Statement by

Shirley Bloomfield

Chief Executive Officer

NTCA–The Rural Broadband Association

Before the

United States House of Representatives

Committee on Energy and Commerce

Subcommittee on Communications and Technology

"From Introduction to Implementation: A BEAD Program Progress Report"

Washington, D.C

September 10, 2024

Introduction

Chairman Latta and Ranking Member Matsui, and members of the Subcommittee, thank you for this opportunity to testify regarding the Broadband Equity, Access, and Deployment (BEAD) Program. I am Shirley Bloomfield, Chief Executive Officer of the NTCA–The Rural Broadband Association, which represents about 850 community-based companies and cooperatives that are leading innovation in rural and small-town America.

NTCA members and companies like them provide voice and broadband services to less than five percent of the U.S. population spread across more than 30 percent of the country's geography. Despite operating in the most rural parts of the country where population density averages approximately seven locations per square mile, NTCA members have worked for decades to deploy essential advanced communications infrastructure. For example, our most recent annual survey found that, on average, more than 80% of NTCA members' customers have access to fiber connectivity and 100 Mbps broadband service or better; nearly 61% of members' customers on average have access to Gigabit downstream speeds. It must be noted that most of this progress was made without the benefit of the wave of recent grant programs. Instead, this remarkable level of rural broadband deployment has largely been achieved through a mix of community commitment, private capital, loans from the U.S. Department of Agriculture (USDA) and other cooperative and mission-based lenders, and the support of the federal Universal Service Fund (USF) that has helped to make the business case for such investment, to cover the ongoing costs of operations in high-cost areas, and to help keep rates more affordable despite these higher costs of deployment and operation.

For all of this progress, however, there is more to do. We need to finish connecting those customers still awaiting higher levels of service. In rural areas not fortunate enough to be served by community-based providers, many more customers remain in need. And, of course, there is the ongoing mission of delivering universal service, which is just beginning when the network is built. We need to make sure that we do not declare victory merely when network construction is complete, but that we focus on the ultimate objective of *universal service* – ensuring that these networks and the services they enable can be adopted and used by consumers for decades to come. Put another way, our goal should not be merely *getting* consumers connected, but making sure that they *stay* connected through services that are reasonably affordable and can keep pace with demand over time.

The BEAD Program is poised to play a significant role in overcoming economic deployment barriers, representing the largest infusion of broadband deployment capital in our nation's history. To be sure, everyone probably wishes the BEAD Program was able to roll out faster, and as I will discuss further below, there are certain issues that remain more complicated than we would have hoped in finalizing implementation. But I also want to be clear on two related points:

1. Whether it is using loans, private capital, and USF support to complete construction in their own communities, or leveraging grant programs through the Department of Treasury or USDA for expansion, NTCA members have not sat around waiting for BEAD implementation. To the contrary, they have hit the ground running ahead of BEAD, representing what we believe to be the most substantial recipients of ReConnect funding, for example, and leveraging USF programs to get a jump start on next-level deployment. So, in many rural areas, broadband deployment has not stalled in anticipation of the launch of BEAD.

2. Relatedly, NTCA members have been using these other programs to spur investment in part because it was quite clear early on that BEAD implementation was going to take time. The Infrastructure Investment and Jobs Act (IIJA) contemplated a multiple-step effort that would require significant federal-state coordination, and the law required the National Telecommunications and Information Administration (NTIA) to undertake a series of rigorous processes aimed at directing funding to the best possible providers to ultimately deliver the best possible broadband in the right places. As I discuss below, there are several important concerns still to be addressed. But it was clear to NTCA and its members from the start that this program was going to take time to launch, which drove us to be so active in these other programs and our own investment efforts.

What Has Gone Well

Before turning to the outstanding issues in BEAD implementation and several areas of particular concern, it is useful to highlight several ways in which the IIJA "got it right" and BEAD implementation has gone well.

1. Sound Priorities

It is worth noting two important priorities articulated by the IIJA – (1) connecting those most in need of broadband access first; and (2) looking to build lasting networks to wherever possible before resorting to "good enough for now" connectivity options. These two priorities are critical to ensuring that our nation realizes an effective, long-term return on the tens of billions of dollars made available for this effort.

