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March 24, 2010

The Honorable Jonathan Adelstein  
Administrator  
Rural Utilities Service  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Washington, DC 20250

Dear Administrator Adelstein:

The American Cable Association, which represents nearly 900 cable and telephone providers, many of which have deployed broadband services in rural areas, supports the Administration's goals of providing more broadband services to consumers in sparsely populated areas of the country through the Rural Utilities Service (RUS) and the National Telecommunications and Information Administration (NTIA). I am writing today to encourage the agency to better honor the contributions of our members and others who have invested private capital to deploy broadband in their communities by not funding applicants to the RUS' Broadband Investment Program (BIP) whose proposed projects would overlap existing broadband service from these rural providers.

The ACA supported the RUS' Broadband Investment Program despite ACA's longstanding concerns regarding the administration of the RUS' Rural Broadband Access Loan and Loan Guarantee Program ("Loan Program"), which had directed money towards new entrants in communities that already had broadband service rather than giving priority to applicants in truly unserved communities. We were optimistic that the RUS' BIP would be run differently than the Loan Program after hearing the words of Secretary Vilsack when he said, "It's important for folks to give us an opportunity to prove that past mistakes are in the past and corrected and that we will do a more progressive job to make sure people who need broadband service will get it."<sup>1</sup>

As you know, ACA Board Member Jim Gleason of New Wave Communications noted in his testimony before the House Small Business Committee on October 28, 2009, "NTIA and the RUS should not waste taxpayer dollars on funding broadband projects that intend to provide service in areas already served... While broadband stimulus can be very helpful to encourage broadband deployment in areas that are truly unserved or underserved, it should not be at the risk of losing private capital investment, which will ultimately achieve more deployment than any stimulus program."

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<sup>1</sup> Washington Post; February 12, 2009; <http://www.washingtonpost.com/wp-dyn/content/article/2009/02/11/AR2009021103832.html>

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Given that background, it is with great disappointment that we now learn from our members that loans and grants from RUS BIP are being awarded in areas that are already sufficiently served with broadband. Two specific examples of such RUS BIP funding in Hays, KS, and Vinton/Moss Bluff, LA, highlight this problem:

On January 25, 2010, Rural Telephone Service Company (RTSC) received a \$101 million RUS award, which will be used in part to provide additional broadband services in Hays, KS, an area that already receives such services from employee-owned Eagle Communications, and numerous other local providers. In the past few years, Eagle has invested more than \$20 million in private capital to upgrade and provide these services, which includes broadband speeds for residential customers up to 10 Mbps, and speeds for business customers up to 100 Mbps. The \$101 million RUS award to Rural Telephone Service endangers Eagle Communications, and threatens the 277 individuals who work for the company.

Likewise, on February 17, 2010, the RUS awarded \$33.2 million to LBH, LLC, to deploy broadband in and around Vinton/Moss Bluff, LA, an area already served by James Cable, a small cable operator. The company, which locally employs 21 people, had invested more than \$7.5 million in the area in recent years, and the homes and businesses of Vinton/Moss Bluff today are able to receive broadband speeds up to 8 Mbps. James also planned to offer residential and enterprise phone service this year. Despite submitting a formal response to LBH's application at the RUS last year showing where James' broadband service was available, the agency awarded the applicant with tens of millions of dollars to provide service in an area already adequately served.

Because of a lack of transparency in this process, Eagle and James have no ability to review the awardees' applications to ensure information submitted by the applicant is accurate or if the responses Eagle and James provided were taken into consideration by RUS, although, clearly, they were not. Nor is there a formal process for a hearing on, or for a review of the applications, where Eagle and James could provide rebuttal information and evidence concerning the granting of these awards.

In light of the above, we believe that the RUS must take additional steps right away to ensure that funds are neither loaned nor granted to any applicant who would spend the money to build last-mile infrastructure in an area already served by wireline broadband operator. For instance, we believe RUS should add a formal review process for any aggrieved party to submit additional evidence of broadband service, and create transparency for the award process so the applications may be fully vetted by outside resources, thereby ensuring millions of taxpayer dollars aren't wasted providing duplicative service while millions of people continue to go without broadband service. In the meantime, RUS should immediately review and modify all proposals of all Round 1 awardees to ensure that no funding will be used to overbuild existing Internet access providers, particularly the two instances above, and then concentrate in the second round on providing loans and grants to the truly unserved areas of the country.

We hope you share these common goals. With best regards, I remain

Yours sincerely,



Matthew M. Polka

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