submit an application for an associated loan under RE Act Titles I, II or VI or a loan from a third party for the same purposes.” Similarly, the discussion of grants for development costs (section 1738.101(d)) states that only applicants seeking broadband loans are eligible for grants to include up to 75% of development costs. It should include third party loans. Further, no rationale is provided for limiting this provision to RUS broadband loans, as opposed to third party loans.

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<sup>1</sup> The IFR prioritizes otherwise equal applications that request lower grant amounts (section 1738.105(c)) and imposes a sequencing requirement on the advance of funds, requiring applicants to expend first non-RUS funds, then loan funds, and finally grant funding. Section 1738.155.

If RUS intended to impose this requirement of a new RUS loan, it has not explained or justified such a requirement, especially in light of the statutory and regulatory provisions discussed above. Further, such a requirement would be problematic for the 400 electric cooperatives that are not currently RUS borrowers and thus may effectively exclude those cooperatives and their communities from RUS grant funding, which actually counter Congressional intent to facilitate broadband deployment. Those cooperatives that are not current RUS-borrowers are borrowers from private lenders and, as such, have collateral security arrangements in place with those lenders. Requiring these cooperatives to become RUS borrowers would significantly increase the cost of entering into the broadband lending transaction. For example, the existing lenders would need to become a party to an RUS mortgage or, as has been done under the ReConnect program, an intercreditor arrangement with RUS and the cooperative. Requiring these cooperatives to become RUS borrowers would also have other consequences that have no relation to these cooperatives' broadband activities (such as affecting the cooperative's jurisdictional status at the Federal Energy Regulatory Commission) or have limited relationship to their broadband activities (such as the obligation to comply with all of the RUS requirements that apply to RUS borrowers). It is difficult to imagine a supporting rationale, and RUS has offered none. For example, RUS has not offered a well-reasoned explanation of how the requirement is needed for RUS to effectively oversee its broadband grant program.

## **II. Eligibility**

### **A. Broadband Lending Speed**

The IFR identifies eligible service areas in part based on whether the existing service in the area is at the Broadband lending speed. In the IFR, "Broadband lending speed" is defined as the latest speed published in the Federal Register, which NRECA applauds as an indication that higher speeds will be required in the future as technology makes higher speeds the norm in the more urbanized areas of the country. However, NRECA believes that RUS needs to clarify that the initial speed is 25/3 Mbps.

The IFR states that "[i]nitially, the broadband lending speed for terrestrial service, whether fixed or wireless, as well as mobile broadband serving ranches and farmland" is 25/3 *until further amended by notice in the Federal Register*. NRECA has concerns with this statement because it appears to treat mobile broadband as a substitute for terrestrial fixed broadband, including fixed wireless, instead of a complementary service. The reference to mobile should be removed and the definition revised to state that the initial "Broadband lending speed" is 25/3 Mbps fixed terrestrial and that any rural area with anything less than "25/3 Mbps fixed terrestrial" service is an eligible service area in this program.

Similarly, the IFR defines “Broadband service” as “any technology identified by the [RUS] Administrator” as capable of 25/3, which could be a prudent statement about the future if that was what was intended but, currently, “fixed terrestrial” services are the only available offerings that can provide reliable, high speed broadband at today’s standards – *i.e.*, with the same robust functionality. However, when that definition proceeds to talk about the future, it states that “the minimum transmission capacity with respect to terrestrial service” will be set over time by publication in the Federal Register. Logically, it seems likely that the first statement about the current standard should be “fixed terrestrial service of 25/3” and the statement about potential future standards could include the statement about “any technology identified by the [RUS] Administrator” as capable of delivering the then-target speed and the same functionality.

The definition of “Incumbent service provider” excludes mobile or satellite providers and the parameters for eligible projects states that mobile and satellite services will not be considered in identifying households lacking access to broadband service (section 1738.53(d)). NRECA supports this definition. Mobile is also mentioned in the priorities section (section 1738(a)(3)(i)(E)) but only in connection with precision agriculture, which is still a developing application of that technology but one that currently makes sense in that particular context.