First, to avoid duplicating networks already delivering reasonable levels of broadband performance, the IIJA directed that funds should be used, in order, to: (a) connect the unserved (defined as lacking 25/3 Mbps reliable broadband); (b) connect the underserved (defined as lacking 100/20 Mbps reliable broadband); (c) connect anchor institutions; and (d) enable other non-deployment purposes such as adoption programs. NTIA, in turn, has made clear to states that they cannot use BEAD funding for any one purpose until the preceding purposes have been satisfied. These provisions should help in making sure that these funds are used to connect those most in need.

Second, the IIJA got it right in directing funds to "priority broadband projects" to the greatest extent possible, defining these as projects that will meet high levels of performance in terms of speed, latency, reliability, and consistency of service; scale over time to meet evolving needs; and support the deployment of 5G and other wireless technologies. This provision reflects a critical recognition of what was often a shortcoming in prior broadband funding programs where, despite lofty initial aims, agencies would resort in the end to "good enough for now" broadband performance targets that left everyone scratching their heads and wondering why broadband access was not better in the same areas that were just funded several years earlier.

As an analogy, many broadband thought leaders have been vocal over the years about "winning the race to 5G" in the wireless space, recognizing the importance of building networks that give our nation's consumers and businesses a competitive edge. No one is out there arguing these days for "winning the race to at least get everyone 4G LTE" when it comes to our wireless networks. The very same logic holds here – we should be looking to "win the race to future-proof networks," rather than spending $42.5 billion to win the race to "good enough for now" fixed broadband.

Importantly, however, execution of these priorities is key. NTIA initially in its funding notice sought to prioritize future-proof fiber projects rather than spend tens of billions of taxpayer dollars on networks that might be outpaced in short order. I explain further below how there is now some concern that the commitment to this priority may be eroding in certain places. We hope that NTIA and the states will hold firm. One of the worst outcomes imaginable is sitting at a congressional hearing five years from now wondering why the networks deployed through BEAD have not kept up with American demands and have undermined American competitiveness on a global stage.

2. *Better Vetting to Promote Accountability*

Another promising aspect of BEAD is the attention paid to vetting of would-be recipients of funding. While setting up the rules for and carrying out this vetting takes more time, accountability in the use of tens of billions of taxpayer dollars should be seen as a positive. Here again, lessons from prior programs are important. In the context of its Rural Digital Opportunity Fund auction, the FCC deferred rigorous vetting of would-be funding recipients until *after* they had won. Although this was intended to encourage participation in the auction, it resulted in confusion and concern when recipients' applications were rejected as deficient after the fact. To be clear, as I discuss further below, we have some concerns about the extent of some of the strings being attached within the BEAD Program – a balance is necessary. However, the greater focus in BEAD on upfront vetting of candidates is a welcome development.

3. *Additional Efforts to Use Better Broadband Maps*

The FCC's National Broadband Map is the product of painstaking work by the FCC and numerous stakeholders, and represents the best resource produced to date when it comes to identifying broadband availability. Equally true, however, is that the map remains in need of

substantial improvement, as its accuracy and reliability still miss the mark in too many places. We hear of mistakes in the underlying "Fabric" that identifies the locations to be connected by broadband; examples include haybales, rocks, and abandoned sheds. We also have seen apparent "overreach" by some providers who claim to serve tens or even hundreds of thousands of locations across far-ranging geographies with little clear basis for doing so considering the topography, spectrum propagation and resources, and other real-world conditions.

Of equal concern, our members report frequent frustration in trying to challenge these data points. When it comes to removing bogus locations from the Fabric, denials take too long to process and come with little to no explanation – even though our members are based in these very communities and could drive you out to see the so-called serviceable locations. And when they do try to challenge coverage claims, the system simply is not built to handle "disproving a false positive" across massive swaths of rural America. Unless the broadband provider in question makes the mistake of advertising the offering differently than claimed on the national broadband map, the effort to challenge availability feels herculean with limited return.

The ways in which the National Broadband Map should be fixed - through better upfront reporting standards and better designed challenge processes - warrants a hearing unto itself. But for the purposes of this hearing, I want to highlight that NTIA and the states have at least tried to improve upon the data through additional procedures. While this effort is itself a work in progress and it is unclear the extent to which it will be a success nationwide, NTCA appreciates this work – and we hope that ultimately some of the lessons learned from it might inform the work needed to make the National Broadband Map better still.

