

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
 )  
Commission’s Consultative Role in the ) GN Docket No. 09-40  
Broadband Provisions of the Recovery Act. )

**Comments of the  
Michigan Public Service Commission**

**Introduction**

The Federal Communications Commission (FCC) released a Public Notice on March 24, 2009 (Public Notice) requesting comments with regard to the FCC’s consultative role with the Department of Commerce’s National Telecommunications and Information Administration (NTIA) and the Department of Agriculture’s Rural Utilities Service (RUS) in the implementation of the Recovery Act.<sup>1</sup> Specifically, the FCC may provide advice to the NTIA and the RUS on five specific terms and concepts such as the definition of “unserved area,” “underserved area,” and “broadband,” as well as the identification of the non-discrimination obligations that will be contractual conditions of Broadband Technologies Opportunities Program (BTOP) grants, and the network interconnection obligations that will be contractual conditions of BTOP grants.

The Michigan Public Service Commission (MPSC) appreciates the opportunity to provide input on such important issues and respectfully offers the following comments.

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<sup>1</sup> American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (Recovery Act).

## **Definition of Broadband**

The Federal Telecommunications Act of 1996 describes advanced telecommunications capability as “high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology<sup>2</sup>.” In previous reports, the FCC has taken the position that “broadband,” considered an “advanced telecommunications capability” and “advanced services”, is a service with upload and download transmission speeds of more than 200 kilobits per second (kbps). In 2004, the FCC acknowledged that 200 kbps was more appropriately considered a “first generation” broadband<sup>3</sup>. Presently, it is more evident that 200 kbps is not enough transmission speed to run many applications available via the internet as higher bandwidth is required<sup>4</sup>.

As such, the MPSC recommends that for purposes of the ARRA, at a minimum, “broadband service” should be defined as high speed internet service; independent of any particular technology; with symmetrical transmission speeds of 1.5 megabits per second (mbps).

## **Definition of Unserved and Underserved Area**

The MPSC recommends “unserved area” should be defined as a region where basic broadband is nonexistent. In determining whether an area has broadband or not, satellite broadband should not be taken into account. The MPSC is not convinced that

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<sup>2</sup> Section 706(c) of the Federal Telecommunications Act of 1996 Act, Pub. L. 104-104, Feb. 8, 1996, 110 Stat. 56, amended the Communications Act of 1934, codified at 47 U.S.C. § 151 et seq.

<sup>3</sup> See Local Telephone Competition and Broadband Reporting, WC Docket No. 04-141, Report and Order, 19 FCC Rcd 22340 (2004)

<sup>4</sup> See *Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriber Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriber Data*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 9691, 2708, para. 19 (2008) (*2008 Data Gathering Order*); Order on Reconsideration, 23 FCC Rcd 9800 (2008).

satellite broadband is a viable substitute for other broadband platforms in the Michigan market. The “unserved area” may exist, for example, in a rural or urban region as well as a poor or affluent neighborhood. The geographic and socio-economic factors should not solely influence the determination of a region’s lack of broadband availability.

By contrast, an “underserved area” may be more affected by geographic or socio-economic impediments. “Underserved areas” are areas identified as having some form of basic broadband, but not necessarily the more advanced competitive alternatives available in fully served areas. In identifying underserved areas, the NTIA and FCC should consider the area's economic conditions, including, but not limited to, family income, affordability of access, lack of options available, low percentage of residents subscribing, and any other criteria considered important by the NTIA and the FCC in determining whether an area is underserved.

### **Non-discriminating Interconnection Obligations: Open Access**

The nondiscrimination and network interconnection obligations should require open access provisions for all broadband providers. It is the MPSC’s belief, the intent of the ARRA is to create an environment where any broadband provider is able to interconnect and also allows for interconnection to its network in order to maximize the utilization of all the ARRA broadband investment in the nation.

Interconnection obligations should include requirements that facilities based broadband providers have access to transport networks – “middle mile” – and the backhaul backbone. Non-discriminatory access to rates, terms and conditions offered by transport and backbone providers to their customers should also be made available to

broadband providers willing to offer service to the “unserved” and “underserved” areas. Absent these requirements, grant recipients may incur higher transport and backbone access costs that could eventually result in higher and unaffordable rates for consumers. Requirements for open access will also spur future network deployment and broadband sustainability.

### **Conclusion**

The MPSC strongly recommends increasing the minimum transmission speeds as the FCC determines the appropriate definition for broadband services. In addition, broadband advancement should be technologically neutral and preferably symmetrical. The definitions of “unserved areas” and “underserved areas” should be clear and include all the factors stated above. Finally, the MPSC advocates for open access interconnection requirements in order to spur broadband deployment in the nation.

Respectfully submitted,

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