For the reasons explained above, NRECA urges RUS to clarify and emphasize that mobile and satellite should not be considered when determining eligibility and that the mobile service mentioned in the priorities section relates only to providing high capacity backbone to mobile towers. In other words, we request clarification that RUS funding will not go to fund deployment of mobile service but rather to high capacity backbone to connect households and premises and also to support wireless sites.

## **B. Grants and Matching Funds**

### **1. Density**

NRECA supports the IFR use of additional factors in setting the priorities for funding. (section 1738.105). In particular, NRECA fully supports prioritizing lower density areas for grant funding – such that lower density areas are eligible for more grant funding. (IFR section 1738.101) This approach may mean that most or all of the broadband funding is disbursed in the form of grants. There is nothing in the Act or the Farm Bill that prohibits this outcome. Furthermore, RUS has shifted broadband funding increasingly towards grants in recognition of the inherent problem in serving rural areas – there is no “business case” to be made for serving those areas and thus loan funds will not get those networks built. While using more of the designated funds in the form of loans, rather than grants, may enable RUS to increase the dollar

amount of aid and the number of recipients, it would not advance the intent of the Act because the areas that can support loans are typically those with higher density. Congress has given RUS the discretion to determine the mix of grants and loans under the broadband loan and grant program and RUS should use that discretion to full advantage for those in rural America that will not otherwise obtain high speed broadband. Assuming that applications for low-density areas are submitted, RUS should target grant funding to those areas. The higher density areas are more likely to have other funding options and lower deployment costs than lower density areas. Successful targeting to areas that most need the funds will often result in successful economic outcomes.

However, while the IFR uses percentages of “households” to identify eligible service areas,<sup>2</sup> it uses “population” (i) to identify rural areas (which is required by statute), (ii) to define priority points in section 1738.105(a)(3), which includes rural areas “with a population of less than 10,000 permanent residents” or “that are isolated from other significant population centers”, and (iii) to define “Density,” which is used to set eligibility for grants. The focus of our remaining comment is on the latter, the use of population in the Density measure used to determine grant eligibility.

NRECA urges RUS to use household density, rather than population density. IFR section 1738.101(b) provides grant funding percentages based on population density. We believe that provision should be modified only slightly to say that grant funding on any project shall not exceed: (1) 75 percent of the total project cost when the proposed funded service area has a density of 7 or fewer *households* per square mile; (2) 50 percent of the total project cost when the proposed funded service area has a density of 8 or more and fewer than 12 *households* per square mile; and (3) 25 percent of the total project cost with respect to an area with a density of 12 or more and 20 or fewer *households* per square mile.<sup>3</sup> The *population* density measure may inadvertently disqualify areas that have few households but many individual family members in such households, depending on how the service area is configured. In the absence of an explanation for switching from households for the eligible area determination to population for the density determination, the determination should be based upon households or, in the alternative, allow an applicant to present household information as well as population data for the grant availability analysis. Given that these proposed service areas will only include rural areas (defined by reference to population data) and eligible areas (defined by reference to households), using population data to define density within those areas needlessly penalizes large families, which would be sharing a single internet connection.

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<sup>2</sup> See IFR Sections 1738.53(a)(2), 1738.54(a), 1738.105(a)(2), and 1738.106(a)(4).

<sup>3</sup> Subsection (c) of that Section states that subsequent density determinations, as well as density requirements for projects on tribal lands will be set by notice in the Federal Register.

## 2. Matching Funds<sup>4</sup>

The IFR provides that the maximum amount of grants is 75% (section 1738.101(b)), meaning that 25% of project cost must be paid from the applicant's own funds, an RUS loan, or a third-party loan (the 25% being "matching funds"). The IFR also requires that for loan and loan/grant combination Awards, "all non-RUS funds must be expended first, followed by loan funds and then grant funds, except for RUS approved development costs. (Section 1738.155). This sequencing requirement is new to the RUS broadband regulations but resembles a requirement in the ReConnect Program (which thus far had not been incorporated into the RUS regulations).

