



**Testimony of Mr. Mark Bahnson  
General Manager  
Bloomingdale Communications  
Bloomingdale, Michigan**

On behalf of the

National Telecommunications Cooperative Association

Before the

Subcommittee on Rural Development, Biotechnology,  
Specialty Crops and Foreign Agriculture  
House Agriculture Committee

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## **Introduction**

Chairman McIntyre, Ranking Member Conaway, members of the Subcommittee, I would like to thank you for the opportunity to be here today to review rural development programs in advance of the 2012 Farm Bill. I am here on behalf of Bloomingdale Communications and the National Telecommunications Cooperative Association (NTCA), which represents more than 580 small, rural, community-based communications service providers throughout the nation.

Bloomingdale Communications, where I serve as the General Manager, provides broadband, video, voice, mobile and other telecommunication services to about 3,000 customers in southwest Michigan. Along with about 1,100 of my fellow rural rate-of-return regulated community-based providers around the nation, we cover more than one-third (37%) of the nation's land mass yet our total subscriber base accounts for about 5% of the national total. And therein lies the genesis of the challenges we confront. Throughout our history, we have responded to policies that were developed for the larger segment of the population, but do not work for us. But, I am happy to say that is absolutely not the case with regard to the Rural Utilities Service (RUS) and its tremendous Telecommunications Financing Program.

## **Brief History of Rural Telecommunications**

Like most other rural telecommunications systems, Bloomingdale Communications got its start in 1904 when regular citizens living in rural areas, who were left without telephone service, banded together and created a telephone system to serve their homes and the homes of their neighbors. While their own can-do spirit got them started, it wasn't until after the 1949 passage of the Telephone Amendment to the Rural Electrification Act (REA), which made Rural Utilities Service (RUS) financing available to fund rural telecommunications systems, that communication services in rural American truly began to improve and expand.

Thanks in large part to these private/public partnerships between rural, independent telecom providers, RUS programs, and cost recovery programs such as Universal Service and intercarrier compensation, Americans residing in the most rural parts of Michigan and elsewhere throughout rural America are today able to enjoy communication services that are comparable in price, scope, and quality to those available in urban areas.

### **RUS Telecommunications Financing Program**

Through the years, Congress has stepped in on many occasions to modify and otherwise redirect the RUS Telecommunications Financing program to ensure it is appropriately fulfilling its mission and effectively responding to the communications financing needs of the current era.

Today, the program consists of many elements including its primary units – the Hardship Account, the Cost of Money Account, and the Guaranteed Account; the Distance Learning, Telemedicine, and Broadband Account; and the short term stimulus related Broadband Initiatives Program. In addition, the rural sector also relies heavily upon two private sector financiers, the Rural Telephone Finance Cooperative, and CoBank, which both closely coordinate with RUS in their financing activities.

There are also two programs available to the industry that are under the Rural Business Cooperative Service -- the Rural Economic Development Grants Program and Rural Economic Development Loans Program that are both authorized under Section 313 of the REA for use by RUS borrowers. Nevertheless, today we would like to emphasize the RUS and the programs that are directly under its purview.

Over the course of its history, RUS telecommunications lending has stimulated billions of dollars in private capital investment in rural communications infrastructure. In recent years, on average, less than a few million dollars in federal subsidy has effectively generated \$690 million in federal loans, grants, and guarantees. For every \$1 in federal funds invested in rural communications infrastructure, \$4.50 in private funding has been

invested. That is a remarkable record and a testament to the vision and dedication of this Subcommittee, the leadership and staff of the RUS, and the rural sector of the telecommunications industry. It is a model that should be continued or at the very least emulated.

It would not be possible to bring the sorts of advanced telecommunications services to the communities mentioned in this testimony without the assistance of the RUS Telecommunications Financing Program. Funding is often just not available from other sources for many of the project purposes we utilize through the RUS program. As a result of the service provided through RUS financing, rural economies have been stabilized in many of these communities. Small businesses are relocating to our areas once again and young families are moving back to raise their families in the relatively safe and secure environment they dreamed of while having many of the conveniences found only in the cities. This certainly makes the risk of providing service worthwhile.

Considering the dynamic nature of the communications industry, the rapid pace of technological advances, and the fact that legislative and regulatory policymakers alike continue to uniformly advocate the necessity of making advanced broadband services available to every American – including those in the most remote and insular regions of our vast nation, there is no doubt as to the current and ongoing importance of each one of the above named financing elements.

