

**HOUSE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON FEDERAL LANDS
LEGISLATIVE HEARING
JULY 9, 2024**

**RESPONSE TO QUESTION FOR THE RECORD
FROM DELEGATE MOYLAN TO MICHAEL ROMANO, NTCA**

Question from Delegate Moylan –

Mr. Romano, can you please discuss actions Congress can take to support local broadband development and deployment in rural areas, especially in island communities?

Response by Mr. Romano –

I thank Delegate Moylan for this question and for the opportunity to provide thoughts regarding further steps that Congress can take – in addition to passing the two bills (H.R. 3283 and H.R. 3299) that NTCA supported at this legislative hearing – to facilitate broadband deployment on federal lands and in other rural areas, including especially island communities.

As an initial matter, I had the privilege of testifying in April 2023 before the Communications and Technology Subcommittee of the House Energy and Commerce Committee at a hearing entitled [“Breaking Barriers: Streamlining Permitting to Expedite Broadband Deployment.”](#) In my [testimony at that hearing](#), I highlighted a number of issues that providers far too frequently face in deploying broadband in rural areas (including specifically federal lands) and spoke in support of several still-pending bills that could help address these concerns.

For example, I shared in my prior testimony that obtaining access to federal lands for broadband facilities installation – or otherwise obtaining clearances pursuant to the National Environmental Policy Act (“NEPA”) and/or the National Historic Preservation Act (“NHPA”) is a common concern for rural providers. Given the nature of the areas these providers serve and the significant distances between customer locations and network points of presence, rural providers often have no choice but to cross a Bureau of Land Management road or touch Forest Service property, for example. Yet the process of obtaining permissions through the environmental, historic preservation, and other consultation processes required by NEPA and NHPA can take many months or even years to complete; the myriad overlay of federal (including military in some places like Guam), state, and local regulatory regimes complicate this even further. While federal agencies have undertaken commendable efforts in recent months to attempt to streamline these processes through “program comments” and “categorical exclusions,” these measures do not always apply, and providers and agencies alike may not even be fully aware when such relief is available. Thus, bills like the “Reducing Barriers for Broadband on Federal Lands Act” (H.R. 3297) and the “BROADBAND Leadership Act” (H.R. 3295) would likely be very useful to expedite deployments by giving more meaning to “shot clocks” that govern permit review and providing clearer and consistent exemptions from the most stringent layers of review for certain kinds of projects.

Relatedly, we often hear from small rural providers – including network owners in Guam and other island communities – particular frustration with the process for upgrading existing network facilities in existing rights-of-way. As I mentioned at this legislative hearing on July 9, it makes little sense to require providers to jump through significant hoops simply to replace one technology with another in an existing right-of-way where there is previously disturbed terrain. This concern is both a deterrent to upgrading networks in the ordinary course of business to deliver better services to consumers, and it can be of even greater importance and impact when a provider is looking to restore existing networks on islands like Guam that can from time to time contend with severe weather such as typhoons. Especially given the desire for resilient networks (and particularly in areas like Guam where mission-critical networks serve strategic national interests), the ability to upgrade plant in existing rights-of-way with buried infrastructure that can even better withstand natural disasters should be seen as an essential aspect of improvements to permitting processes.

We would also submit that Congress could play an important role by ensuring that the fees associated with permitting and use of public rights-of-way are reasonable and do not saddle the relatively fewer customers in rural areas with even higher costs for deployment. One example of legislation that could address this concern is the “BEAD FEES Act” (H.R. 3298), which would, at least in the context of the upcoming Broadband Equity, Access, and Deployment (“BEAD”) program, prompt states and territories to ensure that fees for access to public rights-of-way and other areas necessary for deployment of BEAD-funded projects will be cost-based and publicly disclosed.

Finally, as I mentioned at the July 9 legislative hearing, even the best streamlining measures still depend ultimately upon sufficient resources in terms of skilled staff within federal, state, and local permitting agencies to process applications promptly. As the hearing reinforced, many of these agencies already face a growing backlog of applications – and as programs like BEAD are poised to inject tens of billions of dollars more into much-needed broadband deployment – these backlogs are likely only to grow unless smart streamlining is paired with attention to the skilled workforce needed at all levels of government to make sure the streamlining works as intended and designed. We would urge Congress to probe further into these concerns as well, so that any legislation adopted to improve permitting procedures can in fact realize its promise.