



Statement by

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INTRODUCTION

Chairwoman Stabenow, Ranking Member Boozman, and members of the committee, good morning and thank you for the opportunity to testify about the U.S. Department of Agriculture’s broadband programs as part of this committee’s review of the “Farm Bill’s” rural development programs. The COVID-19 pandemic underscored how essential a robust broadband connection is to every American, whether at work or at home. Congress recognized this as well and made connecting every American a priority by passing a series of historic investments to help close the digital divide. As a continuation of those goals and efforts, I greatly appreciate you holding this hearing and the opportunity to speak to you today.

I am Denny Law, Chief Executive Officer of Golden West Telecommunications Cooperative, Inc. in Wall, South Dakota. My remarks today are on behalf of Golden West and NTCA–The Rural Broadband Association, which represents approximately 850 community-based companies and cooperatives that offer advanced communications services in the most rural parts of America. NTCA members and companies like them serve more than 30 percent of the country’s geography but less than five percent of the U.S. population. Small telecom providers therefore are essential to connect rural America with the world – making every effort to deploy advanced networks that respond to consumer and business demands for cutting-edge, innovative services that help rural communities overcome the challenges of distance and density.

Fixed and mobile broadband, video, and voice are among the services that many rural Americans can access thanks to our industry’s networks and our commitment to service. These technologies have been recognized time and again as a small business incubator in rural areas that would otherwise see entrepreneurial activity – and population – gravitate toward urban areas.

While every story is unique, I believe the history of telecommunications in our sparsely populated part of South Dakota is relatively indicative of the challenges of serving consumers and businesses throughout rural America. Golden West Telephone Company was incorporated in 1916 to provide telephone service between the towns of Interior and Quinn, SD. During the Great Depression, Golden West suffered setbacks and the assets were sold by the county sheriff to pay taxes. After President Truman signed the telephone amendments to the Rural Electrification Act in 1949, residents of the community in Quinn met to form Golden West Telephone Cooperative and soon applied for a loan from the Rural Electrification Administration (REA). From those early days of telephone line strung along fence posts to farms and ranches, Golden West Telecommunications now provides service to over 32,000 locations across 24,500 square miles – a geographic area larger than the states of Maryland, New Jersey, Connecticut, and Delaware combined.

As perspective for how rural this area is, the largest community Golden West serves is Dell Rapids, with a population of approximately 3,950 people. At the other end of the spectrum, Golden West provides services in Hayes, South Dakota – an unincorporated area of 1,119 square miles with only 145 customers, which equates to roughly 0.13 connections per square mile. Golden West also provides telecommunications service on portions of five Native American tribal reservations in South Dakota, including the Pine Ridge Indian Reservation. Golden West’s diverse service area includes rolling farmland and vast prairie expanses, as well as National Parks and National Forest land, all without leaving South Dakota. Despite these challenges of distance and density, residents

and businesses in Dell Rapids and Hayes and these tribal communities – and many like them across South Dakota – have access to high-quality broadband services due to an effective combination of Golden West’s entrepreneurial spirit, our commitment to community, the use of our own capital and capital from the Rural Utilities Service (RUS), and federal universal service fund (USF) ongoing support programs. Indeed, this productive mix of private sector efforts, public and private capital financing, and ongoing support have all worked effectively together – at least to date – to enable and sustain deployment of communications infrastructure across some of the most rural parts of America, and they should offer a model for success in considering how to tackle remaining aspects of the digital divide.

GOLDEN WEST’S EXPERIENCE WITH RUS BROADBAND PROGRAMS

Throughout Golden West’s history, we have been borrowers through the RUS or its predecessor agency, the REA. RUS telecommunications and broadband loans and grants have helped enable and unleash billions of dollars in federal and private capital investment in rural communications infrastructure. Due to the availability of this financing, many communities served by community-based companies and cooperatives throughout the United States have significantly higher broadband deployment than neighboring communities served by larger carriers. In fact, what Golden West has been able to achieve in South Dakota in terms of broadband deployment is similar to what many other small, rural telecom providers have achieved across the country.