Through the years, NTCA and its members have had a very good working relationship with the RUS and its financing programs. After-all, it was a relationship that was conceived and built around the mutual recognition that without adequate financing, rural America was unlikely to ever be served in a fashion comparable in price and scope to that which is provided in suburban and urban America.

Yet, that is not to say this relationship has never been without problems. Though it is often viewed almost as a lender of last resort, the RUS still has many strong controls in place to ensure taxpayer dollars are not squandered. It may come as a surprise to many

that, as a result, we have to jump through significant hoops to secure the various forms of RUS financing. Generally, this so-called red tape is understandable, but the agency does have a rather long history of being perceived as being overly cautious and too slow in its overall approval process.

In 2008, my company spent tens of thousands of dollars with legal and industry consultants to prepare an application for a traditional broadband program loan. Yet the application was not submitted due to unclear rule changes in the program under the new Farm Bill. Why the rule changes were necessary was unclear to me as the program that funded our 2005 project seemed to be working fine.

We routinely hear from colleagues of instances where long-time borrowers are required to submit significant documentation, including dissected financial statements rather than the consolidated ones they may already have on hand, while first-time applicants are able to obtain approvals under less restrictive project feasibility requirements. Another common complaint revolves around how documentation will bounce between a borrower and the agency numerous times with the applicant, on each occasion, believing they have provided all that has been asked for only to find out later that the list of required information has changed along the way. Likewise, we often hear how announcements of loans and grants are made to the public with great fanfare, yet it will often be weeks or even months before dollars are ever allowed to flow to the project. We have also heard for years that a good part of the problem in finalizing agreements and covenants lies directly at the feet of the USDA's office of general counsel, which I believe was the case with our 2008 project. My point in raising this is to show that it is not necessarily a problem associated with the RUS, but may be one that is coming from elsewhere within the agency or even the administration, and as such, may be impacting programs beyond just those under the jurisdiction of the RUS.

Again, we understand that federal programs of this nature require a solid business plan and more due diligence than might be encountered in the private sector. Having been involved with the traditional RUS Loan Program, its broadband program, and now its

stimulus related broadband program, we know what to expect and generally feel we are prepared to satisfy their requirements. But it bears repeating, and particularly with regard to the stimulus related program, that there are hurdles standing in the way of the most efficient application, approval, and fund distribution process.

At any rate, to help with the approval process, rural LECs have typically gone to great lengths, even before making an application with the agency, to ensure they are able to show feasibility for their respective projects. Many have gone so far as to go door to door ahead of submitting their financing application to obtain commitments from a majority of the community they propose to service in order to show the initiative will be financially feasible.

Other independent telecommunications providers have used the broadband loan program to build or compete in communities outside their traditional ILEC territories where broadband deployment may not be as advanced. However, there are also stories in many parts of the country where broadband loans have been approved where broadband services existed through two or three competitors. In the case of a loan in Oregon, a loan was made in communities where broadband deployment was at 99% or greater. This loan was also made over the objections of the RUS Field Representative. While overbuilding and competition is allowed under the regulations, I do not believe this is what Congress intended for the program. Similarly, we have encountered a little of this with regard to the stimulus program, as well, which is not a good use of limited resources. Recently we saw that Congress has given consideration to rescinding a portion of these funds to help pay for the latest supplemental. We truly believe there is a need for these dollars for rural broadband projects. However, if these dollars are going to be used for extreme and unwise overbuilds and duplication, we would almost rather see them rescinded.

As a telco provider, I am well aware of the challenges faced by a federal agency trying to determine where broadband currently exists. Under the FCC's Form 477, broadband deployment is reported only by a zip code and does not paint an accurate picture of what

is available in rural America. We are hopeful that the congressionally mandated mapping that is underway will help better determine the level of broadband that is deployed and where RUS financing should and should not be utilized going forward.

Ultimately, we recognize that the painstaking process of an RUS application is designed to protect the American taxpayers. This principle should be reinforced as Congress looks to reauthorize any of the agency's programs.