Based upon participants' experience with the ReConnect Program, we urge RUS to make an immediate change to allow existing and future applicants (under ReConnect and the IFR) to utilize a pro-rata share of the total cost over the build-out period (*e.g.*, from day one of the broadband build-out, grant winners could submit 75% of the item cost for grant reimbursement and cover the remaining 25% with their matching funds). The ReConnect award winner finance guidance provides that all matching funds that the applicant brings to the table (*i.e.*, 25% requirement) must be spent before any of the grant funds may be expended. (The one exception is the first advance which can include grant funds to cover cost of application preparation.) Thus, for example, if a cooperative receives a \$15 million ReConnect grant and had the \$5 million in matching funds, the cooperative would be required to spend all \$5 million of the cooperative's own money before any grant funds can be spent.<sup>5</sup>

NRECA believes there are several justifications for this change in this program. First, this change would relieve financial pressure on cooperatives (or any winning entity) to be able to manage their own financial situation during and in the aftermath of the pandemic with more flexibility. Second, it does not change any of the financial commitments of either RUS or the awardee. Third, it would simply allow the sequencing of when dollars get spent to be more flexible for the recipient. Fourth, this change does not increase RUS' expenditures or require Congressional approval but could make a significant difference to ReConnect and IFR recipients during this difficult time.

Under the ReConnect program, a 25% match requirement is limited to grant-only recipients. In the grant/loan combination awards and loan awards, the loan is considered the match.

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<sup>4</sup> While raised here in discussion of grants, the same type of issue applies to the loan funding.

<sup>5</sup> See ReConnect finance video for award winners that discusses the order in which the funds must be used (<https://www.usda.gov/reconnect/awardee-webinar-materials#financial>) at minute 7:00 to 7:50.



With respect to the IFR, NRECA urges RUS to consider the recommendations set forth below. Given that Congress did not speak on these topics, RUS has the discretion to make these proposed changes.

Grant-Only Awardees: In the current situation with the coronavirus and thus with uncollectable accounts rising quickly, in some cases, to a quarter of all customers, the IFR's current matching requirement is burdensome and should be reconsidered. NRECA requests that RUS allow the 25% match to be spread over the time period allowed to complete the build out. Each year, the awardee would be required to put up a pro-rata share of the funds they request from their total award amount. Thus, like in the Community Connect program, grant-only awardees would be required to show they have their 25% matching amount in the bank as cash on hand. Given that awards under this program will be much larger than amounts previously awarded in the Community Connect program, the current IFR matching requirement would be burdensome and is not as necessary if our recommendation to spread the use of the matching amount over the life of the buildout period is adopted. This requirement should be relaxed to allow awardee to show it has perhaps two years' worth of its 25% total match on hand and it should be made clear that this can be covered by a loan from a third-party lender such as CFC or CoBank. Allowing the match to be spread over the life of the build-out and allowing a portion of the match to be covered by a loan instead of cash-on-hand, would help all applicants impacted by the unprecedented recession caused by the current pandemic while not undermining program integrity.

Loan/Grant Combination: With combination awards, the awardee is not required to put up a match but is required to draw down all RUS loan funds prior to drawing on grant funds. NRECA recommends that awardees be allowed to draw equally from loan and grant funds each year. These changes will reduce the financial burden on the awardee but still maintain program integrity. This would allow an awardee to potentially complete a build-out earlier and to reach the lowest density areas earlier in the build-out.

### **III. Applications and Challenges**

#### **A. Competitive Market Analysis**

The IFR states that applicants are required to submit a competitive market analysis, including the Applicants competitive strategies. Section 1738.206. RUS will publish a notice regarding each Application that must include a summary of the information submitted by the Applicant. Section 1738.106(a). The public notice will request existing service providers to submit information in response, but the information received from existing service providers is expressly made exempt from disclosure. Section 1738.106(b). This asymmetry allows existing

service providers to challenge information provided by Applicants but not vice versa – not a level playing field.

The ReConnect program did require a “desktop” analysis of existing providers, including what they are offering, but the Rural Broadband Loan Program has a more extensive requirement. The Broadband Loan requires a more detailed third-party analysis of the market conditions including price competitors charges, etc. The Broadband Loan also requires that an applicant submit its competition strategy, which was not required in ReConnect. In the absence of a Congressional mandate or regulatory reasoning supporting a change in this requirement, we urge RUS to continue with the ReConnect requirements on this point.