Golden West is an active RUS borrower and we have had one or more outstanding RUS loans beginning in the 1950’s to present day. Golden West has also participated in the RUS ReConnect program. Most recently, in 2021, Golden West applied for and was awarded a ReConnect grant to help fund construction of a fiber-to-the-premise network to deliver broadband to over 100 farms, homes & ranches in rural southwestern South Dakota and a small portion of rural Wyoming.

Golden West has been and will continue to be an RUS advocate, but the application process for an RUS loan or grant is incredibly complex, and at times I believe unnecessarily burdensome. While there should be a thorough vetting process to potentially obtain federal broadband funds, I would recommend at least two minor modifications to improve the application process and reduce the financial and timing burdens of submitting an RUS loan or grant application.

1. Significantly Reduce Environmental Reporting Requirements in the Application. The environmental section of the application requires detailed engineering information for the proposed funded service area. For example, the applicant must enter detailed information regarding specific routes, sites, and other data points in the initial applications. But specific locations and specific routes cannot realistically be identified at this level of accuracy until a construction phase when field examinations are completed and other utilities are located. In the interest of greater efficiency and accuracy for all involved, we recommend that this level of detail be required *after* the grant award when the awardee is seeking the environmental approvals for their project, rather than as part of the preliminary application process.

2. Extend Application Deadlines. A 60-day application window does not provide sufficient time to develop and submit an application with the detail required by the application guide. In addition, the application takes longer to complete because of the serial nature of the web portal architecture, which results in applicants entering and subsequently reentering data multiple times.

FARM BILL CONSIDERATIONS

We appreciate this Committee’s focus on the upcoming Farm Bill reauthorization and on potential reforms to or refinements of the rural broadband programs administered by USDA. Today I will share the importance of investing in the long-term, accounting for ongoing federal broadband efforts, streamlining the telecommunications program applications process, and looking to providers with a proven track record of success deploying and maintaining services in rural communities.

Meeting the Needs of Consumers

Despite unique rural challenges, NTCA members have made remarkable progress in deploying advanced communications networks in their communities. Based in the communities they serve, these companies and cooperatives are committed to improving the economic and social well-being of their hometowns through technological progress wherever possible. Indeed, in the face of these challenges, rural providers like those in NTCA’s membership have truly led the charge within the telecom industry toward ensuring that every consumer in the rural areas they serve has the chance to access broadband and other communications services that are as robust and reliable as anything an urban American consumer would expect.

Policies that encourage sustainable and scalable future-proof networks will be most efficient in responding to consumer demand over the lives of those networks, particularly when compared to short-term strategies that focus on getting lower-speed broadband deployed quickly only to find that consumer demands outpace the capabilities of such low-speed networks in a few short years or technologies that impose data limitations on consumers.

That is why we recommend that RUS provide preferential scoring for high-speed broadband networks that offer faster upload and download speeds and to set a minimum requirement of at least a symmetrical speed of 100/100 Mbps to ensure federally supported networks will meet the needs of consumers, now and in the future. Thus far, every round of ReConnect funding made available (including round 3, which required 100/100 build-out speeds) has been oversubscribed with more applicants than actual funding available – proving that setting a high standard for providers does not deter applicants, but instead ensures rural Americans will receive the same levels of service available to urban consumers and that taxpayers’ dollars will go toward building networks that will not need to be rebuilt in just a few years. It is for this reason, federal broadband investments should support technology that can be readily upgraded to deliver the fastest speeds possible over the long-term, rather than supporting technologies that are cheaper to deploy, but will be unable to provide meaningful internet access over time.

Eligible Areas

While, as discussed above, we should be aiming high in *what* we build – ensuring that the government’s funds are not wasted on networks that need to be rebuilt in only a short time – the question of *where* broadband deployment funds should be directed is a separate question. All too often these issues get conflated and confused, with some asserting that compelling higher-level standards for *what* must be built using federal funds will lead to overbuilding. But if one rightly and thoughtfully approaches the question of *where* funds should be targeted as distinct from deciding *what* kinds of network will then be built there, we can address concerns about overbuilding while making the best possible networks in areas in need.