With regard to the Broadband Initiatives Program (BIP) program, we, as well as many of our industry colleagues, who have received awards, have encountered several issues that leave room for improvement. First, while Davis-Bacon reportedly applies for wages paid on certain jobs, as of today, RUS still has not provided the details on how to apply Davis-Bacon and to what jobs the law needs to be applied. This is critical, since it impacts costs for any stimulus project. And after many months, one would think RUS or the USDA would be reaching out to the Labor Department or elsewhere within the administration to resolve this question. As a result, we are hearing that cost analyses are likely being inflated in order to avoid violating the law. This results in uncertainty and the extremely high likelihood that our overall project costs are going to be higher on our end without an adjustment on the BIP support side. And, in addition, although we are "shovel ready" with our project we cannot, as of today, send out our bid requests without a clear and RUS approved definition.

We have also encountered extreme problems with the legal forms which are very extensive and in many cases have contained errors - including lien provision errors. Also, many award recipients have encountered situations where their private sector financiers have issues with provisions of the loan documentation and again, particularly with the language surrounding liens.

I would like to draw your attention to the collateral structure, or lien on assets and revenues, that is required by NTIA and RUS under their respective loan and grant programs. Traditionally, RUS has agreed to share this lien on an equal and rateable (pari passu) basis with private lenders that have an outstanding loan to a rural

telecommunications provider. This is a prudent underwriting standard and serves to ensure that both the government and the lender are adequately protected in the case of a default.

Under this shared security arrangement, RUS has a very successful track record of partnering with private lenders and leveraging billions of dollars in private capital for rural telecommunications providers to invest in the rural infrastructure. However, it is unclear if RUS will modify its lien sharing requirements. The NTIA has been unwilling to share any collateral on a pari passu basis under BTOP. We are hopeful that RUS will not follow NTIA down this path, and will continue its longstanding tradition of working with private lenders to deploy a state-of-the-art communications infrastructure in rural America.

Unfortunately, RUS has not been particularly prompt in their responses to these issues. These sorts of issues combined with the looming uncertainty that continues to surround the FCC's National Broadband Plan and its related proceedings has led many of our industry colleagues to seriously question whether or not to move forward with stimulus funding and other investment proposals.

### **Audits**

As a traditional broadband borrower from RUS, my company is required to supply an independent audit each year. I believe that this is a very good policy even though the process is very burdensome to a company that has an accounting staff of only three members. The process for our company lasts about a month preparing all the documents needed by the auditors. Then staff spends an additional week with the auditors on site. And finally, about a week of follow-up as the auditors complete their process. This six week period completely dominates the time of our Accounting Supervisor and some of the time of the other two staff members. During that time we will have three payrolls, accounts payable, accounts receivable and all the other duties usually performed by three staff members now being carried out by one or two.

Last year, after our independent audit, the IRS did an audit of our company – neither audit found any mistakes by our accounting staff. RUS then conducted a third audit for my company with an RUS staff auditor of the Fiber-to-the-Home project in Paw Paw, Michigan. This was a five million dollar project, so you can imagine the number of invoices, checks, equipment lists and many other documents that the auditor requested. So once again the accounting staff needed to spend several weeks collecting all the information needed for the auditor. The auditor was in our office for a couple weeks reviewing all the information. He was very professional, very nice to work with and many times complemented my accounting staff and the job they had done both collecting the information he needed and the day-to-day work that they had performed documenting the project. At the end of the day, what he found was that the bank account opened specifically for the project was funded with twenty-five dollars (\$25) instead of the one hundred dollars (\$100) that was requested in the rules. Should we have funded the account with \$100? Yes. At the end of the day did it affect the project in any way? No. Did we add an additional \$75 to the account? Yes. With all that said, it seems like my company and RUS spent a great deal of time and money to find a \$75 error. I would suggest that since we are already having an independent audit, could some additional items be added to the independent auditing firm’s list of things to check or could we possibly conduct a combined audit? It bears mentioning that we have encountered these very same issues with a rash of industry audits associated with the universal service program, and again, to date, they have found no waste, fraud, or abuse, yet have spent millions of program dollars and company dollars in arriving at that conclusion. These are dollars that could have gone toward bring broadband to rural America.

### **Broadband in Rural America**

Today, telecom providers and policy makers alike have shifted their primary focus from voice services to broadband, which offers the promise of being the great equalizer between rural and non-rural areas of our nation. With the help of the RUS’s broadband loan and grant programs, stimulus funding, and the aforementioned cost recovery

mechanisms, rural communications service providers are working to replicate the success of their telephone service build-out by steadily deploying broadband infrastructure and related services to an increasing percentage of their subscribers.

