

Testimony of Keith Hayward
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Senate Committee on Agriculture
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Background

Chairman Roberts, Ranking Member Stabenow and members of the Committee. Thank you very much for the opportunity to testify about the recently passed Farm Bill and its importance to electric cooperatives in Mississippi, and across the country.

My name is Keith Hayward. I am the General Manager and CEO of the North East Mississippi Electric Power Association (NEMEPA). We are a not-for-profit, electric cooperative providing electricity to approximately 27,000 meters in parts of four counties in north Mississippi. We are located in Oxford, home of the University of Mississippi. I also serve as President of the Board of Directors of the Electric Cooperatives of Mississippi, the statewide umbrella organization representing my co-op and the 25 other similar co-ops in our state. Mississippi is proud to be home to the first electric cooperative formed, the first REA cooperative to energize lines, and the first non-TVA cooperative to get an REA loan.

Across the country, around 900 co-ops serve approximately 42 million people in 48 states covering 56% of the US land mass. In general, we serve some of the poorest, most rural parts of our country with an average of just 10 customers per mile of line. That's far fewer than other types of electric utilities. Despite those challenges, we are doing some truly innovative work to improve the quality of life for our members. While our priority is to deliver safe, reliable, clean, affordable electricity to our members, we have a calling to be more than just poles, wires, and electrons companies. Our broader purpose is to provide the services and support that empower our communities to thrive. I am proud of the role we play in these communities.

An electric cooperative is also unique because we are locally-controlled, democratic organizations. We conduct annual membership meetings, at which our member-owners - the consumers we serve - elect a board of directors from among the membership. The directors then elect their own officers and employ a manager to run the daily operations of the cooperative. Thus, employees are responsible to the manager, the manager is responsible to the board, and the board is responsible to the membership at large. Ultimately, that's how the customers of an electric co-op have the final say in its operation.

The rural areas we serve grow most of the food, generate much of the power, and manufacture many of the goods that this country consumes. When rural areas suffer, the whole country suffers. That's why the Farm Bill should be of interest to all Members of Congress, no matter what type of state or district they represent. The Farm Bill contains essential tools we use to do our jobs. It provides financing for our basic electrification work. It facilitates our broader rural economic development interests. And it offers new opportunities to deploy rural broadband.

Financing for Rural Electrification

The Farm Bill manages two essential tools that finance rural electrification – the RUS Electric Loan Program and the Guaranteed Underwriter Program.

RUS Electric Loans – In the early 1900's, as urban areas began to electrify, rural areas lagged behind. Eventually, farmers and ranchers in remote areas took the initiative to form electric cooperatives and did the work themselves. On May 11, 1935, President Roosevelt signed an executive order creating the Rural Electrification Administration and supported subsequent legislation that led to the formation of electric cooperatives across the nation. When the utilities that existed at that time would not put capital at risk to build infrastructure to serve sparsely populated areas - even with access to REA's below-market capital at the time - not-for-profit electric cooperatives emerged to leverage REA's affordable credit to fill the void.

In the past 80 years, a lot has changed, but the same fundamental challenge still exists – how to affordably connect those relatively few customers in high cost rural areas. What was then called the Rural Electrification Administration (REA) is now the Rural Utilities Service (RUS) and it's as relevant today as it was back then. REA and RUS loans have helped build, expand, and improve the infrastructure across rural America necessary to deliver power, clean water, and other necessities. It has been the most successful public-private infrastructure investment program in the history of the country.

RUS loans help electric co-ops reduce costs and improve reliability for our members by financing basic maintenance like replacing poles and wires. But it also helps us fund projects to make our systems more modern, efficient, and secure.

RUS depends on a yearly appropriation from the Agriculture Appropriations bill. We are grateful to enjoy bipartisan support from a diverse group of Senators for continued robust RUS funding. Part of our support comes from the fact that we are such a good investment for the federal government. The President's budget request for 2020 estimated that the federal government could realize over \$100 million in net interest and fees from RUS loans. We thank you for your past and continued support.

We also ask that you support policies that allow us to continue to use RUS loans to address a broad set of co-op needs - whether for generation, transmission and distribution of baseload power, integration of renewables, making environmental upgrades to existing generation, or adopting new technologies that make the grid "smarter."

The Rural Electrification Act remains an essential tool for basic electrification, deploying modern technologies, creating jobs, improving quality of life, and promoting overall prosperity in rural America.

Smart Grid – I am going to talk more about retail broadband later in my testimony, but I want to take a moment to first draw the distinction between that and the Smart Grid technology we use in the electric grid. They are two different things. The main challenge of a distribution co-op is to meet the electricity demands of our customers as efficiently as possible so that every time you flip a switch, the light comes on. High speed communications infrastructure in the grid lets us know a lot more, a lot faster, about what's going on our systems – where the outages are, what the demand is, etc. If you want fewer outages; if you want more renewables; if you want more access to electric vehicles; if you want less expensive power; if you want a system more secure from cyber-attack: broadband in the grid is key. As you continue to think about deployment of retail broadband, don't forget about this separate Smart Grid component. They look alike, but they work differently, for different purposes, and need different rules.

