TESTIMONY OF JAMES ASSEY

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NCTA – THE INTERNET AND TELEVISION ASSOCIATION

on

Closing the Digital Divide in Rural America

before the

Committee on Agriculture

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Chair Thompson, Ranking Member Scott, and Members of the Committee, thank you for inviting me to discuss our members' experience with USDA's broadband funding programs and our suggestions to make these programs even more successful. My name is James Assey, and I am the Executive Vice President of NCTA – The Internet and Television Association ("NCTA"). NCTA represents the nation's largest broadband providers, which construct and operate fiber-rich high-speed internet networks that reach over 77% of the U.S. population, including a large and growing number of rural homes and businesses.

Over the last few years, our nation's response to challenges arising from the pandemic has put a renewed urgency and spotlight on the importance of ensuring every American can access the internet through a high-speed connection. In common cause, our industry has risen to that challenge, accelerating the pace of innovation and forging new broadband connections both throughout and outside their traditional service areas. Collectively, cable ISPs have invested more than $185 billion in private capital over the last decade to build and upgrade networks across America, including $21.7 billion in 2022 alone. This capital has extended the collective reach of cable broadband networks, adding about 6.4 million households between December 2018 and December 2021, nearly a third of which are rural households.

But, just as important, this massive investment has revolutionized the capabilities of these networks and their value to consumers, leveraging new technology and rapid innovation to launch the development of cable's 10G platform that is bringing 'speed at scale' to millions across America. Currently, 99% of U.S. homes passed by cable are capable of receiving a 1 Gigabit service from their cable ISP. And with even more scalable, technological innovation on the horizon, the future, widescale diffusion of networks offering 10 Gigabit connections to U.S. households is well within view.

The dividends of these investments are not only collected in urban and suburban environments, but also increasingly in rural communities where the high-speed capabilities of cable broadband networks are bringing world-class broadband to rural communities throughout the country. Charter and Comcast alone serve nearly a third of all rural homes and businesses. In fact, when robust, high speed broadband is available in rural America, it is more likely to be from a cable provider than any other platform:

RURAL UNITS SERVED
(Total U.S. Rural Units = 36.7 Million)

Tech	Number of Rural Units Served (millions)	Service Available at 100/20 or better (millions)	Service Available at 1 Gig or better (millions)	% of Rural Footprint at 1 Gig or better
Cable	17.5	17.1	16.4	94%
Telco (including copper, fiber, and fixed wireless)	20.1	5.5	4.4	22%
Fixed wireless	29.0	4.8	0.5	2%

Source: FCC National Broadband Map

Despite this growth and these significant advances, we know that the job is not yet done and the challenges ahead are formidable. Unserved communities generally lack broadband facilities for one primary reason – they are prohibitively expensive to serve. The cost of deploying infrastructure over expansive, difficult terrain is often exponentially higher than other areas. At the same time, the potential revenue to offset those expenses is inversely less where fewer people and businesses reside. Government funding is essential to offsetting these dynamics and incenting companies to serve those communities.

At USDA, one of the most promising programs to help cable and other ISPs reach

unserved households in rural areas had been the Rural eConnectivity program run by the Rural Utilities Service ("RUS"), better known as the "ReConnect" program. Unlike other RUS broadband funding programs, this program was, at its creation, tightly focused on helping to direct capital investment in building broadband networks in unserved areas through a competitive process that, in distinction to past practice, allowed all providers to participate and compete on a level playing field.

Over the last five years, the cable industry worked extensively with RUS and Congress to make significant improvements to the ReConnect program, making it easier and more attractive for competitive providers, who were not traditional recipients for RUS support, to participate. Some progress has been made. For example, RUS has taken needed action to modernize outdated application and data requirements that were overwhelming for many would-be applicants to assemble, especially for providers with nationwide operations.

Unfortunately, more recent updates have created new obstacles. Changes to the program have made winning funding awards extremely difficult for cable ISPs, and have clouded the program's focus away from unserved areas. Specifically, RUS has changed the scoring methodology for the program and injected new bias so that certain providers – in particular, municipalities, nonprofits and cooperatives – get an automatic significant scoring preference, as do those that build using unionized contract labor. Additional points are awarded for those providers willing to agree to onerous open access mandates, which most providers are not willing to do.