4. _Revisiting Initial Decisions_

We must also recognize where NTIA has taken feedback on some of its rules and adjusted them accordingly. For example, in response to calls from numerous stakeholders, NTIA relaxed the letter of credit requirements applicable to BEAD funding recipients, striking a better balance between the accountability needed with respect to performance and the onerous costs associated with the requirements as initially defined. Similarly, NTIA developed more workable guidance on Build America/Buy America compliance that should promote American interests without undermining the achievement of national broadband objectives. Finally, NTIA adjusted the application of certain "Part 200" rules – rigid government contracting requirements that were never a sound fit for this kind of broadband grant program.

5. _Recognition and Reiteration of the Importance of Universal Service_

Far too often, there is confusion between the one-time act of building networks and the broader national objective of providing consumers and communities with _ongoing and lasting_ access to robust, reliable, and affordable broadband service. In turn, many tend to confuse capital grants with the FCC's USF programs, conceiving of them as redundant when in fact they serve different but complementary objectives. The building of a network is a prerequisite to the achievement of universal service, but it is not the final objective in and of itself.

Given such common confusion, NTCA was delighted to see this distinction clearly called out in the IIJA and the importance of universal service explicitly recognized and reiterated by Congress. Among other things, the IIJA called upon the FCC to report on the "future of universal service" and, even more importantly, expressly instructed that the law should not be read to "reduce the congressional mandate to achieve the universal service goals for broadband."

Continuing Questions and Concerns Related to BEAD Implementation

As I noted earlier in this testimony, NTCA members have been active participants in various broadband funding programs, and they have not let the past few years pass idly in responding to the broadband needs of their communities and neighboring rural areas. We are hopeful that BEAD will prove effective in closing remaining gaps. At the same time, I must share that many of our members remain uncertain about participation in the BEAD Program. The reasons for this uncertainty include the issues discussed below, several of which were also outlined in a letter that I sent to NTIA Administrator Alan Davidson in May of this year.

1. *Lingering Mapping Uncertainty*

In the preceding section, I commended the efforts of NTIA and the states to try to improve the FCC's National Broadband Map. Despite this work, however, many flaws remain. NTIA and the states, for example, are limited in their ability to deviate from the underlying Fabric identifying which locations need to be served. We hope that NTIA will continue to evaluate ways to help ensure that lingering flaws in the map will not deter providers from participating or states from targeting funds to where they are needed most.

2. *Project Area Sizes -- Impact on Smaller Providers and Priority Broadband Projects*

The ways in which states define the minimum geographic areas for BEAD support will have substantial impacts upon what kinds of providers participate in the program and the kinds of networks that consumers will receive. As I explained in my May letter to Administrator Davidson, prior grant programs highlight that the larger the minimum project service area, the less likely it is that smaller community-based providers will participate in the program and the more likely it is that every end user in that geography will receive a less capable network.

Smaller and more flexible project service areas will entice participation by providers of all kinds seeking to compete for BEAD funds. NTCA members, for example, have historically "edged out" in deploying broadband networks, incrementally expanding their networks over time to reach more customers outside of their traditional service footprints. By contrast, requiring applicants for BEAD funding to apply to reach every unserved location in a county or school district that in some states may be as large as other states in their entirety is a recipe for promoting participation by only the largest providers – or no one at all. NTIA should encourage the states to retain flexibility when it comes to defining project service areas to maximize participation by providers of all sizes.

The size of project service areas also has an impact on what kind of broadband consumers can expect from this historic effort. As I noted earlier in this testimony, the IIJA required NTIA to focus funding upon "priority broadband projects" to the greatest extent possible. NTIA in turn determined that this translated logically to prioritizing fiber projects. To be clear, this does not mean – and it will not result in – *only* fiber projects being funded. But it does mean that the historic amount of capital funding available through BEAD should be used to deploy scalable networks as far as possible before turning to other options. As a generational investment, efficiency and effectiveness are properly measured over the life of the networks that taxpayers are paying for rather than based upon upfront cost alone.

Even with this priority, BEAD is clearly technologically neutral because alternative technologies can participate, and such technologies will in fact "win" to some degree in nearly every, if not every, state and territory. But not all technologies are equally capable. Therefore, the appropriate question is whether BEAD draws the lines correctly in deciding which locations should get more capable prioritized networks before resorting to other options. The project service area size drives the answer to this question; if areas are reasonably sized or providers can design their own, the vast majority of unserved locations in a given area might receive proposals to be connected by fiber. But if a provider must bid to serve a huge geography, it may be the case that an alternative technology is the only way to reach *every* unserved location. By way of example, a smaller project service area might permit 90% of customers in a given county to be connected by fiber, with the remaining 10% being served by an alternative technology – but if bids can only be submitted for the entire county, this may result in *no* fiber connections for that area and *only* the delivery of a less capable, less scalable alternative technology for *every* county resident.