As Congress reviews RUS’s broadband programs, it will remain essential to avoid deploying duplicative government-funded networks in rural areas that will not even support one provider on its own. Therefore, we support Senator Thune and Senator Smith’s *Connect Unserved Americans Act (S.3587)*. This important legislation will help prevent the overbuilding of networks by directing USDA ReConnect funding to rural areas most in need of broadband. We endorse this legislation because it will direct resources towards building broadband networks in the most unserved areas by raising the ReConnect program’s minimum unserved percentage requirement, ensuring that federal funding support is focused first on providing service to those unable to receive broadband service today.

In addition to this important legislation, we recommend that RUS formally establish a rule that clarifies the specific ways in which ReConnect grant funds may interact with funds already awarded under other programs. For example, smaller rural telecom providers like Golden West have long leveraged support from RUS in concert with High-Cost universal service support from the FCC to make the business case to deploy and sustain advanced telecommunications services in the most rural areas of the United States. Both the RUS programs and the FCC’s USF programs have historically worked in concert with great success. While RUS programs have helped to finance the substantial upfront costs of network deployment, the FCC’s High-Cost USF programs help make the business case for taking out such loans for construction and/or using private capital, sustaining ongoing operations and allowing for the provision of service at affordable rates.

It is important that this coordinated approach to facilitating and sustaining broadband availability in rural areas continue. To help ensure this happens, ReConnect grant funds should not be awarded to any provider in an area where a different provider is the recipient of: (a) another RUS telecom program loan or grant; (b) support from federal USF programs; and/or (c) a state broadband grant program, unless that other provider is not meeting its obligations to deliver broadband. Putting such “guardrails” into place for ReConnect grants (and frankly, any grant program using federal funds) will help avoid harmful overbuilding, and just as importantly, insulate these otherwise incredibly helpful programs from attack upon their integrity and effectiveness as “dueling dollars” flow into deeply rural areas for the deployment of duplicative networks.

Earlier this year, Golden West witnessed firsthand federal funds designated for broadband as part of the Consolidated Appropriations Act of 2021 being awarded to overbuild existing rural broadband networks that are supported by other federal dollars, including RUS loans and federal USF dollars.

Clarifying the ReConnect funding restriction will ensure close coordination with other programs and dramatically reduce the likelihood of duplication while allowing programs to work together as intended.

Project Delays After Notice of Awards

Roadblocks, delays, and increased costs associated with permitting and approval processes for broadband deployment are particularly problematic for Golden West and other NTCA members, each of which is a small business that operates only in rural areas where construction projects are undertaken over wide swaths of land. While the delays seemingly occur at many steps throughout the process, those posed by environmental and historical preservation reviews significantly contribute to the long wait times leading up to disbursement of funds to an awardee. We recommend that RUS allow providers to work toward seeking approval of environmental and historical reviews “at their own risk” prior to an award, with funds expended in obtaining project approvals considered a pre-application expense eligible for reimbursement should that provider receive an award. Such measures will be critical to the deployment and sustainability of wired and wireless networks alike, all of which rely on robust fiber backbones that most often traverse federal lands. Congress should encourage RUS to assist providers by issuing guidance with respect to every piece of documentation or other steps need to successfully complete the review process – many small providers report that permit applications linger because they are the subject of multiple requests for additional documentation by RUS staff. We also encourage Congress to reevaluate the staffing needs of RUS to determine if additional funds and staff will help alleviate these delays. RUS should also establish a categorical exclusion for environmental/historical reviews for the installation of communications facilities in previously disturbed rights-of-way.

Finally, on a broad basis, I would encourage Congress to address the difficulties with permitting and approvals to access rights-of-way across federally owned lands for broadband deployment. Specifically for the 2023 Farm Bill, I would encourage this committee to include specific requirements for the Forest Service and related agencies to timely process right-of-way applications. Golden West's broadband network traverses several types of federal land, including Forest Service and National Grasslands. Golden West's recent experience is that the permit approval process takes from 12 to 24 months when applying to place telecommunications facilities along existing roads on Forest Service land. The permitting process is much longer for areas that are not adjacent to existing roads. While Golden West strongly supports the health, diversity, and productivity of the nation's forests, we also believe the permitting process to cross Forest Service or other federally owned lands could be significantly improved.