## **B. Challenges**

Based upon experience with the ReConnect Program and all broadband predecessors, the asymmetry of information on challenges persists and needs be rectified for that program and for the program affected by the IFR. When an incumbent service provider objects to an application, the identity of the objecting party and the information underlying the objection is unknown to the applicant. We urge RUS to provide the applicant with access to the challenge filed in opposition to their application and given a chance to respond within 30-days so as not to unnecessarily delay the process of evaluating applications.

Further, the broadband programs need to retain an ability to adjust applications in response to challenges, as opposed to total rejection of the application. NRECA recognizes that some adjustments to address challenges are easier than others. For example, in some cases, the homes that are challenged are on the edge of the applicants proposed funding area, and thus the proposed funding area can be modified relatively easily to exclude those homes. Accordingly, we strongly recommend that, in cases where issues raised in a challenge can be addressed by minor modifications to the application, RUS should allow an applicant to do so. NRECA supports the exercise of RUS discretion to determine whether such modification is minor or major.

## **C. Flexibility in Applicant and Service Provider Structure**

We understand and appreciate that RUS has been processing ReConnect applications with significant flexibility in terms of the service structure proposed by applicants (*i.e.*, that service models may differ for a variety of legitimate reasons such as differences in state law regarding whether an electric cooperative may provide broadband services directly or instead must do so through a subsidiary). We encourage RUS to clearly state in the Application that the proposed structure, such as use of a subsidiary to serve broadband customers, must be explained and the applicant must submit the executed agreements between the entities that

establish the service arrangement details and how the associated costs are allocated among these entities. We encourage RUS to use the same flexibility in processing applications under this Broadband Program and Community Connect Grants.

However, we understand that the experience under the ReConnect Program with respect to proposed partnerships could be improved and we provide these comments to encourage RUS to increase its flexibility on applications from partnerships. In ReConnect, when an application is filed by a partnership, RUS has required that one partner be the lead applicant. This position suggests that the arrangement is actually something other than a true and equal partnership. This position is inconsistent with RUS' arguments promoting the benefits of partnerships. This position also runs contrary to RUS' self-interest because the likelihood of recovery on a RUS loan or other award should actually be *improved* by having more than one entity with a repayment obligation. Thus, in addition to greater RUS flexibility on partnership applications, NRECA asks RUS to make it clear in the application what RUS expects from applicants regarding their structure.

#### **D. Fidelity Bond Coverage**

While RUS electric borrowers are familiar with RUS fidelity bond requirements, NRECA urges RUS to consider some modifications for this program. The IFR currently requires loan or loan/grant awardees to carry fidelity bond coverage in the amount of 15% of the loan or loan/grant. Section 1738.153(c).

First, NRECA urges RUS to offer the flexibility of a letter of credit from a reputable and financially sound financial institution in lieu of a fidelity bond. The two are recognized as functional alternatives, and RUS allows this alternative collateral security in its other programs such as the Rural Energy Savings Program and the Rural Economic Development Loan and Grant program. On an administrative basis, RUS also permits letters of credit to be used in lieu of surety bonds required by its form of contracts for electric borrowers. Similarly, the Federal Communications Commission ("FCC") requires letters of credit as collateral security in its broadband program.

Second, NRECA recommends that RUS permit the security amount (whether under a fidelity bond or letter of credit) to be reduced as the awardee meets or exceeds its build-out obligations. This concept is currently the subject of a petition for waiver of the requirement for a fixed dollar amount over the build-out period in the FCC's Connect America Fund Phase II ("CAFII") program. The waiver is requested on the grounds that a fixed dollar amount is counterproductive to purpose of encouraging broadband deployment. A more recent FCC program, the Rural Digital Opportunity Fund ("RDOF") program, applies this less burdensome letter of credit concept. Specifically, awardees must obtain an irrevocable letter of credit

covering the first year of the award. The amount of the letter of credit would decrease as the funding recipient meets certain deployment milestones. NRECA and other trade associations representing those hoping to deploy broadband have urged the FCC to consider reducing the percentage that must be obtained because, given the larger size of anticipated awards, the higher percentage requirement will benefit primarily large banks and exclude smaller entities from the outset. Allowing for the security amount to be reduced as the awardee meets or exceeds its build-out obligation will incentivize faster deployment and allow more money to be spent on building networks rather than going to financial institutions.

