



February 15, 2022

The Honorable Frank Pallone
Chairman, House Energy and Commerce Committee

The Honorable Cathy McMorris-Rogers
Ranking Member, House Energy & Commerce Committee

The Honorable Mike Doyle
Chairman, House Energy and Commerce Subcommittee on Communications & Technology

The Honorable Robert Latta
Ranking Member, House Energy and Commerce Subcommittee on Communications & Technology

Dear Chairman Pallone, Ranking Member McMorris-Rogers, Subcommittee Chairman Doyle and Subcommittee Ranking Member Latta:

On behalf of AMG Technology Investment Group LLC dba Nextlink Internet I am writing to you today out of grave concern for the future success of our nation's federally supported rural broadband programs. Of critical importance is language in the rules surrounding the use of ARPA funding, which has encouraged government-funded overbuilding of other government supported broadband networks and eroded confidence in these programs. We are also concerned that future funding from NTIA's \$42.45 billion BEAD program will have a similar adverse impact on billions of existing CAF and RDOF funding and the deployment of broadband in rural America.

Nextlink is the fastest growing independent internet and phone provider in the Midwest. It has been awarded \$281,283,794 in CAF Phase II support and is the provisional winner for an additional \$429,228,073 in RDOF support to make service available to 306,797 households and businesses in 11 states. Nextlink is a solidly funded company with over 900 employees and more than 80,000 customers, most of whom lack other quality service options. Nextlink is investing hundreds of millions of dollars of its own capital in these rural areas, hiring local workers and rapidly bridging the digital divide. To deliver reliable and timely broadband, Nextlink is using both fiber and fixed wireless technologies – always using the best tool to accelerate deployment while meeting enforceable performance obligations.

However, according to the ARPA Interim Final Rule issued by Treasury last May, and the delays Treasury has built into the enforcement of its Final Rule issued January 6, we are already witnessing a significant waste of our limited federal resources. Allow me to give you a specific example.

The State of Iowa has made ARPA funding available for broadband deployment. Via its recent NOFA 7 solicitation, the state solicited applications for broadband buildout regardless of a significant number of areas already covered by awards from federal programs, doing so it apparently ignored both Nextlink's six-year CAF commitment to provide cost-efficient fiber and fixed wireless broadband service to 15,097 rural Iowa locations at speeds of 100/20 Mbps and our commitment to provide Gigabit speed service to 36,228 rural Iowa locations under RDOF.

To make matters worse, Nextlink and other CAF and RDOF winners were not allowed to seek Iowa funding in areas where they were a CAF recipient or RDOF winner. As a result of the Interim Final Rule, the State of Iowa was prepared to overbuild at least \$163 million of already committed federal resources (representing just the amount Nextlink has been awarded in the state) and as of today Iowa has preliminarily awarded almost \$58.3 in overlapping our \$38.7 million in funding for our CAF and RDOF areas.

Let me emphasize that – contrary to the Final Rule, Iowa has awarded \$58.3 million to other broadband providers to overbuild our \$38.7 million of enforceable federal awards for the same 12,248 households and small businesses.

Further, the State appears to be expediting the process of documenting the awards with grantees before April 1 to avoid the effective date of Treasury’s Final Rule. The Treasury Final Rule issued on January 6 states, in part:

Given the final rule's revised requirements on eligible areas for investment, the final rule also modifies the interim final rule's requirements around duplication of resources. Since recipients must ensure that the objective of the broadband projects is to serve locations with an identified need for additional broadband investment, the final rule provides that, to the extent recipients are considering deploying broadband to locations where there are existing enforceable federal or state funding commitments for reliable service at speeds of at least 100 Mbps download speed and 20 Mbps upload speed, recipients must ensure that SLFRF funds are designed to address an identified need for additional broadband investment that is not met by existing federal or state funding commitments. Recipients must also ensure that SLFRF funds will not be used for costs that will be reimbursed by the other federal or state funding streams.

Unfortunately, Treasury’s decision to make this rule effective April 1 instead of immediately gives license to states to avoid the final rule so long as contracts are entered into prior to the effective date, as the State of Iowa is doing by continuing to propose overbuilding CAF and RDOF obligations, citing the April 1 effective date as the reason they are able to. In addition, there remains confusion, or ambiguity, surrounding the type (i.e., wireline vs wireless) and level of service that would preclude a State from committing funds to overbuilding a previous award.

Sadly, the result is many Iowans lacking service and funded projects will remain isolated from the digital economy while two separate providers are funded by differing buckets of federal dollars to serve their neighbors – wasting the limited financial resources available.

With the Treasury rule and Iowa example, we ask: Did Congress intend that there be two sets of rules, one set that allows overbuilding of existing federal commitments and one set that does not?

When an established, rurally-focused business like Nextlink, dedicated to serving the unserved and employing rural Americans, chooses to participate in a federal solicitation it requires a significant contribution of private capital to fulfill the obligation and make the programs a success. Thus, when government subsidized overbuilding occurs in areas that lack sufficient subscribers to make the economics viable, it puts the entire broadband program at risk - not to mention create a tremendous waste of the limited funding.

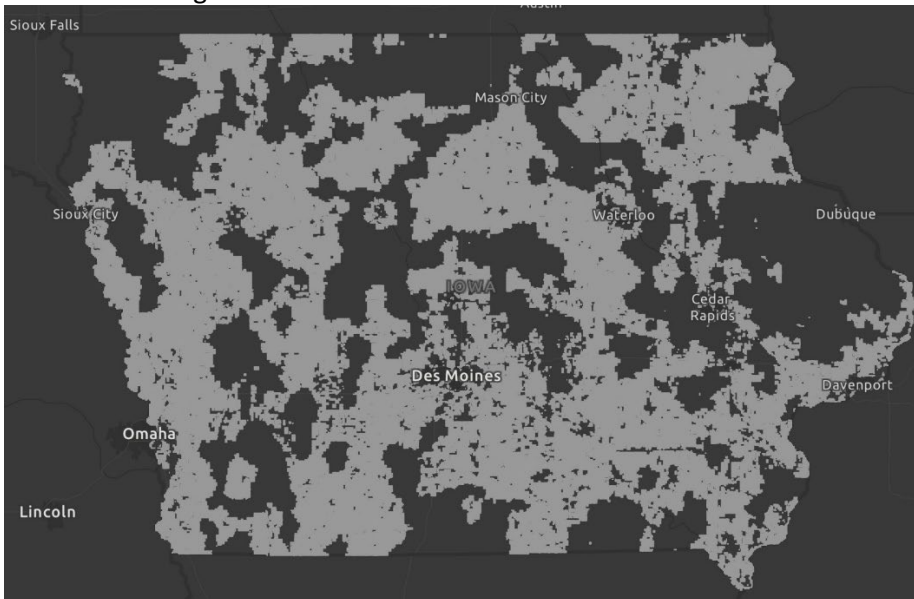
This funding scenario in Iowa is exactly the situation Congress should be looking to avoid. As the NTIA works to develop its rules for the BEAD program, we urge you to ensure that this situation does not repeat itself. It is imperative for all of the US Government to work together, Treasury, Agriculture, NTIA and the FCC to ensure that our limited resources are not wasted and that ALL Americans get access to the reliable, quality high-speed internet they deserve!

Sincerely,

Bill Baker

Bill Baker
CEO/Owner

Iowa NOFA 7 Eligible Areas



Nextlink USF Awards