Proportional Draw Down of Loan-Grant Combinations

In May 2020, NTCA sent a letter to USDA recommending modifications to the ReConnect rules to promote broadband deployment. We appreciate USDA’s diligence in addressing several of the issues that were needed to enhance the effectiveness of the ReConnect program. Specifically, RUS recognized the cashflow pressures on many telecommunications providers during the COVID-19 pandemic and started allowing 100% grant awardees to comply with matching requirements over time in lieu of depositing all matching funds at once. However, in the case of combined loan and grant awards, we still recommend that RUS allow providers to draw down loan and grant funds proportionally rather than compelling providers to utilize all loan funding prior to receipt of any grant resources. Currently, for 50/50 loan-grant combinations, loan funds must be advanced first before any grant funds are distributed. While we certainly understand that the use of loan funds ensures providers have “skin in the game” from the start, a proportionate split that permits receipt of grant funds alongside loan funds would still achieve this purpose while giving providers greater flexibility.

A Preference for Community Based Providers

Community-based providers, both cooperative-organized and commercially owned, have a long history and a proven track record of deploying networks and delivering high quality broadband services to the most rural communities in the United States – like the ones we serve in South Dakota. We encourage a deployment program priority for community-based providers (both cooperatively organized and commercially owned) over providers that lack a demonstrable record of serving rural communities. Time and time again in recent federal programs we have seen providers without a track record of service overpromise and then not deliver – often at the expense of blocking communities from being eligible for other deployment programs and from being served by a local provider. Prioritization should also be considered for those with a successful prior history of leveraging RUS programs to deliver voice and broadband services in rural America.

SUSTAINING NETWORKS

Once a network is built, it is not self-effectuating, self-operating, or self-sustaining. Services must be activated and delivered atop it, maintenance must be performed when troubles arise, and upgrades must be made to facilities or at least electronics to enable services to keep pace with consumer demand and business needs. In addition to these ongoing operating costs, networks are hardly ever “paid for” once built; rather, they are built leveraging substantial loans that must be repaid over a series of years or even decades.

All of these factors make the delivery of broadband in rural America an ongoing effort that requires sustained commitment, rather than a one-time declaration of “success” just for the very preliminary act of connecting a certain number of locations. Particularly when one considers that even where networks are available many rural Americans pay far more for broadband than urban consumers, it becomes apparent that the job of connecting rural America – and, just as importantly, sustaining those connections – is far from complete.

This is why the complementary nature of RUS and USF is so important. Any changes to RUS's telecom programs should take care not to disrupt the historic balance between the two programs as I mentioned earlier. The FCC highlighted in its Future of USF Report the importance of USF – even in the wake of significant new deployment grant programs – to sustaining networks in rural areas and helping to keep rates affordable. Continued coordination of these efforts is critical as they do very different things but help to achieve a shared vision of getting and keeping rural Americans connected to broadband.

I am proud of the work Golden West has done to invest in rural South Dakota, and the rural broadband industry as a whole has a great story of success. But there is also much more work still to do – and this is where public policy plays an important role in helping both to build *and* sustain broadband in rural markets that would not otherwise justify such investments and ongoing operations.

TAXING BROADBAND GRANTS

Finally, I applaud Congress committing so much funding to broadband deployment. However, taxing broadband grants – requiring certain recipients to pay back perhaps 21% of what is awarded – will dramatically reduce the reach and impact of those federal funds. These grants are awarded to provide service to those areas that are otherwise not feasible to warrant deployment. This tax can affect the business case to reach such communities, reducing the effective amount of capital available for this purpose. I therefore would like to thank Senators Warner and Moran for introducing – and Senator Warnock for cosponsoring – the “Broadband Grant Tax Treatment Act” to end the tax on broadband deployment grants, and we hope that Congress will move this legislation forward.

CONCLUSION

Robust broadband must be available, affordable, and sustainable for rural America to realize the economic, healthcare, education, and public safety benefits that advanced connectivity offers. As noted in this testimony, it takes an effective mix of entrepreneurial spirit, access to capital, commitment to community, and federal support to enable and sustain deployment of communications infrastructure in many parts of rural America.

Golden West and NTCA member companies thank the committee for its leadership on and interest in all of these issues, and we look forward to working with you on behalf of the hundreds of small operator members of NTCA and the millions of rural Americans that we all serve.