These calculated changes impede fair competition and have made it extremely difficult for cable ISPs to secure funding, even when they seek to serve areas where no one else wants to deploy. In addition, the agency's action in significantly relaxing the required minimum

percentage of unserved homes required of project applications has created new problems and drawn dollars away from areas where they are most needed. Indeed, scarce resources that should be directed toward bringing service to unserved households are instead being used to subsidize network overbuilds in ways that further challenge the economics of serving remote areas, and worse, do nothing to reduce the number of unserved households.

Beyond considering the internal changes required to promote greater efficiency and effectiveness of RUS programs, the next Farm bill must also grapple with the external challenges of encouraging greater coordination and consistency among a number of federal and state agencies that will similarly focus on closing the digital divide. To promote efficiency and minimize waste, it will be more important than ever that we direct greater coordination and collaboration among federal and state agencies engaged in similar efforts. With so many billions of federal funding dollars being focused on broadband expansion over the next several years, we believe that it is more important than ever to get these programs right and to put controls in place that will prevent inefficiency and waste.

As the committee considers these issues, we believe that matters addressed in the Rural Internet Improvement Act, introduced by Representatives Cammack, Soto, Jackson and Perez, would go a very long way toward making needed changes and establishing clear congressional direction. Most notably, the Rural Internet Improvement Act provides important protections against overbuilding, modernizes eligibility rules, reduces excessive data burdens in both the application and funding phases, and calls for substantially increased coordination among the various agencies distributing broadband funding.

Cable's Decades Long Commitment to Rural America

Before discussing cable's experience with USDA funding programs, I want to underscore

that cable ISPs have made it their mission to ensure that our most rural communities are at the leading edge of technology.

Our growth in recent months has included important progress in reaching previously unserved areas, thanks both to cable's commitment to invest in rural areas and to partnerships with the FCC, through its CAF II and RDOF auctions, and with the states we serve. For example:

- **Cable's Private Investment in Rural Areas**
    - Comcast invest billions of dollars every year to expand and evolve its network—more than $20 billion from 2018-2022 alone, and $33 billion in the past decade. Comcast added 813,000 new passings in 2021, and an additional 840,000 in 2022, including many in rural areas. The company recently announced that it is further accelerating connecting more homes, by planning to pass 1 million additional new addresses in 2023, bringing the total new passings in just three years to 2.65 million homes.
    - Charter also continues to invest billions of dollars every year to expand and evolve its network—more than $40 billion from 2018-2022 alone. Charter has also committed to significant expansion in rural areas in states across the country. In March, Charter announced a $12 million commitment to rural broadband expansion in Maine, which will bring gigabit-speed broadband access to over 3,500 unserved homes and small businesses in several towns in Somerset and Oxford counties. Concurrently, Charter announced an investment of approximately $70 million in Maine, part of a companywide network evolution that will enable the delivery of symmetrical and multiple gigabit speeds across the state. This 100% Charter-funded investment is expected to be substantially complete across the company's Maine service area, which comprises more than 700,000 homes and businesses, by the end of 2025.
- **Cable's Partnerships with Government To Bring Service to Unserved Areas**
    - Charter Communications plans to build nearly 100,000 miles of new U.S. broadband infrastructure through its RDOF expansion alone – a distance that would circle the equator more than four times. As part of that commitment, Charter announced a $5 billion investment that will connect more than 1 million unserved, mostly rural homes and small businesses to reliable, high-speed broadband service at speeds up to a gigabit per second. While the RDOF funds will go a long way to connecting people, approximately $4 of every $5 of this buildout will come from private capital invested by Charter – they and other cable ISPs are investing their own funds to connect people in rural areas.

