

**TESTIMONY OF JUSTIN FORDE**

**VICE PRESIDENT OF GOVERNMENT RELATIONS  
MIDCONTINENT COMMUNICATIONS**

**on**

**Rural Broadband:  
Connecting our Rural Communities to the Digital Economy**

**before the**

**Committee on Agriculture, Nutrition and Forestry  
Subcommittee on Rural Development and Energy**

**UNITED STATES SENATE**

**WASHINGTON, D.C.**

**May 17, 2023**

Chair Welch, Ranking Member Tuberville, and Members of the Subcommittee, thank you for inviting me here to discuss Midco's experience with federal broadband funding programs. My name is Justin Forde, and I am the Vice President of Government Relations at Midcontinent Communications ("Midco"). Midco is the leading provider of reliable, high-speed internet via fiber and fixed wireless technology. By 2025, Midco will deploy 10G, the next great leap for broadband – while expanding our fiber network to rural areas. Midco also delivers TV services including Midco Sports, which is a regional sports network, phone, data center and advertising services, plus wholesale networking solutions.

More than 490,000 residential and business customers count on Midco services across five states: South Dakota, North Dakota, Minnesota, Kansas, and Wisconsin. Midco communities range from fewer than 100 people in places like St Leo, Minnesota, to our largest community, Sioux Falls, South Dakota, which has a metro population of nearly 290,000. The majority of the approximately 450 communities we serve are very rural. Many have less than 50,000 people, with most having populations between 500 and 5,000.

The last few years have put a renewed spotlight on the importance of broadband connectivity for all Americans. At Midco, we have risen to the challenge of connecting as many people as possible throughout our service area. We have invested over \$765 million in private capital in the last six years to extend and upgrade our fiber network. Collectively, cable ISPs have invested more than \$185 billion in capital over the last 10 years to get America connected, including \$21.7 billion in 2022 alone. Since 2019, over 9.2 million new households have been connected to the internet. Currently, over 94.5% of US homes have access to terrestrial broadband service that offers speeds of at least 25 Mbps download and 3 Mbps upload – and in the homes served by cable, 99% have 1 Gigabit service available. At Midco, we provide Gigabit

service to 100% of the largely rural communities we serve with our fiber network.

But we need to solve the remaining broadband deployment challenge of connecting those who do not have internet available – primarily in the most rural areas that are difficult to serve in a cost-effective manner.

Unserved communities lack broadband for one reason above all others – they are prohibitively expensive to serve. The cost of deploying infrastructure over expansive, difficult terrain is exponentially higher than other areas. At the same time, the 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 build.

Many of Midco’s service areas are adjacent to areas that are not economical to serve without federal assistance, and we have sought and obtained funding through a variety of federal and state programs to assist with expanding to those areas. We received \$38.9 million from the FCC’s CAF II auction to build fixed wireless and \$4.9 million from RDOF to build fiber to the home networks. To-date, Midco has been awarded nearly \$22 million from state and local broadband programs, using a mix of local and state funding sources, as well as various COVID relief allocations distributed to state and local governments by the federal government. This \$22 million has been matched 1:1 by private investment from Midco.

Initially, one of the most promising programs that we believed would be critical to helping us reach the remaining households in our rural areas was the Rural eConnectivity program run by the Department of Agriculture’s Rural Utilities Service (“RUS”), better known as the “ReConnect” program. Unlike other RUS broadband funding programs, it was tightly focused on helping get broadband to unserved areas and it did not give a preference to past borrowers, so we believed we had a fair chance to compete.

We were originally barred from participation, because our company is legally organized as a partnership, but we worked extensively with RUS to obtain an informal waiver of the ban on partnership participation. More generally, the cable industry worked with RUS and Congress to make significant improvements to the program, making it easier and more attractive for providers to participate. An example of this is reducing data requirements that were overwhelming for a company like Midco to assemble.

In the recent past, however, Congress has changed this program significantly, making participation for companies like Midco far more difficult – and winning funding awards nearly impossible. These changes have taken the focus away from unserved areas, meaning that our networks are being overbuilt with government dollars and the program is not resulting in a meaningful change in the number of rural households gaining broadband access.

