Infrastructure Investment and Jobs Act Implementation
Broadband Expansion Provisions – NOSORH Comments

Introduction

On January 10, 2022 the National Telecommunications and Information Administration (NTIA) of the Department of Commerce published a Request for Comment (RFC), Docket No. 220105–0002, related to provisions of the Infrastructure Investment and Jobs Act of 2021 (IIJA) designed to ensure access to reliable, affordable, highspeed broadband for all Americans. In this communication, the National Organization of State Offices of Rural Health (NOSORH) provides comments and recommendations about how high-speed broadband expansion could be targeted to the needs of rural areas of the country that are unserved and underserved.

NOSORH was established in 1995 to assist State Offices of Rural Health (SORHs) in their efforts to improve access to, and the quality of, health care for over 57 million rural Americans. All 50 states have a SORH, and each SORH helps their state's rural communities to build effective health care delivery systems. High speed broadband services are important to rural health care, permitting delivery of telehealth services, digital exchange of clinical data between providers, and submission of billing to payors. Ensuring adequate high-speed broadband for all rural areas will provide a necessary digital backbone for the rural health care system.

General Comments

The *National Broadband Plan* developed by the Federal Communications Commission (FCC) and released in 2010 analyzed the internet speed required by different classes of users. A minimum download/upload target of 4 Mbps/1 Mbps was established in the initial plan. The FCC updated this standard in its 2015 *Broadband Plan Progress Report*, establishing ***a minimum broadband download/upload standard of 25 Mbps/3 Mbps***. In announcing that update, FCC Commissioner Tom Wheeler was clear about the necessity for this new standard:

> "When 80 percent of Americans can access 25-3, that's a standard. We have a problem that 20 percent can't. We have a responsibility to that 20 percent."

Other Commissioners echoed this sentiment, and looked forward to further increases in minimum standard speeds. FCC Commissioner Jessica Rosenworcel wants to increase the minimum broadband standards far past the new 25 Mbps download threshold, up to 100Mbps:

> "We invented the internet. We can do audacious things if we set big goals, and I think our new threshold, frankly, should be 100Mbps. I think anything short of that shortchanges our children, our future, and our new digital economy."

NOSORH believes that the views of the FCC reflect the evolving broadband needs of the nation. The FCC has, for the last several years, monitored availability of broadband at

multiple speed plateaus, including download/upload speeds of 50/5 Mbps, 100/10 Mbps, and 250/25 Mbps. This is in anticipation of future actions raising the minimum speed standard.

Of particular interest to NOSORH are the required bandwidth needs of health care providers. The 2010 National Broadband Plan analyzed estimated bandwidth needs for different types of health care providers, based upon their telehealth use needs. Tables from this analysis are attached. Since the time of this initial analysis there has been an acceleration of broadband needs for all varieties of healthcare providers triggered by evolving technology and changing health care practice.

The COVID-19 pandemic has significantly increased the use of telehealth throughout the healthcare system. Video healthcare interactions are now an expectation, with Medicare, Medicaid and private insurers providing enhanced reimbursement for these services. These reimbursement changes, at first temporary, are expected to become permanent. In addition, consumers are expected to become more reliant on telehealth services in the future. NOSORH believes that all providers in the health care system will have needs for higher bandwidth in order to operate successfully and maintain financial sustainability in this changed environment.

NOSORH believes that even the smallest solo health practitioner will have a need for internet connections with a speed of at least 100 Mbps download and 10 Mbps upload. NOSORH also believes that hospitals will have a need for internet connections with a minimum download speed of 1 Gigabit.

In light of the current state of rural broadband and its likely future, NOSORH makes the specific recommendations summarized in the next section

Lack of Broadband Accessibility in Rural and Frontier Areas

NOSORH analyzed data from the latest NTIA dataset on broadband availability in US Census Tracts. NOSORH joined that dataset with a Department of Agriculture – Economic Research Service dataset which classifies Census Tracts based upon their degree of rurality. NOSORH examined broadband access disparities between Metropolitan Statistical Area (MSA) tracts and non-MSA (rural) tracts. In addition, NOSORH examined access disparities in two non-MSA subcategories - *Micropolitan* tracts and non-MSA tracts outside Micropolitan areas. NOSORH denoted locations in this last subcategory as *Small Town Rural*. A summary of NOSORH's analysis is attached.