#### **IV. Miscellaneous**

##### **A. Effective Date**

We ask RUS to clarify the effective date of the IFR. The opening “SUMMARY” paragraph says the IFR is effective upon publication in Federal Register (*i.e.*, March 12) but the statement of the “*Effective Date*” immediately below it says May 11.

##### **B. Time to Complete the Build-Out**

The section 1738.52 discussion of Eligible Projects states that the 5-year deadline to complete the build-out begins on the date the Applicant is notified that funds are available and that the commencement period to be 120 days after the date the legal documents are cleared, and funds are made available. We recommend deleting the reference to the legal documents because, while the two events typically occur on roughly the same date, the letter regarding availability of funds is what is visible to the borrower/grantee.

##### **C. Charging Lenders Fees for Loan Guarantees**

IFR Section 1738.302 states that RUS will charge lenders fees for loan guarantees and the fees are required by the 2018 Farm Bill. However, we ask RUS to also explain how the fees would be calculated and how RUS will use the money collected through the fees.

As a final note, NRECA believes that feedback provided by others on the ReConnect application issues is pertinent as well to this Broadband Loan and Grant Program. See Letter from Vantage Point to RUS dated August 13, 2019 attached here as Appendix A.

Respectfully submitted,

NRECA Comments  
RUS Broadband Loan and Grant Program  
May 11, 2020  
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**National Rural Electric Cooperative Association**

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By: Brian M. O'Hara  
Senior Director Regulatory Issues – Telecommunications & Broadband  
National Rural Electric Cooperative Association (NRECA)  
4301 Wilson Blvd. Arlington, VA 22203  
703-907-5798  
brian.ohara@nreca.coop

## **Appendix A**

(Vantage Point Letter to RUS, Dated August 13, 2019)



August 13, 2019

Ken Kuchno, Deputy Assistant Administrator  
US Dept. of Agriculture, Rural Utilities Service  
1400 Independence Ave., SW  
Washington, DC 20250-1590

Dear Ken,

It was good seeing you in Arlington at the NTCA Government Affairs Committee meeting a few weeks ago. The insights you shared regarding the USDA ReConnect were timely and valuable. As you know, Vantage Point Solutions (VPS) submitted several ReConnect applications on behalf of our clients. Like you, we desire the ReConnect to be successful and achieve its objective of enabling broadband to some of the most underserved areas of our country. I want to commend you and your team for the large strides you have taken in accomplishing this task. As with any program of this magnitude, there are areas for improvement. We began the application process for almost 30 clients. More than half of them dropped out because of challenges with the Application Guide for Fiscal Year 2019. Also, the cost to complete the application was approximately twice as much as applications we have performed for our clients in the past on similar programs.

I have summarized a few recommended changes to the 2019 application process that we feel could increase the quality and quantity of the applications received by RUS in future years.

#### **Process and Application Suggestions**

1. Significantly reduce the environmental reporting requirements in the application. The environmental section of the application requires detailed engineering information for the proposed funded service area (PFSA). For example, the applicant must enter the geocoordinates (latitude and longitude) for each bore pit. There may be hundreds of bore pits on a project. The locations of these bore pits are not known to this level of accuracy until construction when all other utilities are located. Estimated locations could be provided after the detailed field engineering (“staking”) is complete. We recommend that this level of detail be required after the grant award when the awardee is seeking the environmental approvals for their project, not as part of the application process.
2. Remove location and network specifics regarding Non-funded Service Areas (NFSAs) and Unadvanced Prior Loan Fund (UPLF) areas. Many applicants do not know the details of their broadband buildouts over the next five years. The application requires that they not only identify these areas on a map, but also provide detailed information regarding all capital assets. A considerable amount of time is needed to complete this portion of the application with minimal benefit to RUS. The capital expenditures for NFSAs and loan amounts for UPLFs can still be included in the financial projections without having to enter the detailed network specifics required by the application.
3. Allow non-contiguous boundaries for NFSAs. Within the ReConnect application, there were numerous items that were required to be broken out on a per-serving area (NFSAs or PFSA) basis. Applicants encountered situations where it was necessary to carve out small areas as NFSAs from a larger area that they intended to include as a PFSA. Census blocks that were awarded CAF Phase II support were prime

examples of small, non-contiguous NFSAs that needed to be carved out. In some cases, these small census blocks that had to be treated as separate NFSAs had only one or two locations. Please consider allowing applicants to concatenate these small, non-contiguous areas and categorize them as one NFSAs. This would simplify the application, while still providing all necessary information on capital investment estimates and subscriber penetration estimates for the combined NFSAs.