With so many billions of federal funding dollars being focused on broadband expansion, we believe that it is more important than ever to get these programs right. I'm here today to offer my thoughts on how to reorient the RUS broadband funding programs so that they meaningfully improve rural America's broadband access. And specifically, as I will discuss, Midco believes that the Rural Internet Improvement Act, introduced by Senators Thune and Lujan, would go a very long way toward this desperately needed course correction. Most notably, the RIIA 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.

### **Midco's Long History of Commitment to Rural America**

Before discussing Midco's experience with funding programs, I want to explain how we have innovated to provide broadband to rural communities in various ways. Innovation and

foresight have shaped Midco's course for more than 90 years. We have made it our mission to ensure that our most rural communities are at the leading edge of technology. Across our footprint, our goal is to continue to find ways to meet and exceed the communications needs of our customers.

Founded in 1931, Midco began by operating movie theaters, and then entered the radio business. In 1954, our owners launched the first television station in South Dakota. From there, Midco evolved its service line to include cable television and phone service. On April 15, 1996, in Aberdeen, South Dakota, a town of about 25,000 people then, Midco launched our broadband internet service.

Our commitment to innovation continues to motivate our business initiatives. We own and operate multiple data centers in North Dakota and South Dakota to give local businesses a cost-effective way to secure their critical data and IT infrastructure. We provide solutions for regional and national banking, healthcare, energy, and government customers, among many other industries. We combine our data center services with powerful network solutions through our wholly owned, operated and engineered Midco fiber network. Our data centers are directly connected to our fiber backbone, giving local businesses access to some of the fastest internet speeds in the country.

Midco's willingness to evolve stems from our desire to serve the communities where we live, work, and educate the next generation. In 2017, we launched the Midco Gig Initiative – a commitment to bring Gigabit internet speeds to our entire service area – from the region's smallest towns to its largest cities. This initiative was successfully completed in 2022. In 2019, we announced our involvement in cable's 10G initiative, a plan to deploy ultra-high-speed multigigabit symmetrical connections, combined with low latency, unmatched reliability, and

rock-solid security for a broad range of customers. In 2021, in furtherance of this commitment, Midco launched its Fiber Forward initiative. The initiative is a \$500 million investment in next generation technologies to upgrade our existing network and expand to new communities, doubling our Midco-owned fiber network mileage.

Fiber Forward will use Midco's robust fiber network and next-gen fiber tech to deliver 10G speeds, incredible reliability and increase performance to support what's next in revolutionary innovations. Throughout this year, we will expand and upgrade our fiber network in more and more places. We have just announced plans to begin construction in multiple rural communities that will benefit greatly from this future-proof investment.

Today, 100% of Midco's wireline customers across our footprint are receiving service that exceeds 1 Gig speeds, and we already offer 5 Gig speeds to 6% of those customers. Our growth has included important progress in reaching previously unserved areas, thanks in part to our partnership with the FCC through its CAF II and RDOF auctions, as well as our partnerships with the states we serve. In 2022 alone –

- We used private capital to carry out a Fiber Forward initiative in Grand Forks, North Dakota. This \$25 million project will result in more than 40,000 homes and businesses in Grand Forks benefiting from our future-proof investment.
- We entered into a collaboration with farm cooperatives Crystal Valley and Land O'Lakes Minnesota to expand broadband internet access through multiple initiatives, including (1) to residents of Trimont, MN and the surrounding community by installing high-speed broadband technology to three area towers so that 1,595 residents in the rural area who were unable to access adequate broadband service at their homes could gain connectivity; (2) to 1,200 residents of Hope, Minnesota and surrounding areas; and (3) after installing high-speed broadband technology on one tower in the Madelia area at Crystal Valley's location, to 1,500 residents in rural areas who had lacked adequate broadband service at their homes.
- We continued construction on 120 miles of new fiber along Minnesota's Highway 10 corridor in Hawley and Detroit Lakes. By the end of 2022, 1,200 Detroit Lakes homes and businesses had access to fiber internet, and we plan to connect

another 2,000 sites in 2023. In Hawley, we serve 765 homes and expect to serve the entire community by summer of 2023.