- In addition to RDOF and federal programs, Charter has participated in dozens of state broadband funding rounds and hundreds of local funding opportunities, earning subsidies to build to more than 300,000 locations since 2021. For example, through Louisiana's Granting Unserved Municipalities Broadband Opportunities ("GUMBO") program, which was funded through the ARPA, Charter was awarded more than $10 million in grants to support broadband expansion across three Louisiana parishes. Upon completion, this investment will deliver high-speed internet access to more than 2,000 currently-unserved homes and businesses.
- Comcast has been awarded grants from federal, state and local programs in 24 states, including multiple awards to build out its gigabit broadband network to homes that are unconnected to broadband today, including more than 30,000 unserved homes in Georgia and over 51,000 in Florida.
- Comcast has also been awarded funds from Pennsylvania's Unserved High-Speed Funding State Program to reach unserved homes in Lycoming, Armstrong and Union counties, as well as from the Build Illinois Bond Fund, ARPA/Connect IL Round 2 to bring service unconnected homes in Whiteside county.
- In 2022, Cox committed hundreds of millions of dollars to expand its fiber infrastructure to provide best-in-class high-speed internet to un- and-underserved areas. This included establishing a Market Expansion Team ("MET"), which is solely focused on expanding Cox's network to un-and-underserved areas beyond the existing service area. The MET supports Cox's focus on advancing digital equity by bringing Cox's robust network to communities without broadband in a world where communities need to be connected to thrive. Since 2022, Cox has successfully secured nearly $100 million in grant funds and matched that with more than $100 million in private capital to extend services to almost 50,000 homes in 8 states, in addition to many wholly self-funded projects. Through these partnerships, Cox has activated service in about 30 previously unconnected communities with more currently under construction, and that's just the beginning. Looking ahead 12 months, Cox plans to more than double that number.
- Mediacom was awarded $13.4 million in grant funding from the state of Alabama, to help extend broadband to nearly 20,000 locations there. Its new locations will span multiple counties, including locations in northwest Baldwin County, southwest Escambia County, and Mobile County.
- In Sherburne County, Minnesota, Midco is utilizing private capital, RDOF funds and local partnerships with the county and six townships to complete several broadband expansion projects. From 2020-2024, nearly 10,000 homes and businesses in the county will be connected with over 1.5 million feet of new broadband infrastructure constructed. In total, Midco's investment in Sherburne County since 2020 is over $32 million.
- In Alaska, GCI is deploying fiber to some of the most remote communities in

the country. GCI paired $25 million in ReConnect funds with over $50 million of its own capital to support its Alaska United - Aleutians Fiber Project, which provided terrestrial broadband service for the first time to Unalaska/Dutch Harbor and five other communities – King Cove, Sand Point, Akutan, Chignik Bay, and Larsen Bay. GCI also has been awarded a $31 million ReConnect grant in support of its Lower Kuskokwim Fiber Expansion Project, which will bring fiber-optic infrastructure to five Yukon-Kuskokwim Delta communities in Western Alaska.

- **Cable's Innovative Solutions to Support Rural Communities**
    - Nestled alongside a pond and horse farm in rural Eastover, South Carolina, is Camp Cole – a fully accessible camp and retreat facility for children, teens, and adults facing serious illnesses and other physical, mental, and emotional health or life challenges. Internet connectivity is critical to providing many campers with the resources they need, including monitoring medical devices, conducting video calls with doctors and care providers, and ensuring counselors can communicate across the campus. During construction of the Camp Cole facility, camp staff reached out to Charter about getting the rural property online. Within a few short months – and at virtually no cost to them – Camp Cole was connected to Charter's high-speed Spectrum Internet, and today campers and staff enjoy 300 Mbps speeds across the property.
    - In Colorado, Charter has used various wireless technologies such as 5G, Wi-Fi, and Citizens Broadband Radio Spectrum ("CBRS") spectrum to deliver service to transform how Wells Bridge Farm does business. Wells Bridge Farm was able to deploy a Wi-Fi network and enable connected sensors to provide enhanced security to the farm's main gate and real-time glimpses into what was occurring on the farm, and with the animals, offering opportunities for proactive care for the horses and enhanced productivity for the farm. The success of this wirelessly connected smart farm now paves the way for similar digital solutions in other communities.
    - Midco relies on an existing broadband network to connect relay towers, thereby extending a signal miles beyond where the physical wires stop. Midco uses traditional towers, as well as grain elevators or water towers, to reach homes or farms miles away from those wired networks. This means they can still receive broadband service without the need for an ISP to lay miles and miles of fiber in challenging terrain. Midco, which serves communities throughout South Dakota, North Dakota, Minnesota, Kansas, and Wisconsin, has championed the use of fixed wireless for precision agriculture. Some of these communities have fewer than 100 people, with miles and miles of land separating one neighbor from the other.

These examples underscore cable's commitment to expand networks and reach those areas that need it most.