Cushion of Credit – We were disappointed that the Farm Bill included changes to the RUS Electric Loan Program's "cushion of credit." Cushion of credit accounts are escrow-like accounts that allow RUS

borrowers to manage variations in income and expenses – making deposits during times of surplus and drawing to pay RUS debt during a deficit. Cushion of credit withdrawals can only be used to pay RUS debts. Interest on deposits into cushion of credit accounts was previously set in law at 5%. The Farm Bill reduces that interest rate over time to a rate equal to the rate paid on one-year treasury bonds. These retroactive changes will jeopardize long-term co-op business plans and result in higher electricity costs for people in rural America – those the Farm Bill intends to serve. In addition, these cuts eliminate an important money management tool that can be tapped during times of emergency, giving certainty to the electric cooperative and the federal government. One related Farm Bill provision, which we do support, would allow cushion of credit account holders to use their balances to pay down and refinance RUS debt.

Guaranteed Underwriter Program – It is important that electric cooperatives have multiple, strong financing options. In addition to receiving loans from the Rural Utilities Service, many electric cooperatives also borrow from private, cooperative banks like the National Rural Utilities Cooperative Financing Corporation (CFC) and CoBank. In turn, the Rural Utilities Service (RUS) guarantees some of the loans made by these qualifying third-party lenders under the Farm Bill-authorized Guaranteed Underwriter Program. NEMEPA utilizes loans from CFC to finance its infrastructure investments. We are pleased that, in addition to reauthorizing the Guaranteed Underwriter Program, the Farm Bill included some modest streamlining to make this program less bureaucratic.

Broadband

The lack of access to robust broadband service today is akin to the need for electrification in rural America 80 years ago – with the urban areas of the country well-served, and rural areas being left behind. Because we have a symbiotic relationship with the communities we serve, many electric cooperatives are, in some way, engaged in closing the digital divide. More than 100 electric co-ops, including my own, are currently working toward meaningful and diverse solutions to deploy rural broadband and jump-start local economies. Nearly 200 more electric cooperatives are in the due diligence phase. Many of these electric cooperative projects have invested in building fiber to the member's home, highlighting our commitment to investing in future proof networks that will stand the test of time and meet increasing speed and bandwidth demands. This commitment is vital for the one-quarter of all rural Americans who still lack access to broadband, compared to less than 2 percent in urban areas.

NEMEPA's journey with broadband began in January 2019 when the Mississippi legislature made a change in state law to allow electric cooperatives to branch out into retail broadband to help close the digital divide. Our due diligence process included several feasibility studies to determine community interest, need, and cost, and to establish a viable business model that can stand on its own. We also hosted public meetings with our consumer-members and communicated with them throughout the process to share updates and receive their input. At our September 2019 board meeting, the NEMEPA board approved a plan to build a Fiber to the Home (FTTH) network to reach 100% of our membership. We feel strongly that it's important to have a plan to serve all our cooperative members, not just those that might be convenient or easy to reach. We are currently in the engineering phase and will have a final vote to approve the plan by our whole membership at our annual meeting this December. If our plans stay on track, we may be able to begin offering high-speed broadband service to parts of our membership as soon as next year.

As this committee knows, deploying infrastructure in rural America, especially infrastructure required for broadband, is a capital-intensive venture. Additionally, our rural nature lends itself to sparse population densities which means we must spread the costs of deployment over smaller groups of consumers, greatly lengthening the time it takes to pay back a loan. Therefore, continued government funding to reduce the upfront capital investment and help make the business case to deploy robust broadband is necessary to achieve wide-spread expansion of high-speed access throughout rural America.

There are currently federal funding programs geared toward this purpose at RUS and at the Federal Communications Commission (FCC). Programs at these agencies are complementary and equally important. Electric cooperatives have witnessed both success stories and challenges within these programs in pursuit of bridging the digital divide throughout rural America. My cooperative is a current applicant for the USDA ReConnect Broadband program. We experienced both technical and rule-related challenges throughout the application process. We understand that new programs take time and adjustments to run as smoothly and efficiently as possible. As an individual cooperative and through our national association, we are committed to working with Congress and program administrators to provide feedback on suggested adjustments.

Looking forward at broadband programs at USDA, when Congress reauthorized the Farm Bill in 2018, electric cooperatives participated in and appreciated the efforts taken to learn from some previous challenges by reshaping the USDA RUS Farm Bill Broadband Loan and Grant program. We believe the Farm Bill program will help get the best broadband to the most rural Americans currently lacking access. The updated program represents a bi-partisan, bi-cameral compromise and we urge Congress to utilize this consensus approach by directing funding to the program soon.