NTIA recently released draft guidance related to the use of alternative technologies in the BEAD Program; comments on that are being filed today. While we appreciate NTIA's efforts to seek input and provide further guidance to states and territories regarding this issue, NTCA is concerned about where this could be headed. In short, we are fearful that the exception is poised, at least in some areas, to swallow the rule. NTIA's alternative technologies guidance should neither be seen nor taken by states as an excuse to water down the strong statutory priority for scalable networks through the use of unreasonably large project service areas.

3. *The Effect of Matching Funds*

The weighting of matching funds in BEAD scoring could also affect smaller providers' participation. NTIA expects states to award grants to applicants that seek the lowest "BEAD program outlay." We have seen in prior grant programs, however, that when matching funds become the primary criterion to determine which applicant wins, this effectively converts the program into a "reverse auction" where the biggest provider with the most financial resources wins – even if another provider with closer community ties, an adjacent network in place to leverage, and a dedicated interest in serving a given area offers a higher quality proposal. It is true that BEAD Program rules allow matching to be satisfied through state or local grants or in-

kind contributions, but this creates an additional level of work to locate and negotiate over such elements that larger organizations with much larger war chests need not address.

Given the spotty historical records of reverse auctions when it comes to encouraging effective broadband deployment, and rather than adopting a system that essentially empowers larger operators to "buy the business," initiatives like USDA's ReConnect program, which emphasizes quality and capability over rote prioritization of the lowest bidder, offers a better model. Without such considerations, community-based providers – who have shown up in droves for programs like ReConnect – may be discouraged from seeking to participate in the BEAD Program.

4. _Barriers to Smaller and Rural Provider Participation_

Reaching locations and entire geographies that remain unserved even today is not easy. The BEAD Program may represent one of the last meaningful opportunities to close this persistent digital divide. There is concern, however, that attaching various strings to the deployment of such networks and ongoing provision of service to those locations, along with other persistent barriers to deployment, could deter participation by smaller and rural providers.

As one example, there have been public reports related to the implementation of the "low-cost option" required by the IIJA. I have no visibility beyond these public reports, and I therefore am in no position to weigh in on them. Instead, I can only observe that in many rural markets, the distances involved, and the densities of the customer base make the offering of broadband unsustainable without support or subsidy. Many of the rural locations that lack access to reliable broadband service today are unserved or underserved precisely because the costs of serving them – both initially _and_ on an ongoing basis – exceed the amount that consumers could afford to pay for service. It is therefore much harder in rural areas to keep rates affordable as compared to urban rates, regardless of any given consumer's income. In the deeply rural areas where BEAD will provide funding, this grant of upfront capital will not by itself enable the ongoing offering of broadband at rates lower than the benchmark that the FCC's USF programs aim for or certainly what the average urban user pays. It is our understanding that NTIA has worked with states in recent months to address these concerns, and we have been pleased to see some recognition of this in the initial proposals more recently approved.

Comparable concerns arise with respect to provisions that could drive up the costs of finding labor or supplies. While we appreciate NTIA's work again to provide some greater flexibility when it comes to things like Build America/Buy America compliance, it will be important to monitor how various rules and requirements affect the costs of deployment over time. Especially as $42.5 billion flood the market in relatively short order and providers scramble to meet ambitious four-year buildout timeframes, there is concern about the impact this could have on what providers will need to pay for construction crews and broadband equipment.

Another barrier that is long overdue to address is permitting. There has been longstanding bipartisan consensus on the need to expedite the lengthy reviews that can put broadband projects on incredibly slow tracks to completion – especially in parts of the country where construction seasons are limited by weather. Yet, for all this discussion, effective change remains elusive. The administration has made efforts to process permit applications more quickly, NTIA has adopted categorical exclusions for environmental approvals, the Advisory Council on Historic Preservation has released a program comment seeking to expedite Section 106 reviews, and members of this Subcommittee have introduced a series of bills that would prompt useful steps to streamline permitting further still. Yet we continue to hear from members of lengthy delays when it comes to obtaining permits on federal lands or state and tribal historical preservation approvals.