- In Sherburne County, Minnesota, Midco has and plans to continue to utilize 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 \$32M.
- We began construction on 300 miles of new fiber in St. Croix County, Wisconsin, which will connect 10,000 homes and businesses over the next few years.
- In Minnesota, we partnered with Koochiching County, Koochiching Technology Initiative, and North Star Electric Cooperative to connect 231 International Falls homes along Rainy Lake and Highway 11 with fiber-to-the premises offering symmetrical, low-latency connections of up to 5 gigabits per second.
- We began a \$3 million private capital investment to bring fiber-to-the-premises services to more than 1,800 homes and businesses in Hartford, South Dakota.
- In North Dakota, we invested nearly \$400,000 to upgrade our fiber network in the Grafton area and bring faster speeds to nearly 3,000 homes and businesses.
- We were awarded two grants through the Minnesota Office of Broadband Development's Border-to-Border Broadband Program: \$1.6 million to cover a portion of our planned \$3.3 million deployment to improve connectivity to hundreds of homes, businesses and farms in Bradford and Springvale Townships in Isanti County, and an additional \$975,000 to cover a portion of the \$1.9 million to improve connectivity in unserved and underserved areas of Forest Lake, Minnesota.

These examples are a testament to our continued commitment to reach those who are unserved or underserved to the greatest extent possible.

### **Midco's Innovative Approach to Getting Broadband to Remote Areas**

As evidenced by the examples above, Midco is reaching new homes with broadband fiber every day. But we also remain keenly aware of the challenging topography of the states we serve – which includes mountains, granite cliffs, vast farmlands, the Iron Range, the Badlands and protected national forests. This topography means that reaching everyone by fiber may not

always be feasible, and so we are constantly innovating to combine different technologies to tailor our offerings to the needs of each customer or community.

While in many cases, fiber is best, we have been able to reach many other rural communities with broadband by leveraging our extensive fiber backbone through our Midco Edge Out® strategy. We “edge out” our high-speed internet from our fiber backbone in urban areas to rural areas using fixed wireless technology. We use the initial fixed wireless expansion from our wired plant to meet customers’ immediate needs, and then, when appropriate, leverage that expansion to justify a wired network buildout and repurpose the fixed wireless equipment to serve other rural communities. While some rural areas may support a future wired build, other, more remote rural areas will continue to be served with a fixed wireless solution.

Midco believes in the power of fixed wireless to bridge the digital divide and enable our Midco Edge Out® strategy so much that we spent \$8.8 million to acquire spectrum in the FCC’s Citizens Broadband Radio Service auction in 2020. This spectrum not only allows us to offer speeds of more than 100/20 Mbps at distances up to eight miles from the vertical asset, but it also gives us access to crucial mid-band spectrum to continue innovating. As an example of this continued innovation, Midco recently deployed new fixed wireless equipment for testing in rural Minnesota that is currently delivering 500/100 Mbps to customers.

Fixed wireless allows us to reach remote, rural areas that are up to 50 miles away from our fiber network in areas where it will never be practical – or sometimes, even possible – to build fiber. We can also implement this solution relatively quickly, even during the winter months, when harsh weather makes fiber construction impossible.

For broadband to reach rural America as quickly as possible, it is critical that the programs be technology-neutral, encourage the broadest participation of qualified broadband



providers, and be as flexible as possible. Setting high “build to” speed thresholds that can only be delivered by a fiber network build may sound helpful, but in practice will continue to leave many behind. And that leads me to our current concerns about the ReConnect Program and other broadband funding programs administered by RUS.

### **Why ReConnect is Not Helping Rural America as Much As It Could**

Recent changes to the ReConnect program over the last few years have significantly shifted the focus of this program away from the portions of rural America lacking broadband access.

*First*, while rural areas originally had to have 90% of households unserved to be eligible for funding, the most recent round allowed funding in areas where as many as 50% of households already have access to broadband service. Broadband programs should target funding to truly unserved areas, where private investment is not going to occur without government assistance but consumers need to be connected.