Several findings of this analysis are significant:

- In *11 states*, *more than 50% of all households without internet access*, as reported by Ookla, *are located in non-MSA tracts*. In 9 of these 11 states the majority of non-MSA households without access are located in Small Town Rural tracts.

- In *15 additional states*, *more than 30% of all households without internet access*, as reported by Ookla, *are located in non-MSA tracts*. In 9 of these 15 states the

majority of non-MSA households without access are located in Small Town Rural tracts.

- In *49 of the 50 states*, *the percentage of households without internet access located in non-MSA tracts exceeds the overall percentage of non-MSA households*. This disparity is also true for the nation as a whole.

- In *12 states*, *more than 50% of all households without an internet capable device are located in non-MSA tracts*. In 11 of these 12 states the majority of non-MSA households without a device are located in Small Town Rural tracts.

- In *14 additional states, more than 30% of all households without an internet capable device* are located in non-MSA tracts. In 9 of these 14 states the majority of non-MSA households without a device are located in Small Town Rural tracts.

- In *49 of the 50 states, the percentage of households without an internet capable device located in non-MSA tracts exceeds the overall percentage of non-MSA households.* This disparity is also true for the nation as a whole.

NOSORH believes that these indicators reinforce the importance of *prioritizing rural areas as a target for federal investments authorized by the IIJA*. This prioritization should cover all programs authorized by the IIJA, including the Broadband Equity, Access and Deployment (BEAD) program, the Middle-Mile Broadband Infrastructure Program, and the Digital Equity Planning Grant Program. NOSORH further believes that NTIA should develop *specific* guidance on how to implement this priority.

NOSORH details its recommendations below.

Recommendations

- **NOSORH recommends that NTIA require each state funded under the BEAD program to allocate, within each state, at a minimum an amount of new broadband investment in rural areas *proportional to the percentage of households without broadband in these areas*.**

- **NOSORH recommends that NTIA specifically require State Digital Equity Plans, funded under the Digital Equity Planning Grant program, to address the equity needs of rural area residents.** NOSORH suggests that NTIA guidance for this program highlight the importance of coordinating with rural-focused agencies and organizations, such as SORHs and state rural health associations. NOSORH notes that many Native Americans are located in rural areas. **NOSORH believes that special consultation with tribal nations and organizations should be required to assure that Digital Equity Plans adequately address their special needs.**

- **NOSORH recommends that NTIA, under the BEAD program, require states with significant *remote rural and frontier areas* to set aside funding specifically to meet the broadband needs of these areas**. NOSORH recognizes that meeting the needs of these areas is costly and may not be financially sustainable without additional subsidy. NOSORH suggests that each state be required to address how broadband in remote rural and frontier areas could be subsidized.

- **NOSORH recommends that NTIA define the *minimum* broadband speed standard for the IIJA programs as 25 Mbps download and 3 Mbps upload.** Further, NOSORH recommends that NTIA be prepared to establish higher minimum speeds for future program funding rounds. This will permit residents of rural to take full advantage of telehealth services.

- **NOSORH recommends that NTIA give priority to applicants who look to establish even *higher* broadband speed networks in unserved/underserved areas.** NOSORH believes that there is little worth in subsidizing any system buildout that will operate at speeds that would soon be outmoded. **NOSORH recommends that priority be given to systems offering at least 100 Mbps download and 10 Mbps upload.**

- **NOSORH recommends that NTIA require priority in funding for applicants who make special provisions for meeting the needs of *essential community providers (ECPs)* in health, education, government and public safety.** The needs of rural ECPs, including rural hospitals, should be given special consideration.

  Requirements for service to rural health care services should direct connection speeds of at least 300 Mbps downloads and 30 Mbps uploads for all services and rural hospital connections with at least 1 Gbps download speed. These speeds would be consistent with the evolving bandwidth requirements of digital healthcare.

- **NOSORH recommends that systems supported by IIJA programs be required to provide services on a sliding fee schedule based upon household income.** This could be done on a basis similar to the approach used by federally-funded health centers which charge self-pay patients below 200% of the Federal Poverty Level using a graduated discount based upon income. **NOSORH also recommends that eligibility for discounts be reassessed on an annual basis**. This effort should *supplement* the current Lifeline program.

- **NOSORH recommends that systems supported by IIJA programs be encouraged and incentivized to provide broadband-capable devices to low-income households at low or no cost**. This approach could reduce an additional financial barrier to broadband access for a significant number of households.