4. Points associated with schools and libraries should be handled differently. Although most schools and libraries we are familiar with have broadband access, there were some instances where we feel that some schools and libraries were not accounted for in the RUS GIS data. There should be a mechanism for an applicant to gain the appropriate points for the application when planning to serve a school or library even when it is not recognized in the GIS data.
5. The requirement that 100% of location in PFSA be unserved should be relaxed when applying for 100% grants. Eliminating entire areas because a single customer is served can leave many other customers without adequate broadband service. Consider allowing a PFSA to be eligible if a small number of locations currently have broadband that meets the ReConnect standards in a PFSA (possibly 5-10%).
6. Requiring a blanket first lien on all assets (when a loan component was included) eliminated many potential applicants who use other lending sources. The ReConnect program requires a blanket lien over all company assets, even those that are not associated with the ReConnect project. This is often not acceptable to other lenders who currently have a first lien on the assets where they have outstanding loans. The lien should cover only assets associated with the ReConnect project.
7. Do not require applicant to provide subscriber penetrations per serving area. Having to determine subscriber projections by serving area (NFSAs, PFSA) created an excessive amount of work with little, if any, benefit. The business plan is driven off total subscriber counts and having to interpolate this to a NFSAs and PFSA basis did not increase the accuracy of the business plan.
8. Calculation of depreciation expense on grant funded assets should be eliminated or should have the ability to be manually adjusted. The ReConnect portal automatically calculated depreciation expense on the assets being purchased with grant funds at 100% versus the amount the applicant proposed to fund with its own matching funds. This had a direct impact in over calculating of the expenses in the feasibility study. The issue had a carryover impact to the applicant's balance sheet by requiring a negative adjustment to be reflected to reconcile with their accounting procedures on grant funded assets.
9. Environmental questionnaire (EQ) should be similar to EQ for RUS Infrastructure loans. The environmental questionnaires were time-consuming. A new EQ was required for each segment (possibly hundreds per application) and some of the questions (such as flood plains) were already in the RUS map. The EQ for an RUS infrastructure loan is more detailed, but only needs to be done once for the entire project, which allows for more accuracy, less redundancy, and less effort.
10. Allow adequate time for application preparation. The short application window prohibited many companies from applying. With an application process as detailed and labor intensive as ReConnect, allowing three months to complete would be reasonable.
11. Definition of Unserved should match the FCC definition. By today's standards, 10/1 Mbps is not adequate broadband. The data speeds that determine served versus unserved should be at least the FCC minimum broadband standard (currently 25/3 Mbps).



12. Eliminate requirement to list fiber sizing on network diagrams. Only a high-level design is normally required to calculate the construction costs. At this level of detail, the specific sizes of fibers do not need to be determined. A much more detailed design is required to determine fiber sizing, which increases the cost of the application.

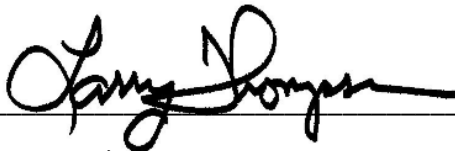
#### **Portal and User Interface Suggestions**

There are also several enhancements we would like to see with the application portal. Many seem minor, but could significantly enhance the usability of the portal. These are:

1. Allow for editing of subscriber projections in the summary tab
2. Need "Are you Sure?" confirmation button when deleting items
3. Allow application to be edited offline and reimported into the portal
4. Allow for longer timeout period before logging the user out
5. Fix the "PDF Application" function – There was a button for PDFing the application. This feature worked for a time and then stopped functioning. Toward the end of the application process this feature was eliminated from the portal altogether.

Thank you for your consideration to this matter. Please feel free to call me if you have any questions or would like to discuss further.

Sincerely,



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Larry D. Thompson, CEO  
Vantage Point Solutions, Inc.