Allowing government broadband programs to grant funding in places that already have broadband service, or are already about to have such service through a different government funding program, dangerously impacts providers’ incentive and ability to keep building in those areas. Midco was overbuilt by two ReConnect awards in rural South Dakota, even though we were building a fixed wireless network serving those areas that was being partially funded by a Connect America Fund Phase II Auction FCC award. Because Midco had not yet finished construction, its challenges to those funding awards were denied. Today, this network is active and this area is served by two providers, one who received funding from USDA and one who received funding from the FCC.

We believe that scarce government resources should protect against overbuilding and be

targeted to those who will build out to consumers who will not otherwise gain access to all the benefits broadband provides, for jobs, education and health care services, without those resources. Only by directing new broadband funding where it is truly needed can we ensure that broadband funding programs will make meaningful headway in closing the Digital Divide.

*Second*, the level of broadband service required for an area to be considered “served” has been raised, resulting in the strong likelihood that government dollars will not be put to their highest use because they will be used for overbuilding rather than expanding to new areas. 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 are defined as eligible for funding unless they have a higher level of service, many areas where we and others have invested heavily, including through public/private partnership programs, are suddenly considered “unserved.”

As a result, nearly all broadband funding from all government sources is now going to people that already have 25/3, since the new 100/20 standard has been added to programs like ReConnect. The exact same people who remain unserved at all, or are served by speeds less than 25/3, are not benefitting from government funds. Instead, funds are being sent to more populated and easier to build areas where networks can be upgraded, rather than built from the ground up. Providers will naturally apply for funding to serve these newly eligible areas, because those are the places that are easiest to build and serve. As a result, areas that already have robust broadband service get even faster service, and areas that are not economical to reach, and have struggled for years to attract broadband deployment, remain without, even after billions of dollars in funding are spent.

This needs to change. There should be an absolute priority for extending service to areas

without 25/3 service. 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 50% of areas lacking 25/3 have been covered.

*Third*, the “build to” speeds often required to obtain funding – sometimes, as great as 100/100 symmetrical build-to speeds – mean that Midco often cannot apply for funding for areas that desperately need service when it knows some portion of the network will need to be fixed wireless, which cannot meet those requirements. While high “build to” speeds make good sense in areas that can be served by fiber, an inflexible requirement also means that areas that cannot effectively be served with fiber will remain unserved. Programs need flexibility to accommodate different technological solutions, and guidelines for identifying those areas where flexibility can and should be accommodated. States might be able to play a key role here 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 left out if they cannot be served effectively by fiber.

*Fourth*, even with recent improvements, the amount of data required to apply for funding is vastly excessive and often entirely unrelated to the proposed project. For example, there are significant financial data requirements designed to evaluate an applicant’s financial viability, when there are bond ratings done by expert credit rating agencies available that provide that same assessment. The RIAA would address this burden, by allowing 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. If rural areas are to get broadband quickly, as many providers as possible need to participate, and barriers to participation should be as low as possible without sacrificing necessary oversight.

*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 coordinating with each other. Close coordination is necessary to ensure that government support is being used to help solve the problem of the unserved and to help achieve the goal of universal connectivity. Entities seeking funding should not be able to “forum shop” for the least restrictive program. Midco has faced the situation where we successfully challenged a provider from overbuilding us in rural North Dakota under the ReConnect program, 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 us.

To avoid this result, government entities awarding funding should promptly report those awards to the Federal Communications Commission, and vice-versa, so that maps used for granting broadband funding are consistent, and everyone is working off a common data set in determining which areas are unserved. Maps should show all areas where funding has been awarded, whether from federal, State or local programs and even if facilities are not yet constructed, so that remaining dollars can be targeted at the areas not yet covered. Programs should work together towards the common goal of connecting more areas.

### **Why the Rural Internet Improvement Act Would Improve RUS’s Broadband Programs**

One promising piece of legislation that would address many of the issues we have identified 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.
- 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 urge you to give them careful consideration.

\* \* \*

In closing, I commend the Subcommittee for its focus on ensuring that the billions of dollars being spent on broadband deployment benefit 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.