Several of my fellow electric cooperatives are at various stages of their own due diligence processes in Mississippi and across the country. There is no one size fits all approach to deploying rural broadband. Some of us will be providing these services ourselves. Others will be forming partnerships with other entities. But we all have the same common mission – to save our customers money, to improve their quality of life and to offer them the tools to be as productive as possible. Flexibility, continued engagement with electric cooperative stakeholders, and strong technical assistance within USDA programs is critical to enabling us to best serve our consumer-members and continuing to make progress on closing the digital divide.

While we don't think of ourselves as a silver bullet, we are invested in our communities and want to see them succeed. Whether for electric cooperatives' own business "smart grid" operations or for residential and economically necessary connectivity, communications infrastructure will be critical to that success.

Rural Development

The health of our whole country is dependent on a healthy rural America. Rural America grows most of the food, generates much of the power, and manufactures many of the goods that this country consumes. The Farm Bill authorizes many different USDA programs that provide fundamental assistance to those rural communities.

Rural Economic Development Loan and Grant (REDLG) Program – Under the REDLG program, proceeds to the federal government from Rural Utilities Service (RUS) loans are used to finance economic development projects in rural communities. In the last two decades, electric cooperatives around the country have partnered with community stakeholders on hundreds of these projects to construct

essential infrastructure, renovate hospitals, build libraries, and expand businesses, among other things. Importantly, no REDLG loan has ever suffered a default. We are grateful that the 2018 Farm Bill reauthorizes REDLG and gives it a dedicated funding stream to secure the program for the foreseeable future.

Since 2009, Mississippi co-ops have conducted around \$25 million in REDLG projects. Included among those projects are the construction of a hospital and a new workforce education building to support local industry. We believe the REDLG program is a valuable tool in offsetting population flight and job losses in rural Mississippi and around the country. We urge the Congress to work with us to ensure ample funding for REDLG throughout the next Farm Bill and beyond.

Innovation and Energy Efficiency – Because we do not have a profit motive, part of the cooperative advantage is having a unique opportunity to help our consumers use less energy and save money. For years, electric co-ops across the country have provided information and advice to consumers to help them use electricity more efficiently and cost-effectively. The Rural Energy for America Program (REAP) and the Rural Energy Savings Program (RESP) are among the USDA programs that cooperatives use to finance investments in energy efficiency, construct new renewable energy generation sources, and deploy other innovative technologies that modernize the grid and save our members money. We thank the Committee for reauthorizing these programs which ensure that electric co-ops are poised to meet the evolving demands of our member-owners.

85/15 Income Rule to Maintain Federal Tax-Exempt Status

Though not the main topic of this hearing, please allow me to mention a subject which has a potential impact on the way electric cooperatives utilize the programs we've been discussing. As community-focused, member organizations, electric cooperatives must comply with the 85-15 income test. That means no more than 15% of gross income may come from non-member sources to remain tax-exempt under federal law. Due to an unintended consequence of the Internal Revenue Code in the 2017 Tax Cuts and Jobs Act, electric co-ops across the country could lose our federal tax-exempt status. The 2017 law contains a provision that counts federal, state and local grants to co-ops as non-member income. Before the law change, grants were defined as a contribution to capital and did not count toward 85-15 calculations.

Historically, electric cooperatives have received grants from a variety of federal, state and local governments to assist in providing services to their members for purposes such as storm restoration (FEMA), renewable energy development, energy efficiency and conservation, economic development, or rural broadband initiatives. Now that grants are counted as income, co-ops could face difficulty in maintaining their tax-exempt status if they take government grants to restore power after a natural disaster, bring broadband service to rural residents, boost economic development in local communities or create energy efficiency programs.

Fortunately, a bipartisan legislative solution to this issue has been introduced in the House and Senate. The Revitalizing Underdeveloped Rural Areas and Lands (RURAL) Act (S. 1032/H.R. 2147) was introduced by Senators Rob Portman and Tina Smith and Representatives Terry Sewell and Adrian Smith in April. The legislation will allow co-ops to accept grants without jeopardizing their tax status, but the bill has not yet been scheduled for a vote in the House or Senate. The entire rural electric cooperative family urges Congress to pass this legislation.

Conclusion

We are a healthy nation because we have vibrant, bustling urban cities AND because we have verdant, productive rural areas. Unfortunately, whether it's infrastructure or jobs or access to health care, it seems that too often rural America gets the short end of the stick. The Farm Bill is important legislation that helps to address some of those disparities.

Electric Cooperatives enjoy a productive partnership with the federal government and with the communities we serve to promote the health of rural America. We look forward to continuing to work with you toward that important goal. I'm happy to answer any of your questions.