Therefore, in addition to supporting all of the efforts described above (including the passage of measures such as Representative Carter's American Broadband Deployment Act), we believe *execution* is key – making sure that federal and state agencies are both aware of and adhere to streamlining measures, that individual reviewing offices within these agencies faithfully carry out these measures in processing applications promptly, and that these agencies have the staff resources they need to handle this workload. Indeed, with BEAD on the horizon, a flood of permit applications may only exacerbate these concerns.

One final barrier that must be highlighted – and which could candidly have the greatest impact on smaller and rural provider participation – is uncertainty surrounding the viability of the FCC's USF programs. As I noted at the start of my testimony, a mix of community commitment, private capital, loans from USDA and other cooperative and mission-based lenders, and the support of the federal USF has been critical to the remarkable rural broadband leadership demonstrated by NTCA members and providers like them. But this progress is at risk, threatening not only the prospects for smaller provider participation in the BEAD Program but even the substantial progress these providers have previously made in connecting rural America.

Specifically, despite widespread bipartisan support for the good work of the USF, and notwithstanding the fact that the program has been in place for nearly 25 years, a federal appeals court ruling recently declared the contribution mechanism for USF unconstitutional. This decision has been stayed and the government is currently seeking Supreme Court review, but this decision could nonetheless have a sizeable chilling effect on future broadband investment and participation in initiatives like BEAD. NTCA recently conducted a survey of members to determine how this decision might affect their consumers, their investment plans, and the viability of their networks. Among the key findings of that survey were:

- **If USF support were eliminated, rural Americans' broadband rates could skyrocket.**

  - Respondents reported receiving an average of $72 per month per broadband subscriber in USF support to help recover their invested capital, repay loans, and cover operating expenses.

- o If rural providers needed to recover all of this lost support from consumers, this kind of rate increase would more than double the $30 affordability gap created by the expiration of the Affordable Connectivity Program – and apply not only to low-income consumers but to every subscriber in these rural communities.

- o The high-cost USF program currently aims for benchmark rates for rural consumers of more than $90 per month for 100/20 Mbps broadband, which is already tens of dollars per month higher than the average urban user pays for such service. Without high-cost USF support, rural broadband rates might reach nearly $165 per month on average.

- **If USF support were eliminated, broadband network investments could drop significantly in the coming years.**

  - o Sixty-eight percent of respondents said they would need to cancel deployment projects next year equaling over $1 billion, representing nearly 79% of these companies' planned broadband investments for 2025.

  - o Similarly, 71% of respondents indicated they would need to cancel 2026 deployment projects, equaling nearly $900 million and representing nearly 83% of these companies' planned investments for 2026.

- **If USF support were eliminated, there is substantial potential for default on outstanding network construction loans, including many held by the federal government.**

  - o Sixty-seven percent of respondents said they have outstanding debt for prior broadband network deployments. Of that group:

    - Sixty-one percent of those respondents indicated they would likely default on those loans within the next three years if USF support were eliminated altogether.

    - Seventy percent of respondents with outstanding network debt of any kind indicated their loans were with the U.S. Department of Agriculture.

The exact impact on any rural provider or any rural community would of course differ depending on how a provider tried to address the loss of USF support in the wake of an adverse court decision. These survey results, however, underscore that it is rural Americans who ultimately will pay the price through a mix of materially higher broadband rates and materially worse broadband access, and that the negative ripple effects of such a ruling would also affect providers, capital markets, and even the federal budget.

Bringing this back to the subject matter of this hearing, if approximately 70% of smaller providers would cancel *already-planned* broadband deployments equating to nearly $2 billion in value over the next two years if USF were eliminated, one can only imagine how this will factor into deciding whether to take on *additional* investment activity – even if partially funded by a BEAD grant. I therefore implore you, as leaders in the broadband policy space who understand so well the importance of the USF programs, to support arguments that the USF is constitutional, and to stand ready to enact legislation to save the programs in the event that a negative court ruling takes effect. Restoring certainty to these critical support mechanisms must be seen as the highest priority in realizing and sustaining our shared vision of universal broadband access.

Conclusion

I would like to thank this Subcommittee for its continued oversight of the historic investment that the BEAD Program represents. As this program readies for launch, there are still several important issues and questions to address as noted above, and we appreciate the Subcommittee's attention to them. I also appreciate NTIA's continued efforts to address many of the issues that have been raised by NTCA and other stakeholders over the past few years, even as work continues to tackle remaining issues and concerns. We look forward to working with this Subcommittee, other members of Congress, NTIA, the eligible entities that will distribute BEAD funds, and other stakeholders to deliver on the goals of universal connectivity.