While cable ISPs are reaching new homes with broadband fiber every day, they also

remain keenly aware that government funding will be needed to reach places where challenging terrain or other factors make private investment alone too uneconomical. For broadband to reach rural America as quickly as possible, it is critical that funding programs be technology-neutral, encourage the broadest participation of qualified broadband providers, and be as flexible as possible. And that leads me to our current concerns about the current direction of the ReConnect Program and other broadband funding programs administered by RUS.

Restoring Program Focus and Continuing Needed Coordination Will Help Rural America

As further rural buildout intensifies in the coming years to reach more unserved communities, the effectiveness of RUS broadband programs will depend on congressional action to restore a clarity of purpose and to promote coordinated and consistent action that promotes fair competition. Recent changes to the ReConnect program have significantly shifted the focus of this program away from the portions of rural America lacking broadband access. This shift should be reversed.

First, Congress should act to restore ReConnect's focus on unserved areas and establish a common understanding of what it means to be "unserved." While the original ReConnect program required that at least 90% of households in a project area qualify as unserved to be eligible for funding, the most recent round of funding significantly relaxed this requirement and considered areas to be eligible for funding even when as many as 50% of households already had access to broadband service. The most likely result of this change is that monies will be diverted from the areas that are 90% unserved, which are typically the hardest areas to serve, and those areas will remain unserved.

The agency also has changed the speed thresholds used to determine when an area already has "sufficient" access to broadband service, which has clouded the agency's

commitment to focus scarce resources first on reducing the number of households without any acceptable broadband connectivity. When eligibility is restricted to areas that do not receive a basic level of broadband service, such as 25/3, we know that funding will be used to bring broadband where it did not previously exist. But when areas with some level of service are defined as eligible for funding on a par with those with nothing, providers will naturally pursue those projects that are less expensive to deploy broadband to, *i.e.*, those with better potential economic return, while those areas most in need of assistance will again end up at the back of the line.

This needs to change. There should be an absolute priority for qualified applications to extend service to areas without 25/3 service, and most funding should be put to that use. For example, you could provide that 75% of the funding needs to be for projects without 25/3, or you could provide that no funding could be granted for projects in underserved areas (those that have service that is between 25/3 and 100/20 speeds) until at least 80% of areas lacking 25/3 have been covered.

Additionally, RUS does not sufficiently take into account where areas are already being built out due to awards from other government programs when it determines which areas should be considered unserved. Allowing government broadband programs to grant funding in places where other government awards have already been committed for broadband construction dangerously decreases the effectiveness of the program. For example, NCTA member Midco was overbuilt by two ReConnect awards in rural South Dakota, even though it was already building a fixed wireless network serving those areas that was being partially funded by an FCC grant. Because Midco had not yet finished construction, the area was still considered "unserved," and so its challenges to those funding awards were denied. Programs need to be

coordinated so that there is a common understanding of eligibility, one that takes into account areas already funded for deployment.

Second, Congress should direct RUS, in reviewing applications, to limit scoring preferences to those that relate to applicant experience or platform performance. Points for being a particular type of entity (*e.g.*, an electrical or gas cooperative), or for agreeing to assume extra regulatory obligations (*e.g.*, particular wage standards) do nothing to ensure that broadband networks will reach rural America quickly and will be run well, and are simply inappropriate vehicles for directing funding to favored providers.

Third, as it has in other broadband programs, Congress should ensure that performance standards (sometimes referenced as "build to" speed requirements) retain some element of flexibility to produce solutions that are forward-leaning, but also robust and cost-effective. As we have seen in the context of the FCC's RDOF auction, an open competitive process for subsidy awards can be structured to incent extremely robust and scalable platform solutions, but too high a performance threshold can also lead to situations where requirements preclude some areas from attracting willing providers. Programs need flexibility to accommodate different technological solutions, and guidelines for identifying those areas where flexibility can and should be accommodated. States may offer a helpful guide in delineating such areas. The BEAD Program, for example, allows states to designate an "Extremely High Cost Per Location Threshold," above which the State can pick a proposal using an alternative technology when doing so would be less expensive, ensuring that the very highest cost areas are not ignored if they cannot be served effectively by fiber.

Fourth, there are significant, burdensome data requirements in the ReConnect program, such as those designed to evaluate an applicant's financial viability. The application process

should be simplified by limiting the amount of data to what is truly required to evaluate an applicant's viability. For financial requirements, RUS should allow applicants to demonstrate financial viability in various ways beyond an exclusive first lien on grant-funded assets. For example, an applicant should be permitted to rely on a bond rating performed by an expert credit rating agency to establish their financial viability.