Listening to the needs of our customers and understanding the ever-growing importance of broadband in everyday life, Bloomingdale Communications is working to provide state-of-the-art communications in our service areas. In addition to being a traditional RUS borrower, Bloomingdale Communications recently applied and was awarded \$8.3 million dollars through the American Recovery and Reinvestment Act (Recovery Act) BIP. This award will allow our company to build out our fiber network to over 1451 homes in our service area, which will enable farmers, students, home-based business, and many others to take advantage of high-speed broadband services. This is a part of our continuous effort to provide the broadband infrastructure that is necessary to support the growing bandwidth needs of our customers.

A typical business plan that would sustain itself simply cannot be constructed for the rural segment of the market. It is in these high-cost areas that support from the RUS will continue to be critical in enabling our systems to overcome the economic challenges of providing broadband to our customers.

While not perfect, the RUS BIP program has yielded tremendous opportunity to expand broadband access to unserved and underserved communities throughout the United States. We wish to thank and congratulate those on this Committee that worked so hard during the crafting of the Recovery Act to ensure the RUS administered at least a portion of the broadband stimulus funding. The RUS' knowledge of rural America and experience with broadband loan programs has proved to be of great value in both the decision making and administering aspects of this important program.

Thanks to the funding made available by RUS telecom programs, many rural communities are now, or will soon be, able to take advantage of all the services and capabilities broadband has to offer. Broadband is the fuel that will power growth in the

health care, education, homeland security, and energy sectors throughout rural America. It has the potential to be the great equalizer between rural and urban regions. In fact, we believe it has the potential to “save” rural America, which continues to shrink in many parts of the country.

According to the Foundation for Rural Service’s (a partnership of NTCA) “2009 Rural Youth Telecommunications Survey,” 60% of respondents indicated that would consider living in a rural area after graduation, while only 13% ruled out the possibility altogether. Of the survey respondents, 45% said that the availability of a variety of telecommunications services would be an important factor in determining where they will eventually live. Asked what they considered “essential” telecommunications services, 66% of respondents chose broadband Internet. In addition to keeping the best and brightest rural students from leaving for non-rural areas, robust broadband services are also critical to economic development in these areas. According to a January 2010 Public Policy Institute of California report, during the years 1999 to 2006, an area moving from no broadband providers to one to three providers would achieve overall employment growth of 6.4%. Last year, the United States Department of Agriculture released a study entitled “Broadband Internet’s Value for Rural America” that confirmed these findings. That study found that “employment growth was higher and nonfarm private earnings greater in countries with a longer history of broadband availability.”

### **Concerns about the National Broadband Plan**

Serving our nation’s rural citizens with telephone service has always been challenging and bringing broadband to these sparsely populated areas will be even more challenging. However, with a national commitment to ensure all Americans receive comparable, robust communication services, we have been able to overcome the many barriers that otherwise would have left rural American behind. Unfortunately, it appears, based on provisions of the National Broadband Plan (NBP), we may are now abandoning the approaches that led to the successes we see today. Even more alarming, it looks as if we

may soon abandon the basic principles of universal service that have ensured rural America is not left behind.

While on the surface the NBP's goal of providing broadband to all Americans seems like a commendable goal, it unfortunately also sets our country on the path of a digital divide between rural and non-rural. The plan sets a universal goal of 4 Mbps, while promoting 100 Mbps for 100 million households. By setting these goals, which will ensure speeds 25 times slower for high-cost, rural areas, the plan abandons our country's long-standing commitment to providing comparable telecommunication services to all Americans. As you know, without comparable broadband speeds, rural communities, which are becoming increasingly dependent on broadband, will fall further behind and will be unable to compete and receive comparable job, health care, or educational opportunities and services as urban Americans.

We all agree comprehensive reform of telecommunications policy is needed to modernize support for communication services of the future. However, we are asking Congress to address the disruptions the NBP's modernization proposals would have on carriers that have invested and been successful in providing modern telecommunication services in rural areas based on predictable support mechanisms. As you may know, this particular issue has already caused a great deal of concern among legislators, and has led to at least 22 Senators and 45 Members of the House of Representatives signing letters to FCC Chairman Genachowski expressing their disapproval with the NBP's low standards that will cause a digital divide between rural and urban Americans.

