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April 3, 2008

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Ex Parte Notification, GN Docket No. 09-40;
FCC's Consultative Role in the Broadband Provisions of the Recovery Act**

Dear Ms. Dortch:

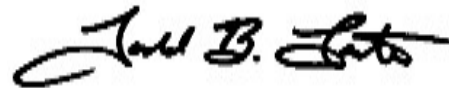
On April 3, 2009, John Cimko and the undersigned, on behalf of Rural Cellular Association (RCA), met with Jeff Cohen of the Public Safety and Homeland Security Bureau, Claude Aiken and Theodore Burmeister of the Wireline Competition Bureau, Jennifer Salhus and Paul Malmud of the Wireless Telecommunications Bureau, and Ron Repasi of the Office of Engineering and Technology to discuss its views, in the mobile wireless context, on the appropriate definitions for key terms in the American Recovery and Reinvestment Act of 2009, including "unserved area," "underserved area," and "broadband."

Representatives of RCA also touched upon the appropriate non-discrimination and network interconnection obligations to apply to Broadband Technology Opportunities Program (BTOP) grant recipients.

The attached document that was provided to Commission staff at the meeting contains additional information regarding the positions expressed by RCA.

Pursuant to Section 1.1206 of the Commission's Rules, this *ex parte* notification is being filed electronically with your office.

Respectfully submitted,



Todd B. Lantor
Counsel to the Rural Cellular Association

Enclosure

**RCA Recommendations for Defining the Terms and Concepts on which
Congress Has Directed NTIA to Consult with the Commission
GN Docket No. 09-40**

General Principles

- Intent of the Recovery Act is that grant program mechanisms should be technologically neutral and that as many entities as possible, including wireless carriers, are made eligible to apply for grants.
- Conferees intended for NTIA (and by extension, the FCC) to take into consideration the technical differences between wireless and wireline networks and consider the actual speeds that broadband networks are able to deliver to consumers under a variety of circumstances.
- Conferees made clear that a specific speed threshold could have the unintended result of thwarting broadband deployment in certain areas.
- Grants should be awarded, and terms should be defined, in a technologically neutral manner.
- Wireless provides benefits of rapid deployment, lower costs, and is preferred by most consumers; LTE will provide significantly faster speeds soon

Unserved and Underserved Areas

- Unserved Areas – Areas where consumers have no or unreliable access to at least 200 kbps downlink conventional broadband service (*e.g.*, wireline, cable, wireless) (wireless definition)
- Underserved Areas – Areas where consumers have either no wireless broadband service or service that operates at speeds less than 1 Mbps downlink and 200 kbps uplink (wireless definition)
- The determination of whether an area is unserved or underserved should be made independently for wireless and wireline services
- Census tracts should be used to define the geographic boundaries of unserved and underserved areas to ensure that funding is provided to those specific areas that need it the most

Broadband

- In both unserved and underserved areas, minimum speeds at or above 1 Mbps downlink and 200 kbps uplink (wireless definition)
- Broadband must be defined in a way that does not exclude mobile wireless carriers from competing for BTOP funds. Any exclusionary definition would not be technologically neutral.

Non-Discrimination

- “Non-discrimination” should be defined as adherence to the principles contained in the FCC’s Broadband Policy Statement (FCC 05-151, adopted August 5, 2005)

Network Interconnection

- “Network interconnection” should be defined as direct or indirect interconnection with other broadband networks under laws, regulations and practices