Finally, with numerous federal agencies and nearly all states dedicating funding to broadband deployment, it is increasingly important to ensure that all relevant agencies, and to the extent possible state programs that are awarding grants for buildout, are aware of current awards so as to ensure that government support is coordinated and being used efficiently to reduce the number of unserved households and to help achieve the goal of universal connectivity. The recent Memorandum of Understanding Regarding Information Sharing between the FCC, U.S. Department of Agriculture, the National Telecommunications and Information Administration of the U.S. Department of Commerce, and the U.S. Department of the Treasury is an important first step towards reaching that goal, but further actions will be required in the coming years as the pace of grant activity and broadband construction intensifies.

One important aspect of coordination would be to take steps to make the programs, their eligibility standards, and their requirements as consistent as possible. Entities seeking funding should not be able to "forum shop" for the least restrictive program. NCTA member Midco faced a situation where they successfully challenged a provider under the ReConnect program from overbuilding their network in rural North Dakota, but the applicant responded by applying for funding in that same area under the ARPA Capital Projects Fund program, and succeeded in obtaining funds to overbuild Midco's existing service.

To avoid this result, government entities awarding funding for broadband infrastructure

(including RUS) should promptly report those awards to the Federal Communications Commission, so that maps used for granting broadband funding are consistent, and everyone works off a common data set in determining areas eligible for funding. Ideally, maps should show all areas where federal, State, or local funding has been awarded pursuant to enforceable commitments, so that remaining dollars can be targeted at the areas not yet covered. Programs should work together towards the common goal of connecting more Americans and reducing the rolls of the unserved.

Why the Rural Internet Improvement Act Would Improve RUS's Broadband Programs

As the committee considers a new Farm bill, one promising piece of legislation to draw from is the Rural Internet Improvement Act of 2022. It would make many key improvements to the ReConnect program, enhancing participation and results, so that broadband reaches rural America faster. In particular, it would –

- Target funding to the neediest rural areas, by limiting all types of funding to areas in which at least 90% of households lack access to broadband, with the highest possible priority for applications proposing to serve areas without 25/3 service.
- Update the minimum build-out speed requirements to 100/20, which is a reasonable speed that allows for different technological solutions.
- Protect against wasted dollars by excluding funding in areas where a provider has been granted funding under another federal, State, or local broadband funding program, or where a provider is otherwise required to build broadband by a federal, State or local government entity (except that the provider who secured such funding could obtain additional ReConnect funding if they used such funding for different, non-duplicative expenses, or they agreed to build broadband with faster speeds or expedited deployment milestones than were originally required).
- Simplify the application process, by limiting the amount of data required in applications to the greatest extent practicable, including allowing applicants to demonstrate financial viability in the least burdensome way and requiring the Secretary to establish means by which applicants can offer various forms of loan collateral and security, not just an exclusive first lien on grant-funded assets. For example, it would allow a company with a sufficient bond rating to use the bond rating to establish their financial viability, and would generally require a much closer look at whether all the data required to apply for funding is really relevant and necessary.

- Establish better communication between federal agencies when awards are made and improve the challenge process, so that money is spent transparently and does not duplicate other agencies' efforts.

These changes would go a long way towards our shared goal of connecting rural America, and we ask you to give them careful consideration to incorporating them into any program revisions. We also urge that you avoid any changes that would compromise program efficiency and sacrifice needed focus, and that you ensure that RUS give all applicants equal consideration, even if they are not prior borrowers. If ReConnect is reoriented to its original focus, it can succeed in making meaningful contributions to bringing broadband to rural Americans currently lacking service.

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In closing, I commend the Committee for its focus on ensuring that the billions of dollars being spent on broadband deployment benefits all Americans – including those in rural America. Progress has been made in some federal and state programs to target funding at unserved areas, largely by improving the design of those programs to better identify unserved areas and by defining broadband service in a way that prioritizes people living in hard-to-reach areas that may require a menu of technologies to serve each and every household. We hope that the ReConnect program and other new programs will be changed so that they are implemented with similar goals and guardrails in place. Thank you again for inviting me here today, and we look forward to working with you on these important issues.