We believe the economic future of rural America is at stake. Therefore, we urge you to help modify the NBP's recommendations so businesses and workers can embrace rural areas and to ensure all Americans can benefit from this plan equally.

## **Impact on RUS Programs**

While the Agriculture Committee does not have jurisdiction over most telecom policy, we bring our concerns about the NBP to your attention because we believe the ripple effect of the NBP is already being felt by RUS programs and rural communities throughout the country. The NBP may quickly lead to the inability of rural providers to repay billions of dollars in loans extended by RUS as well as the rural sector's primary financiers CoBank and RTFC. In recent comments submitted to the FCC, regarding the matter of the NBP, CoBank said, "unless there is a sufficient and sustainable cost recovery mechanism, no financing method (e.g. loan, loan guarantee, revolving loan, or one-time grant) will sustain a rural broadband network in the long term."

We would also like to make Committee members aware that in a December 22, 2008 filing with the FCC, the RUS outlined just how important universal service support is to the agency's massive telecommunications lending portfolio. In that filing, the RUS explained how its nearly \$4 billion tax-payer financed loan portfolio could be put at risk by proposals that would curtail universal service flows. Then RUS Administrator Jim Andrew stated that an analysis of borrowers at the time showed that 35% of loans outstanding would not be feasible were universal service funding to be frozen. He went on to say that if toll revenues (interstate and intrastate access revenue, interstate and intrastate universal service funding, and end-user subscriber line charges) were frozen; two-thirds of the loans would not be feasible. Specific to my company, last year, about 40% of our revenue came from Universal Service support and access charges. Last year we saw a 14% decrease in access billing. As these revenues continue to diminish, my company will be more than challenged to fulfill its commitments to private and federal lenders -not to mention to provide adequate service to our customers.

As I noted earlier, the uncertainty created by the NBP and other proposed policy changes have already impacted the rural telecommunications market and RUS programs. Several rural telcos are considering not accepting the stimulus awards in which they have applied or been accepted for. In fact, one rural telco in Indiana has already decided to reject the

stimulus award they received from RUS in round one based on the uncertainty created by proposed policy changes.

To avoid putting RUS telecom programs at risk, NTCA, along with the National Exchange Carrier Association (NECA), the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), the Western Telecommunications Alliance (WTA), the Rural Alliance, and 38 concurring state associations and other groups recommend the following changes to the NBP:

- Not impose an overall cap or freeze on the existing High Cost program for incumbent carriers, or new caps or freezes on rural local exchange carrier (RLEC)-specific mechanisms such as interstate common line support.
- Not require RLEC's to shift to incentive regulation, as it has been demonstrably ineffective in encouraging carriers to provide an evolving level of service to consumers in high-cost areas. In contrast, rate-of-return regulation has a proven track record of success in this regard, and remains fully viable in today's competitive broadband environment.
- Focus on developing simple, reliable and workable methods based on actual costs for supporting broadband in RLEC territories and not pursue efforts to develop complex models or "market based" mechanisms such as reverse or procurement auctions.
- Immediately reform the USF contribution system and, most importantly, expand the contribution base to include, at a minimum, all broadband Internet access providers.
- Move quickly to address certain discrete intercarrier compensation reform issues such as strengthening the call signaling rules to mitigate phantom traffic as well

as confirming that interconnected voice of the internet protocol (VoIP) providers are required to pay access charges.

## **Conclusion**

As applications evolve over broadband, all Americans connected will experience untold opportunities for employment, health care, education, as well as entertainment. As the world is getting increasingly competitive, it is essential that the United States have a ubiquitous national broadband network where all Americans, whether urban, suburban, or rural have access to quality communication services. Although our rural areas are sparse in population, these people are critical in our nation's economy and security.

We believe that RUS telecom programs, along with the other programs I outlined earlier in my statement, will continue to help enable America's rural, community-based telecommunication system providers meet the broadband needs of our nation's rural citizens.

We emerged in these markets where no one else was willing to go. We understand these markets and what their needs are. We are committed to these markets because our systems are locally owned and operated. As part of this effort, we look forward to continuing to work with this Subcommittee and the RUS to provide rural America with affordable and robust communications services.

Thank you again for inviting me to testify. I look forward to answering any questions you may have.